



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

OCT 18 2007

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Mr. Luke Wilson, Preacher
Church of Christ 48th Street West
14 North 48th Street West
Billings, MT 59106

Re: Administrative Order
Docket No. SDWA-08-2007-0086
Church of Christ 48th Street West
Public Water System
PWS ID #MT0004265

Dear Mr. Wilson:

Enclosed you will find an Administrative Order (the 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 Order finds that Church of Christ 48th Street West, is the owner and/or operator of the Church of Christ 48th Street West Water System (the System) and is a supplier of water as defined by the Act and that it has violated Montana's "Public Water Supply Requirements" and the National Primary Drinking Water Regulations (NPDWRs) at Administrative Rules of Montana (ARM) 17.38.215(1)(b), 17.38.207(1) and the National Primary Drinking Water Regulations (NPDWRs) at 40 Code of Federal Regulations (C.F.R.) §§ 141.63(a)(2), 141.21(a), 141.21(b), 141.21(b)(5), 141.201, 141.31(b), 141.21(g)(1) and 141.21(g)(2) for: exceeding the total coliform maximum contaminant level (MCL), failure to monitor for bacteriological quality, failure to take four repeat samples following a total coliform positive sample, failure to take five routine samples following a total coliform positive sample the preceding month, failure to provide public notice, and failure to notify the State of the violations.


If Church of Christ 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 compliance.

Among other things, the Order requires Church of Christ to provide a public notification of violations of the Act. For your convenience, we have enclosed some template forms to assist in providing the required public notice. If you have any questions or comments concerning the form of public notice, please do not hesitate to contact Kimberly Pardue Welch of EPA, 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 Kimberly Pardue Welch at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Pardue Welch at (800) 227-8917, extension 6983, or (303) 312-6983. If you wish to have an informal conference with EPA, you may also call or write Ms. Pardue Welch. If you are represented by an attorney, please ask your attorney to call Thomas E. Sitz at the above 800 number, extension 6918, or at (303) 312-6918.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Order
Public Notice template

cc:

Jenny Chambers, MT DEQ
Kate Miller, MT DEQ



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 OCT 18 AM 9:41

IN THE MATTER OF)
)
Church of Christ)
48th Street West)
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-08-2007-0086

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. Church of Christ 48th Street West (Respondent) is a nonprofit corporation and is 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 Church of Christ Water System (the System), located in Billings, Montana, for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year 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 "transient, non-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 (NPDWR).
5. According to a June 15, 2000 sanitary survey conducted by the Montana Department of Environmental Quality (MDEQ or the State), the System is supplied by a cistern consisting of purchased surface water. The System provides water to approximately 50- 85 persons per day year round.
6. The Montana Department of Environmental Quality has primary enforcement authority for the Act in the State of Montana. On September 13, 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 violations at the public water system. The State 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).
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 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).
9. An “applicable requirement” includes, among other things, a requirement 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).

FINDINGS OF VIOLATION

I

1. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
2. The State adopted 40 C.F.R. § 141.63(a) and incorporated it by reference in ARM 17.38.207(1).
3. Monitoring results submitted by Respondent for the System during October 2005 exceeded the MCL for total coliform bacteria, in violation of ARM 17.38.207(1) and 40 C.F.R. § 141.63(a)(2).

II

1. 40 C.F.R. § 141.21(a)(3)(i) requires non-community water systems using only ground water and serving 1,000 persons or fewer to monitor for total coliform each calendar quarter that the system provides water to the public to determine compliance with the

maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. The State requires non-community public water systems to sample for total coliform once each month, as set forth in ARM 17.38.215(1)(b), which adopted portions of 40 C.F.R. § 141.21.
3. Respondent failed to monitor for total coliform during the following months: November 2002, December 2002, January 2003, February 2003, May 2003, June 2003, July 2003, August 2003, September 2003, October 2003, November 2003, January 2004, February 2004, April 2004, May 2004, July 2004, August 2004, October 2004, November 2004, December 2004, January 2005, February 2005, April 2005, May 2005, July 2005, August 2005, November 2005, December 2005, March 2006, May 2006, June 2006, August 2006, September 2006, November 2006, December 2006, February 2007, April 2007, June 2007, and August 2007, in violation of ARM 17.38.215(1)(b) and 40 C.F.R. § 141.21.

III

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a set of repeat samples for the March 2003 and September 2005 total coliform positive routine samples, in violation of 40 C.F.R. § 141.21(b).

IV

1. 40 C.F.R. § 141.21(b)(5) requires each public water system that collects fewer than five routine samples per month and has one or more total coliform positive sample(s)

to collect at least five routine samples during the next month the system provides water to the public.

2. Respondent failed to collect at least five routine samples in April 2003 after a total coliform positive sample in March 2003, in violation of 40 C.F.R. § 141.21(b)(5).

V

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, III, and IV, and violations prior to November 2006 in Section II, in violation of 40 C.F.R. § 141.201. Public notice for violations after September 2006 are not yet overdue.

VI

1. 40 C.F.R. § 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliforms in 40 C.F.R. § 141.63 to report the violation to the state no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to the State the total coliform MCL violation detailed in section I, in violation of 40 C.F.R. § 141.21(g)(1).

VII

1. 40 C.F.R. § 141.21(g)(2) requires public water systems to report any failure to comply with a coliform bacteria monitoring requirement to the State within ten business days after the system discovers the violation.
2. Respondent failed to report to the State instances of noncompliance detailed in

Sections II, III, and IV, in violation of 40 C.F.R. § 141.21(g)(2).

VIII

1. 40 C.F.R. § 141.31(b) requires owners and/or operators of public water systems to notify the State within 48 hours of any failure to comply with any NPDWR, including failure to comply with monitoring and public notice requirements, unless a different reporting period is specified in the regulations.
2. Respondent failed to report to the State instances of noncompliance detailed in Section V, 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. Upon the effective date of this Order, Respondent shall comply with the total coliform MCL as stated in 40 C.F.R. § 141.63.
2. Upon the effective date of this Order, Respondent shall monitor the water monthly for total coliform as required by ARM 17.38.215(1)(b) to determine compliance with the total coliform MCL appearing at ARM 17.38.207(l) and 40 C.F.R. § 141.63(a)(2). Respondent shall report results to EPA and the State within ten days following the end of each monitoring period, as required by 40 C.F.R. § 141.31(a).
3. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for

total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap.

Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

4. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If the System has one or more total coliform positive samples in a month, Respondent shall collect at least five routine samples during the next month the System provides water to the public. Respondent shall report analytical results to EPA and the State within the first ten days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
5. Within 30 days from the effective date of this Order, Respondent must provide public notice of the violation(s) specified under the Findings of Violation Sections I through IV 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) 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.

6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA and the State no later than the end of the next business day after Respondent learns of the violation.
7. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA and the State within ten days after the Respondent discovers the violation.
8. Except where a different reporting period is specified above, 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.

9. 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: Kimberly Pardue Welch

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 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)(A) and (C) of the Act, 42 U.S.C. § 300g-3(g)(3)(A) and (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 18th day of October, 2007.



Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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