



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-W

CERTIFIED MAIL LETTER # 7003 2260 0002 0331 7028
RETURN RECEIPT REQUESTED

Glenn McFarlane, Registered Agent
Yellowstone Boys and Girls Ranch
1732 South 72nd Street West
Billings, MT 59106

Re: Administrative Order
Docket No. SDWA-08-2007-0037
ID # MT0000154

Dear Mr. McFarlane:

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 (the Act, 42 U.S.C. section 300f *et seq.*, and its implementing regulations. Among other things, the Administrative Order finds that Yellowstone Boys and Girls Ranch is a public water supplier as defined by the Act and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.132(b), 141.23(d), 141.201, and 141.31(b), for: failure to monitor for disinfectant byproducts, failure to monitor for nitrate, failure to provide public notice of the violations; and failure to notify the State of the violations.

If Yellowstone Boys and Girls Ranch complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Among other things, the Order requires Yellowstone Boys and Girls Ranch to provide a public notification of violations of the Act. If you have any questions concerning the form of public notice, please do not hesitate to contact Darcy O'Connor, whose telephone number is provided below.

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 Darcy O'Connor at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. O'Connor at (800) 227-8917, extension 6392, or (303) 312-6392. If you wish to have an informal conference with EPA, you may also call or write Ms. O'Connor. If you are represented

by an attorney or have legal questions, please call Amy Swanson at the above 800 number, extension 6906, or at (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane L. Sipe".

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

Enclosure

cc: John Arrigo, MT DEQ
Kate Miller, MT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 MAY -8 PM 2:45

IN THE MATTER OF)
)
Yellowstone Boys and Girls Ranch)
Billings, MT)
)
Respondent)
)
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0037

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 Yellowstone Boys and Girls Ranch ("Respondent") is a corporation under the laws of Montana and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Yellowstone Boys and Girls Ranch Water System (the "System"), located in Yellowstone County, Montana, 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, and its implementing regulations, 40 C.F.R. Part 141, also known as the National Primary Drinking Water Regulations ("NPDWRs").
 5. According to a November 2, 2006 sanitary survey conducted by the Montana Department of Environmental Quality (the "State" or "MDEQ"), Respondent operates a system that is supplied solely by a ground water source consisting of two wells located on site. The System includes 48 service connections and provides water to approximately 240 persons year-round.
 6. MDEQ has primary enforcement authority for the Act in the State of Montana. On March 19, 2007, EPA issued a Notice of Violation pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g- 3(a), to MDEQ regarding the violation at the System. MDEQ elected not to commence an appropriate 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).
 7. EPA 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).



8. EPA has provided a copy of this Order to MDEQ pursuant to section 1414(g)(2) of the Act, 42 U.S.C. § 300g-3(g)(2).
9. EPA is issuing this Order requiring the System to comply with the “applicable requirements” it violated pursuant to section 1414(g) of the Act, 42 U.S.C. § 300g-3(g).

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.23(d)(1) requires a community water system with a groundwater source to monitor the water annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62(b).
2. Respondent failed to monitor nitrate in 2005, in violation of 40 C.F.R. § 141.23(d).

II.

1. 40 C.F.R. § 141.132(b) requires the owner and/or operator of a public water system served by groundwater providing water to less than 10,000 and using chemical disinfectant to collect one water sample per year per treatment plant to determine compliance with the MCL for disinfection byproducts, as stated in 40 C.F.R. § 141.64.
2. Respondent failed to monitor the water for disinfection byproducts in 2004, 2005 and 2006, in violation of 40 C.F.R. § 141.132(b).



III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violations of the NPDWRs, including violations of the 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 violations outlined in Sections I through II, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. § 141.31(b) requires owners and/or operators of public water systems to notify the State within 48 hours the failure to comply with any NPDWR, including monitoring and public notice requirements.
2. Respondent failed to report to the State instances of noncompliance detailed in Sections I through III, in violation of 40 C.F.R. § 141.31(b).

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 per the regulations 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 and the State within the first ten days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

2. Between July 1 and September 30, 2007, and per the regulations thereafter, Respondent shall comply with monitoring requirements for disinfection byproducts, as stated in 40 C.F.R. § 141.132(b). Respondent shall collect one sample per year per treatment plant at a location that represents maximum residence time to be analyzed for total trihalomethane (“TTHM”) and haloacetic acids (five) (“HAA5”) to determine compliance with the disinfection byproduct MCL as stated in 40 C.F.R. § 141.64(a). Respondent shall report analytical results to EPA and the State within the first ten days following the month in which sample results are received, as required by 40 C.F.R. §§ 141.134(a) and (b).
3. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. part 141) to EPA and the State within 48 hours.
4. Within 30 days of the effective date of this Order, Respondent must provide public notice of the violation(s) specified under the Findings of Violation Sections I and II in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 *et seq.* following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA and the State within ten days of completion of the public notice, as required by 40 C.F.R. § 141.31(d). 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 public water system; AND (2) any other method



reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, 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 served by the system or on the Internet, or delivery to community organizations. 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.

5. Reporting requirements specified in this Order shall be provided by certified mail to the following addresses:

U. S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, Colorado 80202
Attn: Darcy O'Connor

Montana Department of
Environmental Quality – PWSS
P.O. Box 200901
Helena, MT 59620-0901
Attn: Kate Miller

GENERAL PROVISIONS

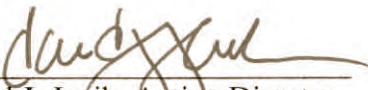
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500, 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 \$32,500 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 Act or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 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 8th day of May, 2007.



David J. Janik, Acting Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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

