

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**
REGION 8

2009 JUN -5 PM 3:07
EPA REGION 8

IN THE MATTER OF)	
)	
Lincoln Road RV Park, Inc.)	Docket No. SDWA-08-2008-0038
)	
)	
Helena, Montana)	SUPPLEMENTAL
PWS ID #MT0003679)	MEMORANDUM
)	IN SUPPORT OF
)	MOTION FOR DEFAULT
Respondent.)	
_____)	

On March 11, 2009, the United States Environmental Protection Agency Region 8 (EPA) filed motion for default in this action. The Respondent Lincoln Road RV Park, Inc. (Respondent or Lincoln Road) has not responded to that motion.

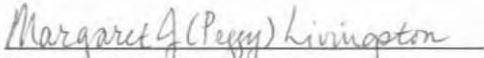
As set forth in more detail in EPA's Memorandum In Support of Motion for Default, the Respondent owns and/or operates a public water system (the system) in Helena, Montana. EPA instituted this action because the Respondent has violated an administrative order in which EPA, among other things, directed the Respondent to monitor the system's water monthly for total coliform.

Since filing its Motion for Default, EPA has learned of an additional violation by Respondent. In February of 2009, the Respondent failed to monitor the system's water for total coliform bacteria. Please see the supporting affidavits of Kimberly Pardue Welch of EPA Region 8 and Sienna Paquin of the Montana Department of Environmental Quality, and the March 16, 2009 letter from Ms. Paquin to the Respondent.

The February 2009 violation is additional evidence of the Respondent's longstanding pattern of violations of the National Primary Drinking Water Regulations and of EPA's September 20, 2006, Administrative Order.

For the reasons presented in EPA's March 11, 2009, Memorandum in Support of Motion for Default and this Supplemental Memorandum, EPA requests that this court grant EPA's Motion for Default and assess the Respondent an administrative civil penalty of \$3,000.00.

Respectfully submitted,


Margaret J. (Peggy) Livingston
Enforcement Attorney
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202
Telephone Number: (303) 312-6858
Facsimile Number: (303) 312-7202

Attachments:

1. Affidavit of Sienna Paquin
2. Affidavit of Kimberly Pardue Welch
3. March 16, 2009 letter from Sienna Paquin to Respondents

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the preceding Supplemental Memorandum in Support of Motion for Default, including all attachments, were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of each of the foregoing also was provided to Regional Judicial Officer Elyana R. Sutin at the previously-stated address.

In addition, a true copy of each of the foregoing was sent to the following by certified mail, return receipt requested, number 7008 1830 0000 5157 1703:

Kim Harrison
Registered Agent
Lincoln Road RV Park, Inc.
850 West Lincoln Road
P.O. Box 9708
Helena, MT 59604

Date: 6/5/09

By: Judith M. McTernan

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

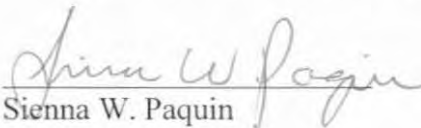
IN THE MATTER OF)
)
Lincoln Road RV Park, Inc.) Docket No. SDWA-08-2008-0038
)
Helena, Montana) **AFFIDAVIT OF SIENNA W. PAQUIN**
PWS ID #MT0003679)
)
Respondent.)
_____)

Based upon information and belief, I, Sienna W. Paquin, state the following under oath:

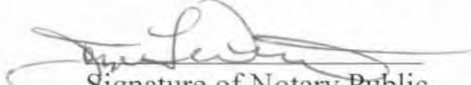
1. I am currently employed by the Public Water Supply Section of the Montana Department of Environmental Quality (DEQ) as the Rule Specialist for the Total Coliform and Nitrate Rules. In the normal course of its business, the DEQ's Public Water Supply Section receives and maintains reports from public water supply systems of monitoring results for total coliform in drinking water. My job duties include maintaining these records.

2. The records of the DEQ's Public Water Supply Section indicate that for the Lincoln Road RV Park public water supply system in Helena, Montana, no monitoring results for total coliform for February of 2009 were submitted to the DEQ, even after the DEQ sent the attached March 16, 2009, letter to the Lincoln Road RV Park.

Upon penalty of perjury, I hereby swear the foregoing is true to the best of my knowledge.


Sienna W. Paquin

Subscribed and sworn to before me this 22nd day of May, 2009.


Signature of Notary Public
Joyce L. Wittenberg
Residing at Helena

My commission expires: May 21, 2011 ^{JW} ~~2006~~

ATTACHMENT 2 AFFIDAVIT OF KIMBERLY PARDUE WELCH

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Lincoln Road RV Park, Inc.)	Docket No. SDWA-08-2008-0038
)	
Helena, Montana)	AFFIDAVIT OF KIMBERLY
PWS ID #MT0003679)	PARDUE WELCH
)	
<u>Respondent.</u>)	

Based upon information and belief, I, Kimberly Pardue Welch, state the following under oath:

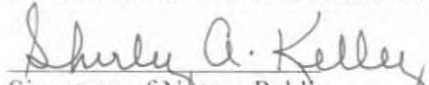
1. I am currently employed by the United States Environmental Protection Agency (EPA) in the Public Water Supply Team of the Office of Enforcement, Compliance, and Environmental Justice in Region 8 (PWS Enforcement Team). In the normal course of its business, EPA issues administrative orders to owners and/or operators of public water supply (PWS) systems that require drinking water to be monitored. After EPA issues any such order, the PWS Enforcement Team, in its usual course of business, receives and maintains reports of any monitoring results submitted to EPA, until that order is closed. Since September 20, 2006, when EPA issued an administrative order to Lincoln Road RV Park, Inc. (Lincoln Road), my job duties have included maintaining any coliform monitoring records submitted to EPA by Lincoln Road.

2. The records of the PWS Enforcement Team indicate that Lincoln Road did not submit any monitoring results for total coliform for February of 2009 to EPA.

Upon penalty of perjury, I hereby swear the foregoing is true to the best of my knowledge.


Kimberly Pardue Welch

Subscribed and sworn to before me this ^{22nd} day of May, 2009.


Signature of Notary Public

My commission expires: 9-26-2011

ATTACHMENT 3 MARCH 16, 2009 LETTER FROM SIENNA PAQUIN TO RESPONDENTS

March 16, 2009

KIM HARRISON
LINCOLN ROAD RV PARK INC
PO BOX 9738
HELENA MT 59604

**RE: Notice of Drinking Water Monitoring Violation: Lincoln Road RV Park Inc,
MT0003679, Transient Non Community**

Dear Owner or Operator,

This monitoring violation letter is to inform you that the Montana Department of Environmental Quality's (Department) records indicate that bacteriological sample(s) results have not been received for the monitoring period of February 2009.

According to the Department's records the Lincoln Road RV Park Inc is required to submit one (1) bacteriological sample(s) per month but only zero (0) sample(s) was/were taken in February 2009.

If you collected the required sample(s) within the referenced period, please submit a copy of your sample results to the Department. Upon receipt of a hard copy of the results the Department's records will be corrected. **If you have not collected the required sample(s)** within the referenced period, please be advised that this is a violation of the Administrative Rules of Montana (ARM) 17.38.215 which adopts by reference 40 CFR (Code of Federal Regulations) 141.21.

Public Notice Requirement

You must provide tier 3 public notification in accordance with ARM 17.38.239 which adopts 40 CFR Part 141, subpart Q. Instructions for public notice are provided on the third page of this letter and the fourth page is an example public notice document that contains the required language you must use to notify users.

Within ten days of issuing public notice, you must submit to the Department a representative copy of each type of notice distributed to the public. Please be sure to specify the delivery date and method used for each notice.

Additional Sampling Requirement

Please resume collecting **one (1) bacteriological sample(s) per Month immediately** in accordance with ARM 17.38.215.

Because the violation(s) cited above may be referred to the Department's Enforcement Division for an enforcement action, this letter is intended to fulfill the notice requirements of Section 75-6-110(1), MCA. As such, this letter is not the "final action" of the Department in this matter and, therefore, does not create the opportunity to request the hearing provided for in Section 75-6-109(3), MCA.

Please contact me at the telephone number below if you have any questions.

Sincerely,



Sienna Paquin
Total Coliform Rule Specialist
Public Water Supply and Subdivision
Compliance Section
Phone: 406-444-3425
Fax: 406-444-1374

E-mail: Ruth Piccone, Food and Consumer Safety, DPHHS
Shelley Nolan, Compliance/Technical Services Sections Manager, PWS

CC: Lewis And Clark County Sanitarian
PWS File

Attachments: Instructions for Monitoring Violation
Example Public Notice, "Important Information About Your Drinking Water"

Instructions for Monitoring Violations

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 (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 (141.204(c)):

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

Non-community systems must use one of the following (141.204(c)):

- **Posting in conspicuous locations**
- **Hand delivery**
- **Mail**

In addition, both community and non-community systems must use another method reasonably calculated to reach others if they would not be reached by the first method (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 been resolved, **you must post the notice for at least seven days (141.204(b))**. If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the next page 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 (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.

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.

Include in your notice the standard language for monitoring and testing procedure violations in italics (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

Corrective Actions

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 (141.31(d)).

Visit EPA's PNi Writer at www.pniwriter.org for more information and help issuing public notice.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for Lincoln Road RV Park Inc

Our water system violated drinking water standards. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

We are required to monitor your drinking water for total coliform bacteria on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During February 2009 we did not monitor for total coliform bacteria and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

There is nothing you need to do at this time, however If you have specific health concerns, consult your doctor.

The table below lists the contaminant(s) we did not properly test for, how often we are supposed to sample for total coliform bacteria and 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 will be taken
Total Coliform Bacteria ¹	one (1)	zero (0)	February 2009	

¹ Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present.

What is being done?

[Describe corrective action.]

For more information, please contact KIM HARRISON at _____ [PHONE NUMBER] or PO BOX 9738, HELENA, MT 59604.

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.

This notice is being sent to you by Lincoln Road RV Park Inc.
State Water System ID#: MT0003679.
Date and Method Distributed: _____.

Water System Class: Transient Non Community
County: Lewis And Clark

Monitoring Period: February 2009
Violation Date: 3/16/2009