



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, COLORADO 80202-1129

Phone 800-227-8917

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

Ref: 8ENF-W

APR 23 2007

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Teton County Commissioners
c/o Leland Christensen
POB 3594
Jackson, WY 83001

Re: Notice of Safe Drinking Water Act
Enforcement Action against Moose
Enterprises, Inc. PWS ID # 5601261

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Moose Enterprises, Inc., owner/operator of Dornan's Moose Enterprises, Moose, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The system is in violation of 40 C.F.R. §§ 141.21, 141.21(b)(5), 141.63(a)(2), 141.201, 141.21(g)(2), 141.21(g)(1), and 141.31(b) for failure to monitor for total coliform (routine and additional routine), exceeding the maximum contaminant level for total coliform bacteria, and failure to notify the public and EPA of all of the violations.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane L. Sipe".

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

Enclosure



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Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Earl M. Dornan, Registered Agent
Moose Enterprises, Inc.
POB 39
Moose, WY 83012

Re: Administrative Order
Docket No. SDWA-08-2007-0050
PWS ID #5601261

Dear Mr. Dornan:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f *et seq.*, and its implementing regulations. Among other things, the Administrative Order finds that Moose Enterprises, Inc. ("Moose") is the owner and/or operator of the Dornan's Moose Enterprises Water System and a supplier of water as defined by the SDWA and has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.21(b)(5), 141.63(a)(2), 141.201, 141.21(g)(2), 141.21(g)(1), and 141.31(b) for failure to monitor for total coliform (routine and additional routine), exceeding the maximum contaminant level for total coliform bacteria, and failure to notify the public and EPA of the violations.

If Moose complies with the enclosed Order for a period of at least eighteen months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

Enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA. A brochure entitled "Funding Options for Privately-Owned Public Water Systems in Wyoming" is also enclosed.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to

Kathelene Brainich at the address on the letterhead and include the mailcode 8ENF-W, or call (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have in informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please ask your attorney to direct any legal questions to James Stearns, Enforcement Attorney, at the above 800 number, extension 6912, or at (303) 312-6912.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Order
SBREFA
Funding Brochure

cc: WY DEQ (via email)
WY DOH (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2007 APR 23 PM 12:42

FILED
EPA REGION VIII
HEADQUARTERS

)
IN THE MATTER OF)
)
Moose Enterprises, Inc.)
Jackson, Wyoming)
)
Respondent)
)
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0050

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 Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Moose Enterprises, Inc. (Respondent) is a corporation under the laws of the State of Wyoming as of August 31, 1965 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Dornan's Moose Enterprises Water System (the System), located in Teton County, Wyoming for the provision to the public of piped water for human consumption.
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 is therefore a "public

water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C.

§ 300f(4), and a "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 therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a July 27, 2004 sanitary survey by an agent for EPA, the System is supplied by two wells with no treatment and serves an average daily population of approximately 100 through 11 service connections. One well operates seasonally June through September and the other operates all year. Each well of the System serves a separate distribution system, therefore, the System is required to take one total coliform sample from each distribution system each quarter that the wells provide water (i.e. two samples 2nd and 3rd quarters and one sample 1st and 4th).

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires any non-community public water system with an average daily population of less than 1,001 and having a groundwater source to monitor its water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.



2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 3rd (July-September) quarter 2006 and 2005 (both wells); and the 2nd quarter (April-June) 2003 and 2002, in violation of 40 C.F.R. § 141.21.

II.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in November 2005 after total coliform positive samples in the previous month, in violation of 40 C.F.R. § 141.21(b)(5).

III.

1. 40 C.F.R. § 141.21 requires non-community public water systems with an average daily population of less than 1,001 and having a groundwater source to monitor the water at least once per quarter to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.



3. Monitoring results submitted by Respondent for the public water system during October 2005 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations, including violations of any MCL, maximum residual disinfection level, treatment technique, monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondent has not provided public notice of the 2003 failure to monitor total coliform violation detailed in the preceding Section I and the November 2005 failure to monitor additional routine total coliform violation detailed in the preceding Section II, in violation of 40 C.F.R. § 141.201. Public notice was completed for the total coliform 3rd quarter 2005 failure to monitor and the October 2005 MCL violations. Public notice is not yet past due for the 3rd quarter 2006 failure to monitor total coliform violation.

V.

1. 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 EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Sections I and II, in violation of 40 C.F.R. § 141.21(g)(2).

VI.



1. 40 C.F.R. § 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliforms in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to EPA the total coliform MCL violation detailed in Section III, in violation of 40 C.F.R. § 141.21(g)(1).

VII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Section IV 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. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring on both distribution systems to determine compliance with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
2. 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 within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

3. Within 30 days of the effective date of this Order, Respondent must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205 for the violations specified under the Findings of Violation, Section IV, in this Order. Specifically, Respondent must provide public notice in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (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 public notice described in (1) and (2), including 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. 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).



4. 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 within ten days after the system discovers the violation.
5. 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 violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondent learns of the violation.
6. Except where a different reporting period is specified in paragraphs 4 and 5 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 NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
7. Reporting requirements specified in this Order shall be provided by certified mail to:

U. S. EPA Region 8 (8P-W-DW)
1595 Wynkoop Street
Denver, Colorado 80202-1129

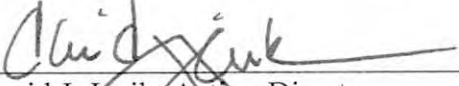
GENERAL PROVISIONS

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 Safe Drinking Water 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)(A) and (C) of the Act, 42 U.S.C. § 300g-3(g)(3)(A) and (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 23rd day of April, 2007.



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



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

