



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

Ref: 8MO

CERTIFIED MAIL 7001 2510 0000 9829 9410
RETURN RECEIPT REQUESTED

Ms. Alice Northway, Owner
Alder Steakhouse Public Water System
P.O. Box 142
Alder, MT 59710

Re: Administrative Order
Docket No. SDWA-08-2008-0107
PWS ID # MT0002100

Dear Ms. Northway:

Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300g-3(g). Among other things, the Order describes how the Alder Steakhouse Public Water System has 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 you comply with the Order for 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.

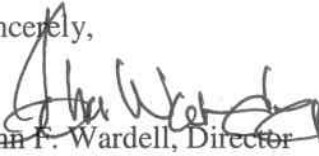
Also enclosed is a small business resources information sheet that describes compliance assistance resources and tools available to small businesses and small governments in case these resources apply to your situation.

You may submit information or request an informal conference with EPA by contacting Eric Finke at the above address or by phone at toll free (866) 457-2690 extension 5026, or (406) 457-5026. For legal questions, the attorney assigned to this matter is Marc Weiner, who can be reached at EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129 (with the mailcode 8ENF-L) or by phone at toll free (800) 227-8917 extension 6913, or (303) 312-6913.



I urge your prompt attention to this matter.

Sincerely,


~~John F. Wardell, Director~~
EPA Montana Office

Enclosures
Order
Information sheet
Public notice samples/templates



2008 SEP 22 AM 9:41

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
Ms. Alice Northway, owner)
Alder Steakhouse)
Alder, Montana)
PWS ID# MT0002100)
)
Respondent)
)
Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0107

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 (SDWA or 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 Director of the EPA Montana Office, EPA Region 8.

FINDINGS

1. Alice Northway (Respondent) is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates the Alder Steakhouse Public Water System (the System), located in Madison 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). The System is a "transient, 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 subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations found at 40 C.F.R. § Part 141.
5. According to records maintained by MDEQ, the System is supplied solely by a groundwater source consisting of one well and serves an average of approximately 127 persons daily, year round.
6. MDEQ has primary enforcement authority for the Act in the State of Montana. On March 11, 2008, EPA issued a Notice of Violation pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g-3(a), to MDEQ regarding the violations at the System. 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. See 42 U.S.C. § 300g-3(I).

FINDINGS OF VIOLATION

I. Failure to sample for Nitrate.

- A. 40 C.F.R. § 141.23(d) requires the owner and/or operator of a public water system to collect one water sample per year to determine compliance with the Maximum Contaminant Level (MCL) for nitrate, as stated in 40 C.F.R. § 141.62.
- B. Respondent failed to sample for nitrate in calendar year 2003, in violation of 40 C.F.R. § 141.23(d).

II. Failure to sample for total coliform bacteria.

- A. 40 C.F.R. § 141.21 requires the owner and/or operator of a non-community public water system using only ground water and serving 1000 persons or fewer to collect one total coliform sample every calendar quarter to determine compliance with the coliform MCL, as stated in 40 C.F.R. § 141.63.
- B. Respondent failed to sample for total coliform during 3rd quarter 2003; 2nd quarter 2004; 1st quarter 2005; and 1st, 3rd, and 4th quarter 2006, in violation of 40 C.F.R. § 141.21.

III. Failure to sample for total coliform monthly, as directed by MDEQ.

- A. Administrative Rules of Montana (ARM) 17.38.215(1)(b) requires transient, non-community public water systems to sample for total coliform monthly when so directed by the State. Said Montana requirement is part of Montana's approved State program and an "applicable requirement" pursuant to section 1414(g) of the Act, 42 U.S.C. § 300g-3(g). Respondent was directed by MDEQ to begin monthly sampling for total coliform bacteria on April 1, 2007.
- B. Respondent failed to sample for total coliform as directed by MDEQ during April, May, and October 2007; and February 2008; in violation of ARM 17.38.215(1)(b).

IV. Failure to collect repeat total coliform samples after experiencing a positive total coliform test result.

- A. 40 C.F.R. § 141.21(b) requires public water systems that normally collect one total coliform sample per month and that experience a positive total coliform test result to collect at least 4 repeat samples within 24 hours of being notified of the positive result.
- B. Respondent failed to collect repeat total coliform samples during the month of January 2007 after a total coliform positive sample, in violation of 40 C.F.R. § 141.21(b).

V. Failure to collect the required number of total coliform samples during a month following a positive total coliform test result.

- A. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine total coliform samples per month and that experience a positive test result

to collect at least 5 routine samples during the month following the positive test result.

- B. Respondent collected only 4 total coliform samples during the month of February 2007 following a total coliform positive in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

VI. Failure to provide public notice of a violation.

- A. 40 C.F.R. § 141.201 et seq. requires owners and/or operators of public water systems to notify the public of any violations of the national primary drinking water regulations (NPDWR).
- B. Respondent has not provided public notice of the violations detailed in Sections I through V above, in violation of 40 C.F.R. § 141.201 et seq. Public notice for the October 2007 and February 2008 violations noted in Section III B above is not yet overdue.

VII. Failure to report total coliform monitoring violations to the State.

- A. 40 C.F.R. § 141.21(g)(2) requires public water systems to report any failure to comply with a coliform monitoring violation to the State within 10 days after the system discovers the violation.
- B. Respondent failed to report to MDEQ the violations detailed in Sections II through V above, in violation of 40 C.F.R. § 141.21(g)(2).

VIII. Failure to report other NPDWR violations to the State.

- A. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR (except as noted in Section VII above) to the State

within 48 hours.

- B. Respondent failed to report to the State the violations described in Sections I and VI above, in violations 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. Not later than 30 days from the effective date of this Order, Respondent shall comply with the nitrate sampling requirements, as stated in 40 C.F.R. § 141.23(d), for calendar year 2008. Thereafter, Respondent shall comply annually with the requirements to sample for nitrate.
2. Upon the effective date of this Order, Respondent shall comply with total coliform monitoring requirements, including requirements for quarterly routine monitoring and monthly routine monitoring as required by the State, as stated in 40 C.F.R. § 141.21 and ARM 17.38.215(1)(b).
3. Upon the effective date of this Order, Respondent shall collect at least 4 repeat coliform samples within 24 hours after a positive total coliform sample result is received, as required by 40 C.F.R. § 141.21(b).
4. Upon the effective date of this Order, Respondent shall collect at least 5 total coliform samples during the month following a positive total coliform result, as required by 40 C.F.R. § 141.21(b)(5).
5. 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 a coliform monitoring

requirement to EPA and MDEQ within 10 days.

6. 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 other NPDWR to EPA and MDEQ within 48 hours.
7. Upon the effective date of this Order, Respondent shall comply with the public notice requirements at 40 C.F.R. § 141.201, et seq., following any future NPDWR violation.
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 et seq. by providing public notice of the violations specified in Findings of Violation I through V in this Order. Respondent shall submit a copy of the public notice to EPA and the State 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 by mail or direct delivery to each customer and service connection; AND (2) 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 persists. If the public notice is posted, the notice must remain in place for as long as the violation persists, but in no case less than seven days.

9. Documents, certifications, analytical results, and public notices required by this Order shall be sent by certified mail to:

Eric Finke
EPA Montana Office
10 West 15th Street, Suite 3200
Helena, MT 59626

and

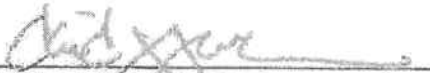
Shelley Nolan, Chief
PWS Compliance Section
Public Water and Subdivisions Bureau
MT Dept. of Environmental Quality
P.O. Box 200901
Helena, MT 59620

GENERAL PROVISIONS

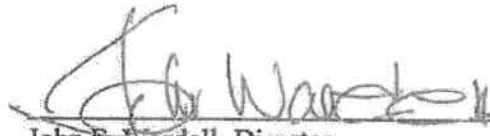
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation 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 19th day of Sept, 2008.



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



John F. Wardell, Director
EPA Montana Office

bcc: ✓ Tina Artemis, 8RC
Brenda Cazier, 8ENF-PT
Marc Weiner, 8ENF-L
Jack Rychecky, 8P-W-MS
Lisa Kahn, 8ENF-W
John Arrigo/Frank Gessaman/Nicole Olmstead, MDEQ Enforcement Division
Jon Dilliard/Shelley Nolan/John Brown, MDEQ Public Water and Subdivisions Bureau

