

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 FEB 22 PM 2:53

EPA REGION VIII
DENVER, CO

IN THE MATTER OF)

Coffee Creek Water Company,)
Charlie Hartman, Lon Nemec,)
and Henry Nemec,)
Respondents)

Docket No. SDWA-08-2012-0001

Proceeding under § 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))

MOTION TO WITHDRAW COMPLAINT WITHOUT PREJUDICE

Pursuant to 40 C.F.R. § 22.14(d), Region 8 of the United States Environmental Protection Agency (the EPA) moves to withdraw the complaint filed in this matter on October 4, 2011.

The complaint alleges that Coffee Creek Water Company (the Respondent) failed to submit a compliance plan relating to a regulation that is part of the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. Part 141. The NPDWRs apply to “public water systems.” See section 1411 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300g, and 40 C.F.R. § 141.1.

According to section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), a “public water system” must have at least fifteen service connections or regularly serve at least twenty-five individuals.

The Montana Department of Environmental Quality (the MDEQ) has primary enforcement authority for the public water supply supervision program in Montana and initially referred this matter to EPA. By letter dated February 2, 2012, the MDEQ determined that the

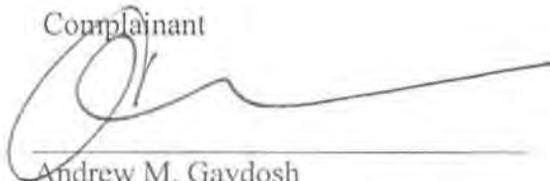
Respondent's water system does not currently serve enough individuals or have enough active service connections to be regulated as a public water supply and has inactivated the Respondent's water system. (See attachment.)

Because the MDEQ no longer considers the Respondent's water system subject to regulation as a "public water supply," the EPA requests that this action be dismissed without prejudice to the EPA's right to reinstitute an appropriate enforcement action in the event of a future change in circumstances.

Dated this 22nd day of February, 2012.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,

Complainant



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice



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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the Motion to Withdraw Complaint were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent to the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED:

Henry Nemec, President and Trustee
Coffee Creek Water Company
401 4th Avenue
Coffee Creek, MT 59424
Certified Mail # 7009-3410-0000-2597-6872

Lon Nemec, Trustee
Coffee Creek Water Company
Box 6160 MT Highway 81
Coffee Creek, MT 59424
Certified Mail # 7009-3410-0000-2597-6889

Charlie Hartman, Trustee
Coffee Creek Water Company
Box 4984 MT Highway 81
Coffee Creek, MT 59424
Certified Mail # 7009-3410-0000-2597-6896

Date: 2/22/2012 By: Judith McTernan
Judith McTernan



Montana Department of
ENVIRONMENTAL QUALITY

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: www.deq.mt.gov

Attachment to
Motion to Withdraw Complaint Without Prejudice
Docket No. SDWA-08-2012-0001

Brian Schweitzer, Governor

Coffee Creek Water Company
Paul Tesarek, Manager
P.O. Box 37
Coffee Creek, MT 959424

ENVIRONMENTAL
PROTECTION AGENCY

FEB 06 2012

MONTANA OFFICE

February 2, 2012

RE: Inactivation of Coffee Creek Water Company, PWSID#MT000179

Dear Paul,

This letter is to inform the Trust of Coffee Creek Water Company that the public water supply owned and operated by the Trust will be inactivated as a public water supply on February 3, 2012. The DEQ has received confirmation through a notarized document dated November 22, 2011 which states that, Coffee Creek Water Company has 24 year-round residents and only 11 active connections used year round. There is 1 additional active connection that is used for less than 60 days. The DEQ received confirmation from Coffee Creek Water Company on January 12, 2012 which states that there are 3 inactive connections to which have not been occupied for more than 2 years.

The DEQ performed a sanitary survey in addition to the received statements from Coffee Creek Water Company to confirm the number of homes and business connections which were in use. The DEQ is confident that Coffee Creek Water Company does not meet the definition of a public water supply. Please notify the DEQ promptly if the number of community residents increases to 25 people being served for 60 or more days in a year or if the number of active connections meets 15. If either condition occurs then Coffee Creek Water Company will be reactivated as a public water supply and be required to meet any monitoring and reporting requirements. Thank You for your efforts and cooperation in this matter.

Sincerely,

Shelley Nolan

PWS Program Manager

Public Water Supply and Subdivisions Bureau

Montana Department of Environmental Quality

Cc: Sienna Meredith, Region 8 EPA
Helena File
Frank Gessaman, Enforcement