

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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IN THE MATTER OF)
)
Mountain View Trailer Court)
Missoula, Montana)
PWS ID# MT0000455)
)
Respondent)
)
Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0027

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 EPA Montana Office, EPA Region 8.

FINDINGS

1. The Mountain View Trailer Court (Respondent) is a company and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates the Mountain View Trailer Court Public Water System (the "System"), located in Missoula 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), and a "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, 40 C.F.R. Part 141.
5. According to an August 2000 sanitary survey by the Missoula City-County Health Department, the System is supplied solely by a groundwater source consisting of one well and serves approximately 36 persons daily year round.
6. MDEQ has primary enforcement authority for the Act in the State of Montana. On September 15, 2006, 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 SDWA, 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 SDWA, 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. 42 U.S.C. § 300g-3(l).

FINDINGS OF VIOLATION

I. Failure to monitor/report Volatile Organic Chemicals

- A. 40 C.F.R. § 141.24(f)(6) requires community and non-transient, non-community water systems, that have no detects during initial monitoring, to monitor the water once in each 3-year compliance period to determine compliance with the Maximum Contaminant Levels (MCL) for volatile organic chemicals (VOCs) as stated in 40 C.F.R. § 141.61(a).
- B. Respondent failed to monitor for VOCs during the 3-year compliance period January 1, 2002 - December 31, 2004, in violation of 40 C.F.R. § 141.24(f)(6).

II. Failure to Monitor/Report Coliform Samples

- A. 40 C.F.R. § 141.21(a) requires community water systems serving a population of 25 to 1,000 persons daily to monitor the water at least once per month to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63(a)(2).

- B. The State requires non-community public water systems to sample for total coliform once each month, as set forth in A.R.M. 17.38.215(a), which adopted portions of 40 C.F.R. § 141.21.
 - C. Respondent failed to monitor/report total coliform in December 2002, and March 2003, in violation of 40 C.F.R. § 141.21(a)
- III. Failure to monitor/report Synthetic Organic Chemicals
- A. 40 C.F.R. § 141.24(h) requires community and non-transient, non-community water systems, that have no detects during initial monitoring, to monitor the water once in each 3-year compliance period to determine compliance with the MCLs for synthetic organic chemicals (SOCs) as stated in 40 C.F.R. § 141.61(c).
 - B. Respondent failed to monitor for SOCs during the 3-year compliance period January 1, 2002 - December 31, 2004, in violation of 40 C.F.R. § 141.24(h).
- IV. Failure to monitor/report Arsenic
- A. 40 C.F.R. § 141.23(c) requires public water systems utilizing groundwater to monitor the water once in each 3-year compliance period to determine compliance with the MCLs for arsenic as stated in 40 C.F.R. § 141.62(b).
 - B. Respondent failed to monitor for arsenic during the January 31, 2002 - December 31, 2004 compliance period, in violation of 40 C.F.R. § 141.23(c).

- V. Failure to monitor/report Inorganic Chemicals
 - A. 40 C.F.R. § 141.23(c) requires community and non-transient, non-community water systems, utilizing ground water sources to monitor the water once in each 3-year compliance period to determine compliance with the MCL for Phase V inorganic chemicals as stated in 40 C.F.R. § 141.62(b).
 - B. Respondent failed to monitor the water for Phase V inorganic chemicals in the 3-year compliance period January 1, 2002 - December 31, 2004, in violation of 40 C.F.R. § 141.23(c).
- VI. Failure to monitor/report Lead and Copper
 - A. 40 C.F.R. § 141.86(d)(1)(ii) requires small and medium size community and non-transient, non-community water systems, to conduct initial sampling for two consecutive six month periods to determine compliance with the lead and copper action levels as stated in 40 C.F.R. § 141.80(c).
 - B. Upon determining the water system met the lead and copper action levels during those two consecutive six month monitoring periods, the State determined that the system may monitor the water once in each 3-year compliance period for lead and copper action levels to determine compliance 40 C.F.R. § 141.86(d)(4)(I) and (iv).
 - C. Respondent failed to monitor for lead and copper during the January 1, 2002 - December 31, 2004 compliance period, in violation of 40 C.F.R. § 141.86.

VII. Failure to monitor Water Quality Parameters

- A. 40 C.F.R. § 141.87(b) requires all large water systems, and all small and medium-sized systems that exceed the lead or copper action level, to monitor water quality parameters in addition to lead and copper in accordance with 40 C.F.R. § 141.87(b).
- B. Respondent's monitoring results for the 3-year period January 1, 2002 - December 31, 2004, exceeded copper action levels.
- C. Respondent failed to monitor for water quality parameters during the period January 1, 2002 - December 31, 2004, in violation of 40 C.F.R. § 141.87 (b).

VIII. Failure to provide public notice of a violation

- A. 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 MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
- B. Respondent has not provided public notice of the violations detailed in the preceding Sections I through VI, in violation of 40 C.F.R. § 141.201.

IX. Failure to report a violation to the State

- A. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR to the State within 48 hours.
- B. Respondent failed to report to the State the violations detailed in Sections I through VI above, in violation of 40 C.F.R. § 141.31(b).

- X. Failure to report a coliform violation to the State
 - A. 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.
 - B. Respondent failed to report to the State the noncompliance detailed in Sections II and III above, in violation of 40 C.F.R. § 141.21(g)(2).

ORDER

Based on the foregoing Findings, and pursuant to section 1414(g) of the Act,

IT IS ORDERED:

1. Beginning on the effective date of this Order, Respondent shall comply with the monitoring requirements for:

monitoring requirements for:	as stated in:
Volatile Organic Chemicals	40 CFR § 141.24(f)(6)
Synthetic Organic Chemicals	40 CFR § 141.24(h)
Arsenic	40 CFR § 141.23(c)(1)
Phase V Inorganic Chemicals	40 CFR § 141.23(c)(I)
Lead and Copper	40 CFR § 141.86
Coliform Bacteria	40 CFR § 141.21
2. 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 four 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 a tap within five service connections upstream of the original total coliform positive tap, and c) from a tap within five service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within five service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

3. 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).
4. Upon the effective date of this Order, and per the regulations thereafter, Respondent shall monitor the water annually for lead and copper as required by 40 C.F.R. § 141.86. Respondent shall report results and other information to EPA and the State within the first 10 days following the end of each applicable monitoring period, as required by 40 C.F.R. § 141.90(a).
5. If the results of the 90th percentile lead level exceed .015 mg/L or the 90th percentile copper level exceeds 1.3 mg/L, based on any future lead and copper samples collected, the Respondent shall comply with all the requirements for

- optimal corrosion control treatment as specified in 40 C.F.R. §§ 141.81(e).
6. If the results of the 90th percentile lead level exceed .015 mg/L or the 90th percentile copper level exceeds 1.3 mg/L, based on any future lead and copper samples collected, the Respondent shall comply with all the requirements for water quality parameter (WQP) monitoring and reporting as specified in 40 C.F.R. §§ 141.87, 141.89, and 141.90 and for source water monitoring and reporting as specified in §§ 141.88, 141.89, and 141.90.
 7. Respondent shall report the results of WQP monitoring in accordance with §§ 141.90(a)(1)(vi) and (vii) and source water monitoring in accordance with § 141.90(b).
 8. No later than 30 days from the effective date of this Order, Respondent shall return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205 by providing public notice of the violations specified under the Findings of Violation in this Order. 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 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; 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, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days. Respondent may use Consumer Confidence Reports (CCR) to provide public notice as long as (1) the CCR is provided to persons served no later than 12 months after the System learns of the violation or situation; (2) the public notice contained in the CCR follows the content requirements under 40 C.F.R. § 141.205; AND (3) The CCR is distributed following the delivery requirements under 40 C.F.R. § 141.204(c).

9. 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 system discovers the violation.
10. 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.

11. Documents, certifications, analytical results, and public notices required by this

Order shall be sent by certified mail to:

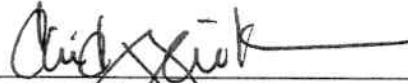
Eric Finke	and	Kate Miller, Chief
EPA Montana Office		Compliance Section
10 West 15 th Street, Suite 3200		Public Water and Subdivisions Bureau
Helena, MT 59626		MT Dept. of Environmental Quality
		P.O. Box 200901
		Helena, MT 59620

GENERAL PROVISIONS

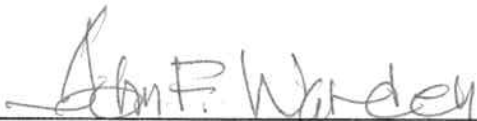
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation 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 SDWA 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 6th day of February 2007.



David J. Janik, Acting Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



John F. Wardell, Director
EPA Montana Office