



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

November 19, 2003

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Encampment, Town of
c/o Jim McKinney, Mayor
PO Box 5
Encampment, WY 82325

Encampment, Town of
c/o Bill Craig, Operator
PO Box 5
Encampment, WY 82325

Re: Administrative Order
Docket No. **SDWA-08-2004-0005**
PWS ID #WY5600060

Dear Messrs. McKinney and Craig:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Town of Encampment is a public water supplier as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.24(f), 141.86, 141.23(d), 141.21(a), 141.21(b)(5), 141.23(c)(1), 141.201, 141.31(b), and 141.21(g)(2) for: failure to monitor for volatile organic compounds, failure to monitor for lead and copper, failure to monitor for nitrate, failure to monitor for total coliform bacteria, failure to perform five additional total coliform samples, failure to monitor for cyanide, failure to provide public notification for the above violations, and failure to report violations to the EPA.

If the town complies with the enclosed Order for a period of at least twenty-four months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such



penalty for violating the regulations themselves, and/or
(3) a court injunction ordering the town to comply.

Among other things, the Order calls for the Town of Encampment to provide a public notification for certain monitoring requirements that were not met. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Eric Banghart of the EPA, whose telephone number is provided in the last paragraph of this letter.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. Small governments are also included under SBREFA, and the enclosed fact sheet does discuss resources which may also be available to small governments. Also, there is a compliance assistance center for small governments, the Local Government Environmental Assistance Network (LGEAN). LGEAN can be accessed at www.lgean.com or by calling (877) 865-4326. SBREFA does not eliminate the town's responsibility to comply with the Act.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Eric Banghart at the address on the letterhead, include the mailcode 8ENF-W, or you may call Mr. Banghart at (800) 227-8917, extension 6971, or (303) 312-6971. If you wish to have an informal conference with EPA, you may also call or write Mr. Banghart. If you are represented by an attorney, please feel free to have your attorney call Peggy Livingston at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order

Public Notice template

SBREFA

cc: Larry Robinson, WY DEQ

Dr. Karl Musgrave, WDH



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November 19, 2003

Ref:8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carbon County Commissioners
c/o Linda Fleming
P.O. Box 59
Baggs, Wyoming 82321

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Town of Encampment
PWS #WY5600060

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the Town of Encampment, Wyoming. This Order requires that the public water system owned and/or operated by the town take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The Town of Encampment is in violation of 40 C.F.R. §§ 141.24(f), 141.86, 141.23(d), 141.21(a), 141.21(b)(5), 141.23(c)(1), 141.201, 141.31(b), and 141.21(g)(2) for: failure to monitor for volatile organic compounds, failure to monitor for lead and copper, failure to monitor for nitrate, failure to monitor for total coliform bacteria, failure to monitor five additional total coliform samples, failure to monitor for cyanide, failure to provide public notification for the above violations and failure to report violations to the EPA.



A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Eric Banghart at (303) 312-6971.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)
)
Town of Encampment)
Encampment, Wyoming)
)
)
Respondent)
)ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))Docket No. **SDWA-08-2004-0005**
)

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. The Town of Encampment (Respondent) is a municipality and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Town of Encampment Water System (System), located in Carbon County, Wyoming for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water

system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a June 1998 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a surface water source that serves approximately 490 persons through 295 service connections.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.24(f) requires that community and non-transient, non-community water systems monitor their water annually to determine compliance with the MCLs for volatile organic contaminants as stated in 40 C.F.R. § 141.61.
2. Respondent failed to monitor the water for volatile organic contaminants in 2002, in violation of 40 C.F.R. § 141.24(f).

II.

1. 40 C.F.R. § 141.86(d)(4) requires community water systems to monitor tap water for lead and copper annually after meeting the lead and copper action level.
2. Respondent failed to monitor for lead and copper in 2001 and 2002, in violation of 40 C.F.R. § 141.86.

III.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondent failed to monitor for nitrate in 2002, in violation of 40 C.F.R. § 141.23(d).

IV.

1. 40 C.F.R. § 141.21(a) requires public water systems to monitor the water at least once per month that they serve water to the public to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the water for contamination by total coliform bacteria during the months of December of 2001, November of 2002, and March of 2003, in violation of 40 C.F.R. § 141.21(a).

V.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and

have one or more total coliform positive samples to collect at least 5 routine samples during the next month they provide water to the public.

2. Respondent failed to collect at least 5 routine samples in August, 2002 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b) (5).

VI.

1. 40 C.F.R. § 141.23(c) (1) requires community and non-transient, non-community water systems utilizing a surface water sources to monitor their water annually for cyanide to determine compliance with the MCL for cyanide as stated in 40 C.F.R. § 141.62.
2. Respondent failed to monitor the System's water for cyanide during 2002 in violation of 40 C.F.R. § 141.23(c) (1).

VII.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the

noncompliance detailed in the preceding Sections I through VI, in violation of 40 C.F.R. § 141.201.

VIII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA instances of noncompliance detailed in Sections I, II, III, VI, and VII, in violation of 40 C.F.R. § 141.31(b).

IX.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Sections IV and V, in violation of 40 C.F.R. § 141.21(g)(2).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the effective date of this Order, and thereafter the Respondent shall comply with the organic chemicals monitoring requirements as stated in 40 C.F.R. § 141.24 to determine compliance with the MCL

for volatile organic contaminants appearing at 40 C.F.R. § 141.61. Respondent shall report analytical results to EPA within the first 10 days following the month in which results are received, as required by 40 C.F.R. § 141.31(a).

2. Upon the effective date of this order Respondent shall monitor the water for lead and copper annually as required by 40 C.F.R. § 141.86(d)(4). Respondent's next sampling period for lead and copper analysis is June 1 to September 30, 2004. Respondent shall report results and other required information to EPA within the first 10 days following the end of each applicable monitoring period, as required by 40 C.F.R. § 141.90(a).
3. Within 30 days of the effective date of this Order and annually thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
4. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R.

§ 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R.

§ 141.31(a).

5. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
6. Within 30 days of the effective date of this Order, and annually thereafter the Respondent shall comply with the cyanide requirements as stated in 40 C.F.R. § 141.23(c)(1) to determine compliance with the cyanide MCL appearing at 40 C.F.R. § 141.62. Respondent shall report analytical results to the EPA within the first 10 days following the month in which results are received, as required by 40 C.F.R. § 141.31(a).
7. No later than 30 days from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violation in this Order, to return to compliance with 40 C.F.R.

§§ 141.201, 141.204 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; AND (2) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. The System must repeat the notice annually for as long as the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days.

8. Reporting requirements specified in this Order shall be provided by certified mail to:

Eric Banghart
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain

in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 19 day of November, 2003.

David J. Janik

Town of Encampment
Page 15 of 10.

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement , Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement , Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS PLEASE CONTACT
THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE NOVEMBER 19,
2003.**