



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

JUL 11 2007

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Joseph Duvall
Craig Bar
50 Main, Craig
Wolf Creek, MT 59648

Re: Administrative Order
Craig Bar
Docket No. SDWA-08-2007- 0053
PWS ID #MT0002077

Dear Mr. Duvall:

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 the Craig Bar Water System 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) and 40 Code of Federal Regulations (C.F.R.) §§ 141.63(a)(2), 141.63(b), 141.21(a), 141.21(b), 141.21(b)(5), 141.23(d)(2), 141.201, 141.21(g)(1), 141.21(g)(2), and 141.31(b) for: exceeding the maximum contaminant level (MCL) for total coliform bacteria, exceeding the acute MCL for total coliform bacteria, 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 monitor for nitrate, failure to provide public notice, and failure to notify the State of the violations.

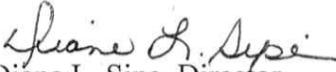
If Craig Bar complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or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

Among other things, the Order requires Craig Bar 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 or have legal questions, please call Thomas 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 JUL 11 AM 9:04

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
Joseph Duvall)
(Craig Bar)
(Wolf Creek, Montana))
Respondent)
)
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0053

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. Joseph Duvall (Respondent) is an individual and therefore is a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Craig Bar Water System, located in Lewis and Clark County, Montana for the provision to the public of piped water for human consumption.
3. The Craig Bar Water 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.
5. According to a March 31, 2003 sanitary survey conducted by Dan L. Fraser, P.E., of the Cadmus Group, Inc., Respondent operates a system that is supplied solely by a ground water source consisting of one well operating since June 1968, which serves approximately 80 persons per day through 1 service connection and is in operation year-round.
6. The Montana Department of Environmental Quality (the State) has primary enforcement authority for the Act in the State of Montana. On May 30, 2007, EPA issued a Notice of Violation pursuant to Section 1414(a) of the Act, 42 U.S.C. § 300g- 3(a) to the State 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 Montana Department of Environmental Quality (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 pursuant to section 1414(g) of the Act,

42 U.S.C. § 300g-3(g), to require the System to comply with the “applicable requirements” it violated.

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 maximum contaminant level (MCL) for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as allowing no more than one sample collected during a month to be positive for total coliform bacteria.
2. Monitoring results submitted by Respondent for the System during September 2003, September 2005, August 2006, and September 2006 exceeded the MCL for total coliform bacteria for each of those months, in violation of 40 C.F.R. § 141.63(a)(2).

II

1. 40 C.F.R. § 141.63(b) imposes and defines the acute MCL for total coliform bacteria as a fecal coliform positive or E. coli positive repeat sample, or any total coliform positive repeat sample following a fecal coliform positive or E. coli positive routine sample.

2. Monitoring results submitted by Respondent for the System during September 2003 exceeded the acute MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(b).

III

1. 40 C.F.R. § 141.21 requires each non-community water system using only ground water and serving 1,000 or fewer persons to monitor for total coliform each calendar quarter that the system provides water to the public to determine compliance with the 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).
3. Respondent failed to monitor the System's water for contamination by total coliform bacteria during August 2002, November 2002, December 2003, March 2005, and October 2006 in violation of ARM Chapter 38, Sub-Chapter 2, section 17.38.215(1)(b) and 40 C.F.R. § 141.21.

IV

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 July 2004, August 2004, August 2005, and July 2006 total coliform positive routine samples, in violation of 40 C.F.R. § 141.21(b).

V

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month they provide water to the public.
2. Respondent failed to collect at least 5 routine samples in June 2003, October 2003, August 2004, September 2004, November 2004 (System incorrectly took 4 samples), September 2005 (System incorrectly took 4 samples), and October 2005 after a total coliform positive sample in each preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

VI

1. 40 C.F.R. § 141.23(d)(2) requires all public water systems to monitor the water for nitrate quarterly for at least one year following any one sample in which the nitrate monitoring results were greater than 50% of the MCL as stated in 40 C.F.R. § 141.62(b).
2. Respondent's nitrate monitoring results dated January 23, 2001 were 5.96 mg/L, which is greater than 50% of the MCL stated in 40 C.F.R. § 141.62(b).
Therefore, Respondent is required to monitor quarterly for at least one year thereafter. Respondent failed to monitor the water for nitrate in the 2nd and 4th quarters of 2001; 1st, 2nd, 3rd, and 4th quarters of 2002; 2nd, 3rd, and 4th quarters of 2003; 2nd, 3rd, and 4th quarters of 2004; 1st, 2nd, and 4th quarters of 2005; and 2nd and 3rd quarters of 2006, in violation of 40 C.F.R. § 141.23(d).

VII

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 national primary drinking water regulations (NPDWR), including violations of the maximum contaminant level (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 and III through VI above, in violation of 40 C.F.R. § 141.201.

VIII

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 the System learns of the violation.
2. Respondent failed to report to the State the total coliform MCL violations detailed in Sections I and II, in violation of 40 C.F.R. § 141.21(g)(1).

IX

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.
2. Respondent failed to report to the State the noncompliance detailed in Sections III through V, in violation of 40 C.F.R. § 141.21(g)(2).

X

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to the State within 48 hours.
2. Respondent failed to report to the State the noncompliance detailed in Sections VI and VII above, 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(a)(2).
2. Upon the effective date of this Order, Respondent shall comply with the acute total coliform MCL as stated in 40 C.F.R § 141.63(b).
3. Within 30 days from the effective date of this Order, Respondent shall submit for approval plans and specifications for installing continuous disinfection treatment for the water system and any needed improvements to the well in accordance with 40 C.F.R. § 141.63(d), including:
 - Protecting the well from rainfall, rodents, and other contaminants by ensuring that all holes surrounding the well are backfilled and that the cement slab is sloped to move water away from the well casing.

4. All well improvements and/or construction require written approval from the State and EPA prior to implementation. Plans and specifications for the disinfection system and any other well construction shall be submitted for review and approval to:

Rachel Clark, Program Manager
PWS Plan Review Section
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

Kimberly Pardue Welch
EPA, Region 8 (ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

5. Within 60 days of receiving written approval from the State and EPA, Respondent shall complete the installation of continuous disinfection and all required well improvements.
6. If Respondent chooses to install full-time chlorination, the System will be required to monitor and record the chlorine residual each day using an accepted DPD colorimetric test kit and maintain at least 0.2 mg/L free chlorine residual at all times. Respondent shall submit the chlorine residual results to the State and EPA within the first 10 days of the end of the monitoring period, as required by ARM 17.38.229.
7. Once disinfection has been installed and other improvements have been completed, Respondent shall within 10 days of completion, send written certification to the State and EPA that the improvements have been completed.

8. Upon the effective date of this Order, Respondent shall comply with the requirements of ARM 17.38.215 (1)(b) and 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring to determine compliance with the MCLs as stated in ARM 17.38.207 and 40 C.F.R. § 141.63(a)(2). Respondent shall report analytical results to EPA and the State within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
9. 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 and the State within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
10. 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 Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 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 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
11. Within 30 days of the date of this Order, Respondent shall comply with the quarterly nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d)(2) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall continue to monitor the water quarterly until notified by the EPA that monitoring may be reduced and shall monitor according to regulations thereafter. 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 40 C.F.R. § 141.31(a).
 12. 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 I, and III through VI 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 10 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.

13. 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.
14. 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.
15. Except where a different reporting period is specified in the paragraphs 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 National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA and the state within 48 hours.

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

Kimberly Pardue Welch
U.S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1126

AND

Kate Miller
MT Dept. of Environmental Quality –
PWSS
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

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 11th day of July, 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

