



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Phone 800-227-8917
<http://www.epa.gov/region08>

2008 AUG 12 AM 9:57

Ref: 8ENF-W

AUG 12 2008

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Glen Mikesell, Owner
Glen's Mountain View Café
P.O. Box 315
Florence, MT 59833

Re: Administrative Order
Glen's Mountain View Café
Public Water System
Docket No. SDWA-08-2008-0073
PWS ID # MT0003856

Dear Mr. Mikesell:

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 you have violated the National Primary Drinking Water Regulations.

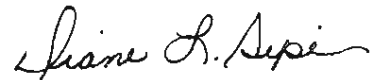
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Glen's Mountain View Café complies with the Order for at least twelve months, EPA may close the Order without further action. Failure to comply with 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

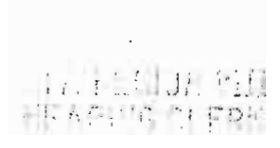
cc:
John Arrigo, MT DEQ
Shelly Nolan, MT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2008 AUG 12 AM 9:57

IN THE MATTER OF)
)
Glen Mikesell, Owner)
Glen's Mountain View Cafe)
Florence, MT)
)
Respondent)



ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0073

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. Glen Mikesell (Respondent) is an individual who owns and/or operates the Glen's Mountain View Cafe Water System (the system) in Ravalli 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 215 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 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 8, 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 annually to determine compliance with the maximum contaminant level (MCL) for nitrate. 40 C.F.R. § 141.23(d). Respondent was notified in a November 1, 2007 letter from the MDEQ that as of the 1st quarter of 2008, Respondent is required to monitor the system's water at least once per quarter to determine compliance with the MCL for nitrate. A.R.M. 17.38.219 and 40 C.F.R § 141.23(e)(3). The drinking water regulations define the nitrate MCL as 10 milligrams per liter (mg/L). 40 C.F.R. § 141.62(b). Monitoring results submitted by Respondent for the System exceeded the MCL for nitrate on October 15, 2003 (11.9 mg/L), October 29, 2003 (12.6 mg/L, with a 12.25 mg/L average for the October 2003 samples), January 14, 2004 (10.5 mg/L), October 1, 2007 (13.4 mg/L), January 16, 2008 (20.1 mg/L), and April 28, 2008 (12.5 mg/L) and, therefore, the system has violated this requirement.

5. The law requires operators of a public water system that exceeds the nitrate MCL to either 1) take a confirmation sample within 24 hours of notification of the analytical results or 2) immediately notify the consumers served by the system and take a confirmation sample within two weeks of notification. 40 C.F.R. § 141.23(f)(2). Respondent failed to take a confirmation sample after the nitrate MCL exceedances on January 14, 2004, October 1, 2007, January 16, 2008, and April 28, 2008 and/or failed to immediately notify the consumers served by the system and take a confirmation sample within two weeks of notification and, therefore, violated this requirement.

6. 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 October 2005 exceeded the MCL for total coliform bacteria and, therefore, violated this requirement.

7. Respondent is required to collect a set of five routine samples after a total coliform positive sample in the preceding month. 40 C.F.R. § 141.21(b)(5). Respondent failed to collect at least five routine samples in November 2005, after a total coliform positive routine sample in the previous month and, therefore, violated this requirement.

8. 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 - 7 above (except for 1st quarter 2004 nitrate MCL) and, therefore, violated this requirement.

9. Respondent is required to report any sampling results that exceed the MCL for total coliform 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 violation listed in paragraph 6 above and, therefore, violated this requirement.

10. Respondent is required to report failure to comply with a coliform monitoring requirement to the State within ten days after the system learned of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to the State the failure to monitor total coliform violations listed in paragraph 7 above and therefore, violated this requirement.

11. 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 paragraphs 9 - 10 above) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 4, 5 and 9 above to the State and, therefore, violated this requirement.

ORDER

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

12. Upon the effective date of the Order, and until such time as nitrate levels in the system's water are reliably and consistently less than 10 mg/L as determined and communicated in writing by the MDEQ, Respondent must provide bottled water to families with infants under six months of age and continuously post the nitrate MCL public notice in a conspicuous location in the "Glen's Mountain View Café".

13. Upon the effective date of the Order, Respondent must comply with the nitrate MCL. 40 C.F.R. § 141.62(b).

14. Within 90 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 nitrate MCL at 40 C.F.R. § 141.62(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 6 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.

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

16. Within 90 days of receiving EPA's approval of the plan and schedule required by paragraph 14, above, Respondent shall submit to EPA quarterly reports on the progress made toward bringing the system into compliance with 40 C.F.R. § 141.62(b). Each quarterly report is due by the 10th day of the month following the end of each calendar quarter.

17. Respondent must achieve and maintain compliance with 40 C.F.R. § 141.62(b) by the final date specified in the approved plan, or no later than 6 months after receiving EPA's approval of the plan and schedule required by paragraph 14, 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.

18. Upon the effective date of this Order, Respondent must comply with all confirmation sampling requirements found in 40 C.F.R. § 141.23(f)(2). This requires public water systems that exceed the MCL for nitrate to either 1) take a confirmation sample within 24 hours of notification of the analytical results or 2) immediately notify the consumers served by the system and take a confirmation sample within two weeks of notification. If a confirmation sample is taken, the results of the initial and confirmation sample shall be averaged to determine the System's compliance with 40 C.F.R. § 141.62(b).

19. Upon receipt of this Order, Respondent shall comply with the total coliform MCL as stated in 40 C.F.R. § 141.63. Any violation of the total coliform MCL shall be reported to EPA and the State no later than the end of the next business day after Respondent learns of it. 40 C.F.R. § 141.21(g)(1).

20. Upon receipt of this Order, Respondent shall comply with all total coliform routine sampling requirements. 40 C.F.R. § 141.21(b)(5). This requires that Respondent take no fewer than five routine total coliform bacteria samples during the next month after having one or more total coliform positive samples. Any violation of total coliform monitoring requirements shall be reported to EPA and the State within 10 days after the Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

21. Within 30 days of the effective date of this Order, Respondent must provide public notice of the violation(s) specified in Paragraphs 4 through 7 in this Order (except for 1st quarter 2004 nitrate MCL). 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.

22. Respondent shall report all analytical results to EPA and the State within the first 10 days following the month in which samples 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 other 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.

8/12/08
Date

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

7 August 2008
Date

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