



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W

JUL 20 2011

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

James Brawdy, Owner
Gramma Ruby's Café
5 Third Street
Hobson, MT 59452

Re: 4th Administrative Order Addendum
Gramma Ruby's Café
Public Water System
Docket No. SDWA-08-2009-0007
PWS ID # MT0002011

Dear Mr. Brawdy:

This letter pertains to an administrative order (the order) that EPA issued to you as owner of the Gramma Ruby's Café public water system (the system). The order was issued on November 24, 2008. The order cited violations of the maximum contaminant level (MCL) for nitrate and some related monitoring, reporting, and public notification requirements.

After the order was issued, some additional nitrate MCL violations occurred. This triggered a requirement for you to submit a compliance plan and schedule for bringing the system into compliance with the nitrate MCL. After issuing the order, EPA issued a series of letters granting extensions to the deadline for you to submit a compliance plan and schedule.

In an email dated March 31, 2011, you stated that the system could, as an alternative to installing nitrate treatment, meet the requirements of 40 C.F.R. § 141.11(d).

As you are aware, the MCL for nitrate is 10 milligrams per liter (mg/l). Under 40 C.F.R. § 141.11(d), the State of Montana, in its discretion, may allow nitrate levels not to exceed 20 mg/l in a non-community public water system if the supplier of water demonstrates to the satisfaction of the State that (1) such water will not be available to children under 6 months of age; (2) the non-community system is meeting the public notification requirements under 40 C.F.R. § 141.209, including continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of the exposure; (3) local and state public health authorities will be notified annually of nitrate levels that exceed 10 mg/l; and (4) no adverse health effects will result.

According to reports you have provided, nitrate in the system's water has not exceeded 20 mg/l.

In EPA's enforcement discretion, and based on the circumstances unique to this situation and EPA's consultation with the State of Montana, EPA has determined that it is appropriate to amend the order to allow nitrate levels at the system of up to 20 mg/l. This is subject to the conditions set forth below, which EPA hereby adds to the order as enforceable requirements:

- (1) The system's water must not exceed 20 mg/l of nitrate.
- (2) You and all restaurant staff must **not** make the system's water available to children under six months of age. This means, at a minimum, (a) providing bottled water at no cost to all customers accompanied by children under six months of age and to any women who request it, and (b) not offering the system's water to any customers with children under the age of six months or to any women who appear to be pregnant. For purposes of (a), above, you must provide single-serving bottles of water in their original containers, and the bottled water must be subject to regulation by the U.S. Food and Drug Administration.
- (3) You must post written notices in conspicuous locations at Gramma Ruby's Café, including but not limited to the front door and all water taps available to the public (including all men's and women's restrooms, all water fountains and all publicly accessible soda machines). Each notice must be continually posted and include the following language:

If you are here with a child under six months of age or if you could be pregnant, please ask for bottled water, and we will provide it free of charge. We are doing this because levels of nitrate at this restaurant have exceeded EPA's maximum contaminant level.

Infants below the age of six months who drink water containing nitrate in excess of EPA's maximum contaminant level could become seriously ill and, if untreated may die. Symptoms include shortness of breath and blue baby syndrome. Blue baby syndrome is indicated by blueness of the skin. Symptoms in infants can develop rapidly, with health deteriorating over a period of days. If symptoms occur, seek medical attention immediately.

Do not use the tap water for preparing juice or formula for children under six months of age. Boiling water will not reduce the nitrate and may even increase its concentration. Freezing water, filtering it, or letting it stand will not reduce the nitrate level.

Adults and children older than six months can drink the tap water. Nitrate is a concern for infants because they cannot process nitrates in the same way adults can. However, if you are pregnant or have specific health concerns, you may wish to consult your doctor.

- (4) You must notify the Montana Department of Environmental Quality and local public health authorities annually if the system's water has more than 10 mg/l of nitrate.


Notification of exceeding the nitrate MCL shall be provided as soon as practicable after learning of the nitrate exceedance. Additionally, you must provide the State and local public health authorities a copy of your public notice annually by January 10th.

Please be aware that boiling high nitrate water will concentrate nitrate levels and could create an increased risk to infants and the fetuses of pregnant women. This should be considered in all aspects of your food and beverage service preparation, including any food that is served to children under the age of six months or to women who request that their food not be cooked with the system's water.

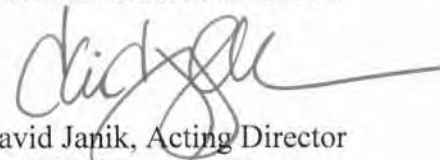
If EPA learns of any adverse health effects resulting from nitrate in the system, EPA will reconsider these conditions and may rescind this letter, as appropriate. EPA may also rescind this letter if any of the conditions set forth above is not met.

Please be advised that you are required to comply with all provisions of the order. Penalties for failing to comply are set forth in the order. Please contact Kimberly Pardue Welch at 800-227-8917, extension 6983, or (303) 312-6983, if you have any questions concerning this letter. If you are represented by an attorney who has questions, please ask your attorney to call Peggy Livingston at 800-227-8917, extension 6858, or at (303) 312-6858.

Sincerely,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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

cc:

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