



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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2008 SEP -2 PM 1:05

Ref: 8ENF-W

SEP 2 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mayor DeJaegher
Town of Melstone
P.O. Box 237
Melstone, MT 59054

Re: Administrative Order
Town of Melstone
Public Water System
Docket No. SDWA-08-2008-0080
PWS ID # MT0000290

Dear Mayor DeJaegher:

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 the Town of Melstone 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 the Town of Melstone complies with the Order for at least 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 Jean

Belille, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6556 or (303) 312-6556.

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:

Wanda DeJaegher, Operator
John Arrigo, MT DEQ
Shelly Nolan, MT DEQ
Tina Artemis, Regional Hearing Clerk (via e-mail)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 SEP -2 PM 1:00

_____)	
IN THE MATTER OF)	
)	
Town of Melstone)	
Melstone, MT)	ADMINISTRATIVE ORDER
)	
_____ Respondent)	Docket No. SDWA-08-2008-0080

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) in the Public Health Service Act (as amended by and hereafter referred to as the "Safe Drinking Water Act" or the "Act"), 42 U.S.C. § 300f, as properly delegated to the undersigned officials.

2. The Town of Melstone (Respondent) is a municipality which owns and/or operates the Town of Melstone public water system (the system) in Musselshell County, Montana which provides piped water to the public for human consumption. The system is supplied by both a surface water source and a groundwater well and serves approximately 170 people per day through approximately 78 service connections year round. The system is a "community" water system as defined in 40 C.F.R. § 141.2. Respondent is subject to the requirements of the Act and the National Primary Drinking Water Regulations (drinking water regulations), at 40 C.F.R. part 141. The Respondent received annual notification from the Montana Department of Environmental Quality (MDEQ or the State) regarding the system's monitoring requirements.

3. The MDEQ has primary enforcement authority for the Act in the State of Montana. On July 22, 2008, EPA issued a Notice of Violation to MDEQ regarding the violations at the system. MDEQ 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). EPA has provided a copy of this Order to MDEQ and 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). EPA is issuing this Order requiring the system to comply with the "applicable requirements" it violated. 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. 42 U.S.C. § 300g-3(i).

VIOLATIONS

4. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total trihalomethane (TTHM) and haloacetic acids (HAA5). 40 C.F.R. § 141.132(b)(1). The drinking water regulations define the MCL for TTHM to be 0.080 milligrams per liter (mg/L) and is determined by the running annual average for four consecutive quarters. 40 C.F.R. §§ 141.64 and 141.133(b). The system exceeded the MCL for TTHM during the 2nd quarter 2005 (0.105 mg/L), 3rd quarter 2005 (0.092 mg/L), 4th quarter 2005 (0.088 mg/L), and 1st quarter 2006 (0.091 mg/L) and, therefore, violated the MCL requirement.

5. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the MCL for disinfection byproducts (total trihalomethane (TTHM) and haloacetic acids (HAA5)). 40 C.F.R. § 141.132(b)(1). Respondent failed to monitor the water for disinfection byproducts (DBPs) during the 4th quarter 2005, 1st quarter 2006, 4th quarter 2006, 1st quarter 2007, 2nd quarter 2007, and 4th quarter 2007 and, therefore, violated this requirement.

6. Respondent is required to report turbidity monitoring results to the State within the first 10 days following the end of each month. 40 C.F.R. § 141.75(b)(1). Respondent failed to report turbidity monitoring results to the State within the first 10 days following the end of each month during March 2006, April 2006, and May 2006 and, therefore, violated this requirement.

7. Respondent is required to report residual disinfectant concentration monitoring results to the State within the first 10 days following the end of each month. 40 C.F.R. § 141.75(b)(2). Respondent failed to report residual disinfectant concentration monitoring results to the State within the first 10 days following the end of each month during March 2006, April 2006, and May 2006 and, therefore, violated this requirement.

8. Respondent is required to monitor for disinfection byproduct precursors, including "paired samples" of total organic carbon (TOC) in source water and treated water, and alkalinity samples in the source water. Specifically, a system must collect one pair of TOC samples and one source water alkalinity sample per month per plant. 40 C.F.R. § 141.132(d). Respondent failed to monitor the system's source water for TOC during January – August 2004, October – November 2004, and January 2008. Respondent failed to monitor the system's finished water for TOC during

January – August 2004 and October – November 2004. Respondent failed to monitor the system's source water for alkalinity during January – August 2004 and October – November 2004. Respondent, therefore, violated these requirements.

9. The law requires Respondent to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. § 141.201 *et seq.* Respondent failed to notify the public of the violations listed in paragraphs 4 – 8 above (except for failure to monitor for disinfection byproducts during the 1st quarter 2006 and 2nd quarter 2007) and, therefore, violated this requirement.

10. Respondent is required to report any failure to comply with any of the drinking water regulations to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 4 – 8 above to the State and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions:

11. Upon the effective date of this Order, Respondent shall comply with the TTHM MCL. 40 C.F.R. § 141.64.

12. Upon the effective date of this Order, Respondent shall collect one disinfection byproducts sample per quarter per treatment plant at a location that represents maximum residence time to be analyzed for TTHM and HAA5. 40 C.F.R. § 141.132(b). Respondent shall report analytical results to EPA and the State within the first ten days following the monitoring period in which sample results are received. 40 C.F.R. §§ 141.134 (a) and 141.134 (b).

13. If the system exceeds the running annual arithmetic average MCL for TTHM while this Order is in effect, Respondent shall within 90 days of the TTHM MCL exceedance, provide EPA with a compliance plan and schedule for the system to come into compliance with the TTHM MCL. 40 C.F.R. §§ 141.64 and 141.133(b). The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project and compliance with the above-mentioned regulations. The proposed schedule shall include specific milestone dates and a final compliance date (to be within 24 months from the date of EPA's approval of the plan). The plan and schedule must be approved by EPA

before construction or modifications can commence. EPA's approval of Respondent's plan and schedule does not substitute for any State of Montana approvals of plans and specifications (engineering plans) which are also required before modifications can be made to the system.

14. The plan and schedule required by paragraph 13, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.

15. Within 90 days of receiving EPA's approval of the plan and schedule required by paragraph 13 above, Respondent shall submit to EPA quarterly reports on the progress made toward bringing the system into compliance with 40 C.F.R. §§ 141.64 and 141.133(b). Each quarterly report is due by the 10th day of the month following the end of each calendar quarter.

16. Respondent must achieve and maintain compliance with the running annual arithmetic average MCL for TTHM as stated in 40 C.F.R. §§ 141.64 and 141.133(b) by the final date specified in the approved plan, or no later than 24 months after receiving EPA's approval of the plan and schedule required by paragraph 13, above, whichever is earliest. If implementation of the plan fails to achieve permanent compliance, EPA may order further steps and/or seek penalties for noncompliance.

17. Within 10 days of completion of the approved plans and specifications required in paragraph 13, Respondent shall notify EPA in writing of project completion.

18. Upon the effective date of this order, Respondent shall report turbidity monitoring results to EPA and the State within the first 10 days following the end of each month. 40 C.F.R. § 141.75(b)(1).

19. Upon the effective date of this order, Respondent shall report residual disinfectant concentration monitoring results to EPA and the State within the first 10 days following the end of each month. 40 C.F.R. § 141.75(b)(2).

20. Upon the effective date of this Order, Respondent shall monitor for disinfection byproduct precursors (TOC and alkalinity). Each month Respondent shall 1) collect one source water sample to be analyzed for alkalinity and 2) collect a pair of samples (one from the source water and one from the treated water) to be analyzed for TOC. 40 C.F.R.

§ 141.132(d). Respondent shall report analytical results to EPA and the State within 10 days after the end of each quarter in which samples were collected. 40 C.F.R. §§ 141.134 (a) and 141.134 (d).

21. Within 30 days of receipt of this Order, Respondent must provide public notice of the violations specified in Paragraphs 4 – 8 of this Order (except for failure to monitor for disinfection byproducts during the 1st quarter 2006 and 2nd quarter 2007). 40 C.F.R. §§ 141.201, 141.202 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the system; 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, 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 delivery to community organizations. Upon the effective date of this 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 shall submit a copy of the public notice to EPA and the State within ten days of completion of the public notice. 40 C.F.R. § 141.31(d).

22. Respondent shall report all analytical results to EPA and the State within the first 10 days following the month in which sample results are received, or within the first 10 days following the end of the monitoring period, whichever is shortest. 40 C.F.R. § 141.31(a).

23. Respondent shall report any violation of the drinking water regulations to EPA and the State within 48 hours of discovery. 40 C.F.R. § 141.31(b).

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

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

Shelly Nolan
Montana Department of
Environmental Quality- PWSS
P.O. Box 200901
Helena, MT 59620-0901

GENERAL PROVISIONS

25. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

26. Violation of any part of this Order, the Act, or the drinking water regulations may subject Respondent to a civil penalty of up to \$32,500 (as adjusted for inflation) per day of violation, 42 U.S.C. § 300g-3(g)(3); 40 C.F.R. part 19.

8/28/08
Date

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

August 28, 08
Date

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