

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2008 DEC 30 AM 8:21

IN THE MATTER OF )  
)  
U.S. Department of Interior )  
Bureau of Reclamation )  
Billings Area Office )  
Billings, MT )  
)  
Respondent )

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2009-0015

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.

2. U.S. Department of Interior, Bureau of Reclamation (Respondent) is a Federal Agency which owns and/or operates the Beaverhead Campground South Public Water System (the system) in Beaverhead County, Montana which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of one well and serves approximately 67 people per day through 1 service connection during April through November. The system is a "non-community" water system as defined in 40 C.F.R. § 141.2. Respondent is subject to the requirements of the Act and the National Primary Drinking Water Regulations (drinking water regulations), at 40 C.F.R. part 141. The Respondent received annual notification from the Montana Department of Environmental Quality (MDEQ or the State) regarding the system's monitoring requirements.

3. The MDEQ has primary enforcement authority for the Act in the State of Montana. On November 19, 2008, EPA issued a Notice of Violation to MDEQ regarding the violations at the system. MDEQ elected not to commence an enforcement action against the system for the violations within the thirty-day time frame set forth in section 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to MDEQ and has provided the State, through MDEQ, with an opportunity to confer with EPA regarding this Order pursuant to section 1414(g)(2) of the Act, 42 U.S.C. § 300g-3(g)(2). EPA is issuing this Order requiring the system to comply with the "applicable requirements" it violated. An "applicable requirement" includes requirements of an applicable approved State program, such as Montana's "Public Water Supply Requirements" at Administrative Rules of Montana (ARM) 17.38.101 through 703. 42 U.S.C. § 300g-3(i).

### **VIOLATIONS**

4. Respondent is required to monitor the system's water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria. ARM 17.38.215(1)(b). Respondent failed to monitor the water for contamination of total coliform bacteria in October 2004, September 2005, and during April through November, 2007 and, therefore, violated this requirement.

5. The law requires Respondent to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. § 141.201 *et seq.* Respondent failed to notify the public of the violations outlined in paragraph 4 above, and therefore, violated this requirement.

6. Respondent is required to report any failure to comply with a coliform monitoring requirement to the State within ten days after the system learned of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to the State the failure to monitor total coliform violations listed in paragraph 4 above and, therefore, violated this requirement.

7. Respondent is required to report any failure to comply with any of the drinking water regulations (with the exceptions noted in paragraph 6 above) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraph 5 above to the State and, therefore, violated this requirement.

### **ORDER**

Based on the above violations, Respondent is ordered to perform the following actions:

8. Upon receipt of this Order, Respondent shall monitor monthly for total coliform bacteria. ARM 17.38.215(1)(b). Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results are received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a). Any violation of the total coliform monitoring requirements shall be reported to EPA and the State within ten days after Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

9. Within 30 days of receipt of this Order, Respondent must provide public notice of the violations specified in paragraph 4 in this Order. 40 C.F.R. § 141.201 et seq. Respondent shall submit a copy of the public notice to EPA and the State within ten days of completion of the public notice. 40 C.F.R. § 141.31(d). This notice shall be given by (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system OR (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required above, such as publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Respondent shall comply with the public notification requirements following any future drinking water regulations violation. 40 C.F.R. § 141.201 et seq.

10. Respondent shall report any other violation of the drinking water regulations to EPA and the State within 48 hours of discovery. 40 C.F.R. § 141.31(b).

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

Eric Finke  
U. S. EPA Montana Office  
10 W. 15<sup>th</sup> St., Suite 3200  
Helena, MT 59626

**AND**

Shelley Nolan  
Montana Department of  
Environmental Quality- PWSB  
P.O. Box 200901  
Helena, MT 59620-0901

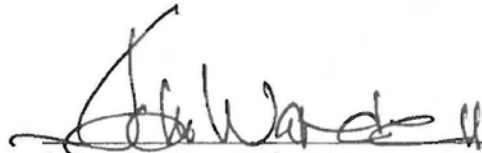
### **GENERAL PROVISIONS**

12. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

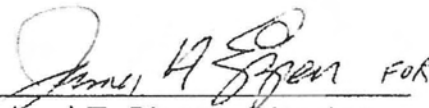
13. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$32,500 per day of violation (as adjusted for inflation).

Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$27,500 per day per violation or, for any such violation after January 12, 2009, \$32,500 per day per violation (as adjusted for inflation). 42 U.S.C. §§ 300g-3, 300j-6, 300j-8; 40 C.F.R. part 19.

12/29/08  
Date

  
John F. Wardell, Director  
Montana Office

12/23/08  
Date

  
Michael T. Risner, Director  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice