



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

2009 DEC 14 AM 10:02

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-L

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DEC 14 2009

Charles Murray, Owner
Winston Bar
P.O. Box 406-208
Winston, MT 59647-0208

Re: Complaint and Notice of Opportunity for Hearing
Docket No. **SDWA-08-2010-0008**
Winston Bar Water System
PWS ID #MT0002940

Dear Mr. Murray:

Enclosed is an administrative "Complaint and Notice of Opportunity for Hearing" (complaint) filed against you, Charles Murray as owner of the Winston Bar public water system (System) under § 1414 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3. The U.S. Environmental Protection Agency (EPA) alleges in the complaint that you failed to comply with an Administrative Order, Docket No. SDWA-08-2008-0006, issued on December 13, 2007, under § 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), for alleged violations of the Act and the National Primary Drinking Water Regulations.

By law, you have the right to request a hearing regarding the matter set forth in the complaint. Please pay particular attention to those parts of the complaint entitled "Opportunity to Request a Hearing" and "Failure to File an Answer." If you do not respond to this complaint within 30 days of receipt, a default judgment may be entered and the proposed civil penalty may be assessed without further proceedings. You may request a hearing in your answer. You have the right to be represented by an attorney at any stage of these proceedings.

Whether or not you request a hearing, you or your authorized representative may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty.

EPA encourages all parties against whom it files a complaint proposing assessment of a penalty to pursue the possibilities of settlement through an informal conference. Any such settlement shall be finalized by the issuance of a final order by the Regional Judicial Officer, EPA Region 8. The issuance of a final order incorporating a consent agreement shall constitute a waiver of your right to request a hearing on any matter to which it stipulates in that agreement.



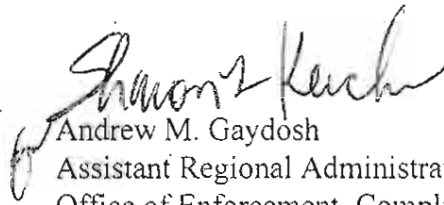
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A request for an informal conference does not extend the 30-day period during which you must submit a written answer and a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneously with, the adjudicatory hearing. Please note that if you do not file an answer, you may be subject to a default order requiring you to pay the full penalty proposed in the complaint, even if you have requested an informal conference.

For any questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Kimberly Pardue-Welch, Environmental Protection Specialist, who can be reached at 800-227-8917, extension 6983, or Marc Weiner, Enforcement Attorney, who can be reached at 800-227-8917, extension 6913.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures: Complaint w/ Exhibits

cc: John Arrigo, MT DEQ
Shelley Nolan, MT DEQ
Tina Artemis, EPA Region 8 Regional Hearing Clerk

bcc: Marc Weiner, 8ENF-L



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
Charles Murray, owner)
Winston Bar Water System)
Winston, MT.)
)
Respondent.)
)
Proceedings under § 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

Docket No. **SDWA-08-2010-0008**
**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

COMPLAINT

This civil administrative Complaint and Notice of Opportunity for Hearing (Complaint) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by § 1414(g)(3) of the Safe Drinking Water Act, as amended (SDWA), 42 U.S.C. § 300g-3(g)(3). Section 1414(g)(3) of the SDWA authorizes the Administrator of the EPA to assess an administrative civil penalty against any person who violates, or fails or refuses to comply with, an order issued under section 1414(g)(1) of the SDWA.

The Complainant in this action is the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, who has been duly authorized to institute this action. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22 (Consolidated Rules of Practice) (Complainant's Exhibit 1).

GENERAL ALLEGATIONS

The following general allegations apply to each count of this Complaint:

1. Charles Murray (Respondent), is an individual and therefore a "person" as that term is defined in § 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, for purposes of federal enforcement.
2. Respondent owns and/or operates a system, the Winston Bar Water System (System), located in Broadwater County, Montana, for the provision of water for human consumption to the public through pipes or other constructed conveyances.
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 § 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2. The system is also, a "transient, non-community water system" as that term is defined in 40 C.F.R. § 141.2.
4. As an owner and/or operator of a public water system, Respondent is a "supplier of water" as that term is defined in § 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. The Respondent is therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141 (also known as the "National Primary Drinking Water Regulations" or "NPDWRs").

5. The source of the System's water is ground water. Water is supplied from one well, and serves approximately 25 people per day through 2 service connections year-round.
6. On December 13, 2007, in accordance with §§ 1414(a)(2) and (g)(1) of the SDWA, 42 U.S.C. §§ 300g-3(a)(2) and (g)(1), the EPA issued an Administrative Order, Docket No. SDWA-08-2008-0006 (Order), to the Respondent, citing various violations of the NPDWRs including, but not limited to: failure to monitor for total coliform bacteria, failure to monitor for nitrate, failure to provide public notice of the violations, and failure to notify the State of the violations. A copy of the Order is attached to and incorporated in this Complaint as Complainant's Exhibit 2.
7. On June 19, 2008, EPA issued an Administrative Order Violation letter to the Respondent, noting that he was in violation of the Order, the Act, and the NPDWRs for failing monitor for total coliform in March 2008, and failing to report noncompliance with the total coliform monitoring requirements to EPA within 10 days of learning of the violation. A copy of EPA's June 19, 2008 letter is attached to and incorporated in this Complaint as Complainant's Exhibit 3.
8. On June 1, 2009, EPA issued the Respondent a second Administrative Order Violation letter, noting that he was in violation of the Order, the Act, and the NPDWRs for failing to monitor for total coliform in May 2008, April 2009, and May 2009; and failing to report noncompliance with the total coliform monitoring

requirements to EPA within 10 days of learning of the violation. A copy of EPA's June 1, 2009 letter is attached to and incorporated in this Complaint as Complainant's Exhibit 4.

COUNTS OF VIOLATION

Count I

Failure to Monitor for Total Coliform Bacteria

1. The Order (page 3, para. 9) requires the Respondent to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria by monitoring monthly.
2. The Respondent failed to monitor monthly for total coliform in March 2008, May 2008, April 2009, May 2009, June 2009, and July 2009 in violation of the Order.

Count II

Failure to Provide Public Notice of Violations

1. The Order (page 3, para. 11) requires the Respondent to provide public notice for the failures to monitor for total coliform cited in the Order and any post-Order failures to comply with NPDWRs within 30 days of the effective date of the Order.
2. The Respondent violated the Order by failing to provide public notice of its failures to monitor for total coliform in March 2008 and May 2008.

Count III
Failure to Report to Total Coliform Monitoring Violations to EPA

1. The Order (page 3, para. 9) requires the Respondent to report any violation of the total coliform monitoring requirement to EPA within 10 days after discovering the violation(s).
2. The Respondent failed to report to EPA within 10 days after discovering it failed to monitor for total coliform in March 2008, May 2008, April 2009, May 2009, June 2009, and July 2009.

PROPOSED ADMINISTRATIVE CIVIL PENALTY

Section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), authorizes the Administrator to assess an administrative civil penalty of up to \$27,500 for violations occurring after March 15, 2004 through January 12, 2009, and \$32,500 for violations occurring after January 12, 2009.¹ EPA has determined the proposed penalty amount in accordance with the applicable statutory factors in § 1414(b) of the SDWA, 42 U.S.C. § 300g-3(b). Taking into account the seriousness of the violation, the population at risk, and other appropriate factors, including the Respondent's degree of willfulness and/or negligence, history of noncompliance, if any, and ability to pay, EPA proposes the assessment of an administrative civil penalty against the Respondent in the amount of \$2,250.

¹The original statutory amount of \$25,000 has been adjusted for inflation pursuant to 40 C.F.R. part 19.

TERMS OF PAYMENT FOR QUICK RESOLUTION

If the Respondent does not contest the findings and penalty proposal set out above, this action may be resolved by paying the proposed penalty in full pursuant to 40 C.F.R. § 22.18. If such payment is made within 30 calendar days of receipt of this Complaint, no answer need be filed. For more time for payment, Respondent may file a statement agreeing to pay the penalty within 30 days of receipt of the Complaint, then pay the money within 60 days of such receipt. Payment shall be made by remitting a cashier's or certified check, including the name and docket number of the case, payable to "Treasurer, United States of America," to:

**US checks by regular
US postal service mail:**

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

**Federal Express, Airborne,
Or other commercial carrier:**

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Wire transfers:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D
68010727 Environmental Protection Agency"

On Line Payment:

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Charles Murray, owner
Winston Bar Water System
Page 7 of 10

A copy of the check or wire transfer shall be simultaneously sent to:

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

Payment of the penalty in this manner does not relieve the Respondent of its obligation to comply with the requirements of the statute and regulations. Payment of the penalty in this manner shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing on this matter.

OPPORTUNITY TO REQUEST A HEARING

As provided in the Act, you have the right to a public hearing to contest this Complaint. If you (1) contest the factual claims made in this Complaint; (2) contest the appropriateness of the proposed penalty; and/or (3) assert that you are entitled to judgment as a matter of law, you must file a written Answer in accordance with §§ 22.15 and 22.38 of the Consolidated Rules within 30 calendar days after receipt of this Complaint. Your Answer must (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint with regard to which you have knowledge; (2) state circumstances or arguments which are alleged to constitute grounds for defense; (3) state the facts you dispute; (4) the basis for opposing the proposed relief; and (5) specifically request an administrative hearing, if desired. Failure to admit, deny or explain any material factual allegation in this Complaint will constitute an admission of the allegation.

The Answer and one copy must be sent to:

Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

and a copy must be sent to the following attorney:

Marc Weiner, Enforcement Attorney
U.S. EPA Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129

IF YOU FAIL TO REQUEST A HEARING, YOU WILL WAIVE YOUR
RIGHT TO FORMALLY CONTEST ANY OF THE ALLEGATIONS SET
FORTH IN THE COMPLAINT.

IF YOU FAIL TO FILE A WRITTEN ANSWER OR PAY THE PROPOSED
PENALTY WITHIN THE 30 CALENDAR DAY TIME LIMIT, A DEFAULT
JUDGMENT MAY BE ENTERED PURSUANT TO 40 CFR §22.17. THIS
JUDGMENT MAY IMPOSE THE PENALTY PROPOSED IN THE
COMPLAINT.

SETTLEMENT CONFERENCE

EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an answer and request for hearing as set forth above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 C.F.R. Part 22. If a settlement can be reached, its terms shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the regional judicial officer. A request for a settlement

Charles Murray, owner
Winston Bar Water System
Page 9 of 10

conference or any questions that you may have regarding this Complaint should be directed to the attorney listed on page 8 of this Complaint.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,**
Complainant.

Date: 12-10-09

By: Sharon Z Kercher
for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

Charles Murray, owner
Winston Bar Water System
Page 10 of 10

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Exhibits 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 by CERTIFIED MAIL/RETURN RECEIPT REQUESTED to:

Mr. Charles Murray, Owner
Winston Bar
P.O. Box 470-208
Winston, MT 59647-0208

Date: 12/14/09 By: Judith M Mc Ternan

develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input to the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. This rule does not impose any enforceable duties on these entities. Instead, it merely revises the procedural rules governing EPA's administrative enforcement proceedings.

F. Executive Order 13045

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the E.O. 13045 because it is not "economically significant" as defined in E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

G. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the

development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 22

Environment protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: June 30, 1999.

Carol M. Browner,
Administrator.

Therefore, 40 CFR part 22 is revised to read as follows:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION ORDERS, AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

Sec.

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 Ex parte discussion of proceeding.
- 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

Subpart F—Appeals and Administrative Review

- 22.29 Appeal from or review of interlocutory orders or rulings.
- 22.30 Appeal from or review of initial decision.

101 13084 only

COMPLAINTS
E. O. NO. 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

COMPLAINANT'S
EXHIBIT NO. 2

Ref: 8ENF-W

DEC 13 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Murray, Owner
Winston Bar
PO Box 406-208
Winston, MT 59647-0208

Re: Administrative Order
Winston Bar Public Water System
Docket No. SDWA-08-2008-0006
PWS ID # MT0002940

Dear Mr. Murray:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (the Act), 42 U.S.C. section 300f et seq. Among other things, the Order describes how you have violated the National Primary Drinking Water Regulations.


The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Winston Bar complies with the Order for twelve months, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

To submit information or request an informal conference with EPA, contact Kimberly Pardue Welch at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6983 or (303) 312-6983. For legal questions, the attorney assigned to this matter is

Marc Weiner, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6913 or (303) 312-6913.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Order

Public notice samples/templates

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2008 JUN 19 AM 10:15

Ref: 8 ENF-W

JUN 19 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Murray, Owner
Winston Bar
P.O. Box 406-208
Winston, MT 59647-0208

COMPLAINANT'S
EXHIBIT NO. 3

Re: Violation of Administrative Order
Docket No. SDWA-08-2008-0006
PWS ID # MT0002940

Dear Mr. Murray:

On December 13, 2007, the US Environmental Protection Agency (EPA) issued an Administrative Order, Docket No. SDWA-08-2008-0006, ordering you (Respondent) as owner of the Winston Bar public water system, to comply with various regulations issued by EPA under the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300f et seq.

Our records indicate that you are in violation of the Administrative Order (the Order). Among other things, the Order included the following requirement (quoted from item 9 of the "Order" section on page 3 of the Order):

1. Upon receipt of this Order, Respondent shall monitor monthly for total coliform bacteria. ARM 17.38.215(1)(b). 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 the drinking water regulations. 40 C.F.R. § 141.31(a). Any violation of the total coliform monitoring requirements shall be reported to EPA and the State within ten days after Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

Respondent failed to submit total coliform monitoring results in March 2008. Respondent failed to report noncompliance with the total coliform monitoring requirements to EPA within 10 days of learning of the violation.

EPA is considering additional enforcement action as a result of the non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$32,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Kimberly Pardue Welch at 1-800-227-8917, extension 6983 or (303) 312-6983. If you are represented by an attorney who has questions, please ask your attorney to contact Marc Weiner, Enforcement Attorney, at 1-800-227-8917, extension 6913 or (303) 312-6913 or at the following address:

Marc Weiner
Enforcement Attorney
U.S. EPA, Region 8 (8-ENF-L)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.



Lisa Kahn, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc:

John Arrigo, MDEQ
Shelly Nolan, MDEQ





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

COMPLAINANT'S
EXHIBIT NO. 4

Ref: 8 ENF-W

.1111 - 1 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Charles Murray, Owner
Winston Bar
P.O. Box 406-208
Winston, MT 59647-0208

Re: 2nd Violation of Administrative
Order
Docket No. SDWA-08-2008-0006
PWS ID # MT0002940

Dear Mr. Murray:

On December 13, 2007, the US Environmental Protection Agency (EPA) issued an Administrative Order, Docket No. SDWA-08-2008-0006, ordering you (Respondent) as owner of the Winston Bar public water system, to comply with various regulations issued by EPA under the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300f et seq. On June 19, 2008, EPA notified you of the violations of that Administrative Order (Order).

Our records indicate that you are again in violation of the Order. Among other things, the Order included the following requirement (quoted from items 9 and 11 of the "Order" section on page 3 of the Order):

1. Upon receipt of this Order, Respondent shall monitor monthly for total coliform bacteria. ARM 17.38.215(1)(b). 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 the drinking water regulations. 40 C.F.R. § 141.31(a). Any violation of the total coliform monitoring requirements shall be reported to EPA and the State within ten days after Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

Respondent failed to submit total coliform monitoring results in May 2008, April 2009 and May 2009. Respondent failed to report noncompliance with the total coliform monitoring requirements to EPA within 10 days of learning of the violation.

2. Upon the effective date of the Order, Respondent shall comply with the public notification requirements following any future drinking water regulations violation. 40 C.F.R. § 141.201 et seq.

Respondent completed the public notice for the violations specified in the Order. However, EPA has not received the public notice for Respondent's failure to monitor for total coliform bacteria in March 2008 and May 2008 that occurred subsequent to the Order. Please complete the public notice for the 2008 and 2009 failure to monitor for total coliform bacteria violations and submit the public notice to EPA and the State.

EPA is considering additional enforcement action, including assessment of penalties, as a result of the System's non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$37,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Kimberly Pardue Welch at 1-800-227-8917, extension 6983 or (303) 312-6983. If you are represented by an attorney who has questions, please ask your attorney to contact Marc Weiner, Enforcement Attorney, at 1-800-227-8917, extension 6913 or (303) 312-6913 or at the following address:

Marc Weiner
Enforcement Attorney
U.S. EPA, Region 8 (8-ENF-L)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.



Lisa Kahn, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc:

John Arrigo, MDEQ
Shelley Nolan, MDEQ
Tina Artemis, EPA Regional Hearing Clerk