



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Phone 800-227-8917
<http://www.epa.gov/region08>

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EPA REGION VIII
HEARING CLERK

OCT 22 2009

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard Opper, Director
Montana Department of
Environmental Quality
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

Re: NOTICE OF VIOLATION

Docket No. **SDWA-08-2010-0003**
Fazooli's Family Italian
4580 US Hwy 93 South
Somers, MT 59922
PWS ID# MT0000889

Dear Mr. Opper:

The public water supply system referenced above (the system) has violated certain provisions of the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (the drinking water regulations), according to records that the United States Environmental Protection Agency (EPA) has obtained from the Montana Department of Environmental Quality and its Public Water Supply Online Query Reports.

EPA promulgated the drinking water regulations under the authority of the Safe Drinking Water Act (the Act), 42 U.S.C. §300f *et seq.* EPA is issuing this notice of violation pursuant to section 1414(a) of the Act, 42 U.S.C. §300g-3(a), which authorizes EPA to issue an administrative compliance order or file a lawsuit concerning the system if the State of Montana (the State) does not commence an appropriate enforcement action within thirty days of receiving this notice.

The violations are listed in the table below.

<u>Date of Violation</u>	<u>Violation</u>
March 2006 and May 2009	Exceeded the maximum contaminant level (MCL) for nitrate. [40 C.F.R. § 141.62(b)]
March 2006 and May 2009	Failure to collect a confirmation sample within 24 hours of notification of analytical results that exceed the nitrate MCL, or failure to immediately issue public notice and collect a confirmation sample within two weeks of notification of the results of the first nitrate MCL violation. [40 C.F.R. § 141.23(f)(2)]
1 st quarter 2008 and 1 st quarter 2009	Failure to monitor for nitrate. [40 C.F.R. § 141.23(g) and ARM 17.38.219]
August 2005, August 2006, July 2007, March 2008, October 2008, November 2008, March 2009 and April 2009	Failure to monitor for bacteriological quality. [40 C.F.R. § 141.21(a) and ARM Chapter 38, Sub-Chapter 2, Section 17.38.215(1)(b)]
2007 - 2009	Failure to notify public of various above-referenced violations. [40 C.F.R. § 141.201]
2005 - 2009	Failure to report the above-referenced violations to the State. [40 C.F.R. §§ 141.21(g)(2) and 141.31(b)]

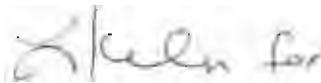
EPA is also sending a copy of this notice of violation to the system. Also enclosed for the benefit of the system is a copy of EPA's Small Business Regulatory Enforcement and Fairness Act (SBREFA) fact sheet containing information on compliance assistance resources and tools available to small businesses and small governments, in case these resources apply to this situation. SBREFA does not eliminate the responsibility to comply with the drinking water regulations. By providing this information sheet, EPA has not

necessarily determined that the system is in fact a "small entity" as that term is defined in SBREFA.

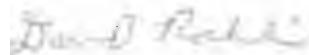
If the State does not commence an appropriate enforcement action concerning this system within 30 days from your receipt of the notification, EPA will likely issue an administrative order to the owner and/or operator of the system.

Please have your staff notify Kimberly Pardue Welch, at (800) 227-8917, extension 6983 or (303) 312-6983, within 20 days if your records show any discrepancies with the violations cited above, if your staff learns of any change in the system's compliance status, or if there are any questions or comments. Thank you for your assistance.

Sincerely,



Darcy O'Connor, Acting Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

SBREFA fact sheet

cc: John Arrigo, MT DEQ (w/o enclosures)
Shelley Nolan, MT DEQ (w/o enclosures)
CT Corporation System, Registered Agent, Bear Harbour Limited
Partnership (via certified mail w/ return receipt)
Josh Townsley, Operator, Fazooli's Family Italian
Tina Artemis, EPA Regional Hearing Clerk