

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2009 DEC 02 AM 8:21

IN THE MATTER OF)
)
Madison County Golf Association)
Ennis, MT) ADMINISTRATIVE ORDER
)
Respondent) Docket No. SDWA-08-2009-0016

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. Madison County Golf Association (Respondent) is an association which owns and/or operates the Madison County Golf Association Public Water System (the system) in Madison 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 100 people per day through 1 service connection during April through September. 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 November 19, 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. When so directed by the State, 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. ARM 17.38.215(1)(b). The State directed Respondent to do so beginning October 2002. Respondent failed to monitor the water for contamination of total coliform bacteria during the months of June and August 2004; April and September 2006; April, May, July, August, and September 2007; and April, May, June, August, and September 2008 and, therefore, violated this requirement.

5. Respondent is required to monitor the system's water at least once per year to determine compliance with the maximum contaminant level (MCL) for nitrate. 40 C.F.R. § 141.23(d). Respondent failed to monitor for nitrate during 2006 and 2007 and, therefore, violated this requirement.

6. Respondent is required 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 its failure to monitor for total coliform during 2006 and 2007, as specified in paragraph 4 above, and the nitrate monitoring violations listed in paragraph 5 above and, therefore, violated this requirement. Public notice for the 2008 monthly coliform violations listed in paragraph 4 above is not yet overdue.

7. Respondent is required to report any 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 its failure to monitor for total coliform as listed in paragraph 4 above and, therefore, violated this requirement.

8. Respondent is required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified as in paragraph 7 above) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 5 and 6 above to the State and, therefore, violated this requirement.

ORDER

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

9. Upon receipt of this Order, Respondent shall monitor for total coliform bacteria monthly. ARM 17.38.215(1)(b). Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results are received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a). Any violation of the total coliform monitoring requirements shall be reported to EPA and the State within ten days after Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

10. Upon receipt of this Order, Respondent shall monitor for nitrate annually. Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results are received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a). Any violation of the nitrate monitoring requirements shall be reported to EPA and the State within 48 hours after the Respondent learns of it. 40 C.F.R. § 141.31(b).

11. Within 30 days of receipt of this Order, Respondent must provide public notice of the violations specified in paragraphs 4 and 5. 40 C.F.R. § 141.201, et seq. 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. 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:

Eric Finke
U. S. EPA Montana Office
10 W. 15th St., Suite 3200
Helena, MT 59626

AND

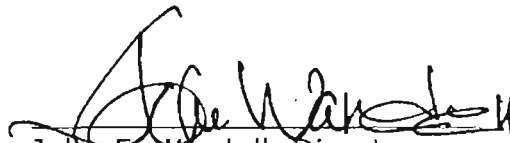
Shelley Nolan
Montana Department of
Environmental Quality- PWSB
P.O. Box 200901
Helena, MT 59620-0901

GENERAL PROVISIONS

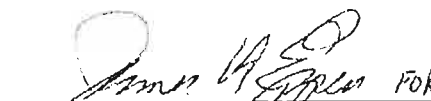
14. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

15. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$32,500 per day of violation (as adjusted for inflation). Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$27,500 per day per violation or, for any such violation after January 12, 2009, \$32,500 per day per violation (as adjusted for inflation). 42 U.S.C. §§ 300g-3, 300j-6, 300j-8; 40 C.F.R. part 19.

12/29/08
Date


John F. Wardell, Director
Montana Office

12/23/08
Date


Michael T. Risner, Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice