



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3123

WATER DIVISION

August 11, 2023

Mr. Nate Gilbert  
Gilbert Orchards  
Po Box 9066  
Yakima, WA 98909

**RE: July 2023 Failure to Monitor and/or Report Total Coliform and Disinfectant Residual  
Kays H2A, PWS ID 105388893**

Dear Mr. Gilbert:

The EPA has not received total coliform sample results for July 2023, which constitutes a violation of the National Primary Drinking Water Standards. In accordance with the Revised Total Coliform Rule (RTCR), 40 CFR §141.854-857, the Kays H2A water system is required to collect 1 total coliform sample(s) each month. Timely testing for coliform bacteria is essential because ingestion of these pathogens may cause illness, particularly in children and the elderly.

If you disinfect, disinfectant residual concentrations must also be measured at the same time and location as total coliform, as required under the Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors Rule, 40 CFR §141.132(c). This concentration must be reported to the EPA along with the coliform sample, even if it is non-detectable.

Results must be reported to the EPA by the tenth of the month following the sampling period. For example, samples collected in July 2023 must be received by 8/10/2023. To return to compliance you must **either**: Submit July 2023 sample results for both total coliform and disinfectant residuals to [R10TribalDW@epa.gov](mailto:R10TribalDW@epa.gov) as soon as possible **-OR-** collect and report coliform samples and disinfectant residuals on time.

Additionally, in accordance with the Public Notification of Drinking Water Violation Rule 40 CFR §141.204(b) Kays H2A must distribute Tier 3 Public Notification (PN) **within 1 year** of receiving this letter. A Public Notification template, instructions, and certification are enclosed to assist you with completing the requirements. You must also submit to EPA a copy of the PN that was distributed and the completed Public Notification Certification Form within 10 days after you distribute the notice.

For community water systems, the annual Consumer Confidence Report (CCR) may be used as a vehicle for the initial Tier 3 public notice and all required repeat notices, instead of individual Tier 3 public notices, under 40 CFR §141.204(b)(2).

This letter serves as initial notification of non-compliance under the Safe Drinking Water Act for the regulation and time period cited. EPA supports compliance assistance and encourages early action to return to compliance. Issues not addressed in a timely manner may be referred to enforcement. Prior to an enforcement action for the cited violation(s), EPA Region 10 will offer government-to-government consultation, in accordance with the [EPA Policy on Consultation and Coordination with Indian Tribes](#). Please contact [R10TribalDW@epa.gov](mailto:R10TribalDW@epa.gov) with questions.

Sincerely,

KAREN  
BURGESS

Digitally signed by  
KAREN BURGESS  
Date: 2023.08.14  
16:45:29 -07'00'

Karen Burgess, Manager  
Groundwater and Drinking Water Section

Enclosures: Public Notification Materials

cc: Danielle J. Russell, EFC Region 10/RCAC  
Mark Nelson, Evergreen Valley Utilities

## Instructions for Monitoring Violations Annual Notice

If you are required to provide Tier 3 notification, you must provide public notice to persons served within one year after you learn of the violation [40 CFR 141.204(b)]. Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following [40 CFR 141.204(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Noncommunity systems must use one of the following [40 CFR 141.204(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.204(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has already been resolved, you must post the notice for at least seven days [40 CFR 141.204(b)]. If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the Consumer Confidence Report (CCR), as long as public notification timing and delivery requirements are met [40 CFR 141.204(d)]. You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time. If you do modify the notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

### **Mandatory Language**

**Mandatory language for monitoring and testing procedure violations [40 CFR 141.205(d)] must be included as written (with blanks filled in) and is presented in this notice in italics and with an asterisk on either end.**

You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable [40 CFR 141.205(d)]. This language is also presented in this notice in italics and with an asterisk on either end.

**Corrective Action**

In your notice, describe corrective actions you took, or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. You can use the following language, if appropriate, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

**After Issuing the Notice**

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice [40 CFR 141.31(d)].

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### Monitoring Requirements Not Met

Public Water System: Kays H2A

Date distributed: \_\_\_\_\_

Our water system violated drinking water requirements over the past year. Even though these were not emergencies, as our customers, you have a right to know what happened and what we are doing/did to correct these situations.

*\*We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During the July 1, 2023 to July 31, 2023 compliance period we:*

- ☐ *did not monitor or test*
- ☐ *did not complete all monitoring or testing*

*for \_\_\_\_\_ contaminant(s) and therefore cannot be sure of the quality of your drinking water during that time.\**

#### What should I do?

There is nothing you need to do at this time.

The table below lists the contaminant(s) we did not properly test for during the last year, how often we are supposed to sample, how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

| Contaminant                                 | Required sampling frequency | Number of samples taken | When samples should have been taken | When samples were taken |
|---------------------------------------------|-----------------------------|-------------------------|-------------------------------------|-------------------------|
| Coliform and chlorine disinfectant residual | 1 each month                | 0                       | July 1, 2023 – July 31, 2023        | _____                   |

#### What is being/was done?

We took the required number of samples on \_\_\_\_ / \_\_\_\_ / \_\_\_\_.

-OR-

We will take the required number of samples on \_\_\_\_ / \_\_\_\_ / \_\_\_\_.

*\*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.\**

### Public Notification Certification Form

The water system must complete this section. The signature below certifies that the notice contains all required elements. Complete the section which corresponds to your water system type.

#### Community Water Systems:

- ☐ I mailed/delivered Public Notices to the water users within 1 year of receiving EPA's Notice of Violation for failure to monitor and/or report total coliform and disinfectant residual under the Revised Total Coliform Rule.

Provide information of another method used to reach others if they would not be reached by the first method. Such methods could include posting in public places or internet, newspapers, email, delivery to community organizations, etc.

Other Method: \_\_\_\_\_

#### Non-Community Water Systems:

- ☒ Notice posted at \_\_\_\_\_ on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ within 1 year of receiving EPA's Notice of Violation for failure to monitor and/or report total coliform and disinfectant residual under the Revised Total Coliform Rule.

Provide information of another method used to reach others if they would not be reached by the first method. Such methods could include posting on the internet, newspapers, email, delivery to community organizations, etc.

Other Method: \_\_\_\_\_

Water System Name: Kays H2A  
PWS ID#: 105388893

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

Email a copy of the completed notice and this certification form to: [R10TribalDW@epa.gov](mailto:R10TribalDW@epa.gov)

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_