



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

Ref: 8ENF-W

AUG - 6 2009

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Keith A. Rhodes, Registered Agent
Tweed LLC
1330 Hwy 2 West
Kalispell, MT 59901

Re: Administrative Order
Black Angus Restaurant and Casino
Public Water System
Docket No. SDWA-08-2009-0055
PWS ID # MT0003166

Dear Mr. Rhodes:

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 Tweed LLC, as owner of Black Angus Restaurant and Casino, has violated the National Primary Drinking Water Regulations.

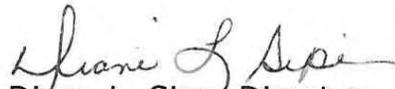
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Tweed LLC complies with the Order for at least twelve months, EPA may close the Order without further action. Failure to comply with the Order may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

On October 3, 2007, EPA issued an Administrative Order, Docket No. SDWA-08-2008-0001, to Tweed LLC for violations of the drinking water regulations that are separate from the violations noted in this Order. Please be advised that Tweed LLC is still required to comply with the October 3, 2007 Administrative Order.

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
Shelley Nolan, MT DEQ
Annette Hauer, Black Angus Restaurant and Casino
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	Docket No. SDWA-08-2009-0055
)	
Tweed LLC, Owner)	ADMINISTRATIVE ORDER
Black Angus Restaurant)	
and Casino)	
Kalispell, MT,)	
)	
Respondent.)	

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.

2. Tweed LLC (Respondent) is a corporation that owns and/or operates the Black Angus Restaurant and Casino Water System (the system) in Flathead County, Montana, which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of one well and serves approximately 264 people per day through 1 service connection year round. The system is a "non-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 has received annual notifications 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 public water supply protection provisions of the Act in the State of Montana. On July 6, 2009, 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).

VIOLATIONS

4. Respondent is required to monitor the system's water at least once per month to determine compliance with the maximum contaminant level

(MCL) for total coliform bacteria. 40 C.F.R. § 141.21. If more than one sample collected during a month tests positive for such bacteria, it is a violation of the MCL. 40 C.F.R. § 141.63. Respondent's sampling results in July 2008, August 2008, September 2008, April 2009 and June 2009 exceeded the MCL for total coliform bacteria and, therefore, violated this requirement.

5. 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 paragraph 4 above and, therefore, violated this requirement.

6. Respondent is required to report any total coliform MCL violations to the State by the end of the next business day after the system learns of the violation. 40 C.F.R. § 141.21(g)(1). Respondent failed to report to the State the MCL violations listed in paragraph 4 above and, therefore, violated this requirement.

7. Respondent is required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified in 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 paragraph 5 above to the State and, therefore, violated this requirement.

ORDER

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

8. Within 30 days of the effective date of this Order, Respondent shall provide EPA with a compliance plan and schedule for the system to come into compliance with the total coliform MCL at 40 C.F.R. § 141.63. 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 60 days 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 the State of Montana's approval of plans and specifications (engineering plans) that are also required before modifications can be made to the system.

9. The plan and schedule required by paragraph 8, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.

10. Respondent must achieve and maintain compliance with the total coliform MCL at 40 C.F.R. § 141.63 by the final date specified in the approved plan, or no later than 60 days after receiving EPA's approval of the plan and schedule required by paragraph 8, above, whichever is earliest. Respondent must meet that deadline even if the plan as approved does not achieve compliance. If the plan fails to achieve compliance, EPA may order further steps and/or seek penalties for noncompliance.

11. Within 7 days of receipt of this Order, Respondent must provide public notice of the violations specified in paragraph 4 of this Order. 40 C.F.R. §§ 141.201, 141.202 and 141.205. 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). 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. 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.

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

13. 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

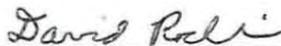
Shelley Nolan
Montana Department of
Environmental Quality- PWSS
P.O. Box 200901
Helena, MT 59620-0901

GENERAL PROVISIONS

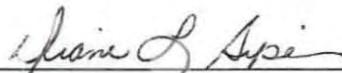
14. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

15. Violation of any part of this Order, the Act, or the drinking water regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation, 42 U.S.C. § 300g-3(g)(3); 40 C.F.R. part 19.

Issued this ____ day of _____, 2009.



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



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

Instructions for Unresolved Total Coliform Notice – Template 2-1

Template on Reverse

Since exceeding the total coliform bacteria maximum contaminant level is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation (141.203(b)). Persistent total coliform problems can be serious. Some states have more stringent requirements for coliform violations. Check with your primacy agency to make sure you meet all requirements. You must issue a repeat notice every three months for as long as the violation persists.

Community systems must use one of the following methods (141.203(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following methods (141.203(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use another method reasonably calculated to reach others if they would not be reached by the first method (141.203(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for hand delivery or mail. If you modify the notice, you must still include all the required elements and leave the health effects language in italics unchanged. This language is mandatory (141.205(d)).

Description of the Violation

The description of the violation and the MCL vary depending on the number of samples you take. The following table should help you complete the second paragraph of the template.

<u>If You Take Less Than 40 Samples a Month</u>	<u>If You Take More Than 40 Samples a Month</u>
State the number of samples testing positive for coliform. The standard is that no more than one sample per month may be positive.	State the percentage of samples testing positive for coliform. The standard is that no more than five percent of samples may test positive each month.

Corrective Action

In your notice, describe corrective actions you are taking. If you know what is causing the coliform problem, explain this in the notice. Listed below are some steps commonly taken by water systems with total coliform violations. Use one or more of the following actions, if appropriate, or develop your own:

- We are chlorinating and flushing the water system.
- We are increasing sampling for coliform bacteria.
- We are investigating the source of contamination.
- We are repairing the wellhead seal.
- We are repairing the storage tank.
- We will inform you when additional samples show no coliform bacteria.

Make sure to send a copy of each type of notice and a certification that you have met all the public notice requirements to your primacy agency within ten days after issuing the notice (141.31(d)). It is a good idea to inform your consumers when the violation has been resolved. See Template 1-8 for a "problem corrected" notice template.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Tests Show Coliform Bacteria in Black Angus Restaurant and Casino Water System

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We routinely monitor for drinking water contaminants. Most recently, on **June 23, 2009** we collected one sample to test for the presence of coliform bacteria which came back positive for total coliform bacteria. On June 25, 2009, we collected 4 repeat samples and all 4 came back positive for total coliform bacteria. On April 30, 2009 we took one sample to test for the presence of coliform bacteria which came back positive for total coliform bacteria. On May 5, 2009, we collected 4 repeat samples and all 4 came back positive for total coliform bacteria. Additionally, Black Angus Restaurant and Casino has had a history of exceeding the maximum contaminant level for total coliform bacteria. These violations are listed below with the number of samples taken and the number of sample which tested positive.

<u>Violation Date</u>	<u>Number of samples taken</u>	<u>Number of positive samples</u>
July 2008	5	2
August 2008	5	5
September 2008	5	3
April 2009	5	5
June 2009	5	5

What should I do?

- **You do not need to boil your water or take other corrective actions.** However, if you have specific health concerns, consult your doctor.
- People with severely compromised immune systems, infants, and some elderly may be at increased risk. These people should seek advice about drinking water from their health care providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

What does this mean?

This is not an emergency. If it had been you would have been notified immediately. Total coliform bacteria are generally not harmful themselves. *Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.*

Usually, coliforms are a sign that there could be a problem with the treatment or distribution system (pipes). Whenever we detect coliform bacteria in any sample, we do follow-up testing to see if other bacteria of greater concern, such as fecal coliform or *E. coli*, are present. **We have not detected any of these bacteria since September 2005.** If we had, we would have notified you immediately. However, we are still finding coliforms in the drinking water.

What is being done?

[Describe corrective action here – such as receiving technical assistance from state, chlorinating system, and taking an additional samples]

We are still detecting coliform bacteria. We will inform you when our sampling shows that no bacteria are present. We anticipate resolving the problem within [estimated time frame].

For more information, please contact [name of contact] at [phone number] or [mailing address].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by **Black Angus Restaurant and Casino**
Water System ID#: MT 0003166
Date distributed: _____

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

Please send a copy of your notice and dates posted to:

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

Or, you may fax a copy to: Attn: Kimberly Pardue Welch at 303-312-7518.

Certification of Public Notification

I _____ certify that the attached public notification was issued from
(PWS Operator / Responsible Party)

_____ to _____
(Date) (Date)

The attached notice was issued by _____
(Method of delivery)

Signature _____ Date _____