



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

Ref: 8MO

CERTIFIED MAIL 7099 3220 0001 7325 1243
RETURN RECEIPT REQUESTED

Mr. Daniel Olson, Owner
Blue Moon Plentywood Public Water System
P.O. Box 492
Plentywood, MT 59254

Re: Administrative Order
Docket No. SDWA-08-2008-0108
PWS ID # MT0001664

Dear Mr. Olson:

Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300g-3(g). Among other things, the Order describes how the Blue Moon Plentywood Public Water System has 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 you comply 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.


Also enclosed is a small business resources information sheet that describes compliance assistance resources and tools available to small businesses and small governments in case these resources apply to your situation.

You may submit information or request an informal conference with EPA by contacting Eric Finke at the above address or by phone at toll free (866) 457-2690 extension 5026, or (406) 457-5026. For legal questions, the attorney assigned to this matter is Marc Weiner, who can be reached at EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129 (with the mailcode 8ENF-L) or by phone at toll free (800) 227-8917 extension 6913, or (303) 312-6913.



I urge your prompt attention to this matter.

Sincerely,



John P. Wardell, Director
EPA Montana Office

Enclosures

Order

Information sheet

Public notice samples/templates



bcc: ✓ Tina Artemis, 8RC
Brenda Cazier, 8ENF-PT
Marc Weiner, 8ENF-L
Jack Rychecky, 8P-W-MS
Lisa Kahn, 8ENF-W
John Arrigo/Frank Gessaman/Nicole Olmstead, MDEQ Enforcement Division
Jon Dilliard/Shelley Nolan/John Brown, MDEQ Public Water and Subdivisions Bureau



2008 SEP 22 AM 9:41
EPA REGION VIII
HEARING CLERK.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)
)
Brian Olson, dba)
Blue Moon Plentywood)
Plentywood, Montana)
PWS ID# MT0001664)
)
Respondent)
)
Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0108

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 Legal Enforcement Program of the Office of Enforcement, Compliance and Environmental Justice and the Director of the EPA Montana Office, EPA Region 8.

FINDINGS

1. Brian Olson (Respondent) is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates the Blue Moon Plentywood Public Water System (the System), located in Sheridan County, Montana, for the provision of water to the public for human consumption.
3. According to records maintained by the Montana Department of Environmental Quality

(MDEQ), 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). The System is 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 subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations found at 40 C.F.R. Part 141.
5. According to records maintained by MDEQ, the System is supplied solely by a groundwater source consisting of one well and serves an average of approximately 150 persons daily, year round.
6. MDEQ has primary enforcement authority for the Act in the State of Montana. On March 11, 2008, EPA issued a Notice of Violation pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g-3(a) to the MDEQ regarding the violations at the System. The 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).
10. An “applicable requirement” includes requirements 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. See 42 U.S.C. § 300g-3(I).

FINDINGS OF VIOLATION

I. Failure to sample for Nitrate.

- A. 40 C.F.R. § 141.23(d) requires the owner and/or operator of a public water system to collect one water sample per year to determine compliance with the Maximum Contaminant Level (MCL) for nitrate, as stated in 40 C.F.R. § 141.62.
- B. Respondent failed to sample for nitrate in calendar year 2007, in violation of 40 C.F.R. § 141.23(d).

II. Failure to sample for total coliform monthly, as directed by the State.

- A. Administrative Rules of Montana (ARM) 17.38.215(1)(b) requires transient, non-community public water systems to sample for total coliform monthly when so directed by the State. Said Montana requirement is part of Montana’s approved State program and an “applicable requirement” pursuant to section 1414(g) of the Act, 42 U.S.C. § 300g-3(g). Respondent was directed by the State to begin monthly sampling for total coliform bacteria on January 1, 2004.
- B. Respondent failed to sample for total coliform as directed by the State during April 2004; December 2005; August, September, October, and December 2006;

January, May, June, July, September, November, and December 2007; and February, April, and May 2008; in violation of ARM 17.38.215(1)(b).

III. Failure to collect sufficient total coliform samples during a month following a positive total coliform test result.

- A. 40 C.F.R. § 141.21(b)(5) requires the owner and/or operator of public water systems that collect fewer than 5 routine total coliform samples per month and that experience a positive test result to collect at least 5 routine samples during the month following the positive test result.
- B. Respondent collected only 2 total coliform samples instead of the required 5 samples during October and December 2003, following a total coliform positive in the preceding months, in violation of 40 C.F.R. § 141.21(b)(5).

IV. Exceeded the Maximum Contaminant Level (MCL) for total coliform bacteria.

- A. 40 C.F.R. § 141.63(a)(2) states that a system which collects fewer than 40 total coliform samples per month is in compliance with the MCL if no more than one sample per month is positive.
- B. More than one total coliform positive sample occurred during September 2003, placing the System in violation of the total coliform MCL at 40 C.F.R. § 141.63(a)(2).

V. Failure to obtain MDEQ approval for construction of a public water system improvement.

- A. Administrative Rules of Montana (ARM) 17.38.101(4) states that a person may not commence or continue construction, alteration, extension, or operation of a public water supply system until the applicant has submitted a design report with

the necessary plans and specifications for the system to the MDEQ or delegated subdivision of local government for its review and has received written approval.

- B. During a sanitary survey conducted on April 16, 2008, the MDEQ learned that Respondent had installed a reverse osmosis unit without prior MDEQ review and approval, in violation of ARM 17.38.101(4).

VI. Failure to provide public notice of a violation

- A. 40 C.F.R. § 141.201 et seq. requires owners and/or operators of public water systems to notify the public of any violations of the national primary drinking water regulations (NPDWR).
- B. Respondent has not provided public notice of the violations detailed in Sections II through IV above, in violation of 40 C.F.R. § 141.201 et seq. Public notice for the violations of September, November, and December 2007, and February, April, and May 2008 described in Section II B above are not yet overdue.

VII. Failure to report total coliform monitoring violations to the State

- A. 40 C.F.R. § 141.21(g)(2) requires public water systems to report any failure to comply with a coliform monitoring violation to report the monitoring violation to the State within 10 days after the system discovers the violation.
- B. Respondent failed to report to MDEQ the violations detailed in Sections II and III above, in violation of 40 C.F.R. § 141.21(g)(2).

VIII. Failure to report total coliform MCL violations to the State.

- A. Respondent was required to report any total coliform MCL to the State by the end

of the next business day after it learned of the violation.

40 C.F.R. § 141.21(g)(1).

- B. Respondent failed to report to EPA the MCL violation listed in Section IV above and, therefore, violated this requirement.

IX. Failure to report other NPDWR violations to the State.

- A. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any other NPDWR to the State within 48 hours.
- B. Respondent failed to report to the State the violations described in Sections I and VI 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. Not later than 30 days from the effective date of this Order, Respondent shall comply with the nitrate sampling requirements, as stated in 40 C.F.R. § 141.23(d), for calendar year 2008. Thereafter, Respondent shall comply annually with the requirements to sample for nitrate.
2. Upon the effective date of this Order, Respondent shall comply with total coliform monitoring requirements, including requirements for monthly routine monitoring as required by the State, as stated in ARM 17.38.215(1)(b).
3. Upon the effective date of this Order, Respondent shall collect at least 5 total coliform samples during the month following a positive total coliform result, as required by 40 C.F.R. § 141.21(b)(5).

4. Upon the effective date of this Order, Respondent shall comply with the total coliform MCL at 40 C.F.R. § 141.63(a)(2).
5. Not later than 90 days from the effective date of this Order, Respondent shall submit a design report with the necessary plans and specifications for the reverse osmosis unit to EPA and MDEQ for review and approval. Plans and specifications must meet the requirements of ARM 17.38.101(4). Respondent shall make alterations as may be required by the EPA and MDEQ in accordance with Circular DEQ-1.
6. 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 a coliform monitoring requirement to EPA and MDEQ within 10 days.
7. 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 violations to EPA and MDEQ by the end of the next business day.
8. 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 other NPDWR to EPA and MDEQ within 48 hours.
9. Upon the effective date of this Order, Respondent shall comply with the public notice requirements at 40 C.F.R. § 141.201, et seq., following any future NPDWR violation.
10. No later than 30 days from the effective date of this Order, Respondent shall return to compliance with 40 C.F.R. § 141.201 et seq. by providing public notice of the violations specified in Findings of Violation I through V in this Order. 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 by mail or direct delivery to each customer and service connection; AND (2) 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; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or deliver to community organizations. The System must repeat the notice annually for as long as the violation persists. If the public notice is posted, the notice must remain in place for as long as the violation persists, but in no case less than seven days.

11. Documents, certifications, analytical results, and public notices required by this Order shall be sent by certified mail to:

Eric Finke
EPA Montana Office
10 West 15th Street, Suite 3200
Helena, MT 59626

and Shelley Nolan, Chief
PWS Compliance Section
Public Water and Subdivisions Bureau
MT Dept. of Environmental Quality
P.O. Box 200901
Helena, MT 59620


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

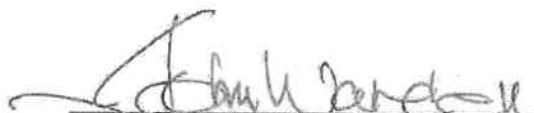
penalty of up to \$27,500 under section 1414(g)(3)(B) of the Act,
42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of
violation assessed by an appropriate U.S. District Court under section 1414(g)(3)(C) of
the Act, 42 U.S.C. § 300g-3(g)(3)(C).

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 14th day of September, 2008.



David J. Janik, Director
Matthew Cohn, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



John F. Wardell, Director
EPA Montana Office

