



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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AUG 31 2010

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald and Audrey Wilson
P.O. Box 219
Wise River, MT 59762

Re: Administrative Order
H Bar J Saloon and Cafe
Public Water System
Docket No. SDWA-08-2010-0063
PWS ID #MT0002160

Dear Mr. and Mrs. Wilson:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq. Among other things, the Order alleges that you have violated the National Primary Drinking Water Regulations (the 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, 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.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the drinking water regulations.

The Order requires you to notify the public of having violated the drinking water regulations. Enclosed please find a public notice template explaining the public notice requirements in more detail. Although public notice is not yet due for some of the violations, EPA has included all violations on the public notice template for your convenience.

To submit information, or to request an informal conference with EPA, please contact Shawn McCaffrey at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6515 or (303) 312-6515. Any questions from the company's attorney should be directed to Brenda Morris, Senior Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6891 or (303) 312-6891.

We urge your prompt attention to this matter.

Sincerely,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency-Region 8

Enclosures:

Order
SBREFA Information Sheet
Public Notice Template

cc: Tina Artemis, EPA Regional Hearing Clerk
John Arrigo, MT DEQ
Shelley Nolan, MT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 AUG 31 PM 2: 21

<u>IN THE MATTER OF:</u>)	
)	Docket No. SDWA-08-2010-0063
)	
Ronald and Audrey Wilson,)	ADMINISTRATIVE ORDER
)	
)	
<u>Respondents.</u>)	

FILED
EPA REGION VIII
HEARING CLERK

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* (the Act), as properly delegated to the undersigned officials.
2. Ronald and Audrey Wilson (Respondents), are individuals who own and/or operate the H Bar J Saloon and Cafe Water System (the system), which provides piped water to the public in Beaverhead County, Montana, for human consumption.
3. The system is supplied by a groundwater source consisting of one well. There is no treatment or disinfection applied to the water.
4. The system has one service connection and/or regularly serves an average of approximately 50 individuals daily at least 60 days out of the year. Therefore, the system is a "public water system" as defined in § 1401(4) of the Act, 42 U.S.C. § 300f (4), and 40 C.F.R. § 141.2. The system is also a "transient, non-community water system" as defined in 40 C.F.R. § 141.2.
5. Respondents are subject to the Act and the National Primary Drinking Water Regulations (drinking water regulations) at 40 C.F.R. part 141. The drinking water regulations are "applicable requirements" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The Montana Department of Environmental Quality has primary enforcement authority for the public water system supervision provisions of the Act in the State of Montana (the State). EPA issued a notice of the system's violations to the State on July 28, 2010. The State elected not to commence an enforcement action against the Respondent for the violations listed in the notice of violation within the thirty-day time frame set forth in § 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to the State and has provided the State the opportunity to confer with EPA regarding this Order.

VIOLATIONS

7. If any routine sample is positive for fecal coliform or *E.coli*, and if a repeat sample is total coliform positive, this is a violation of the acute maximum contaminant level (MCL) for total coliform. 40 C.F.R. § 141.63(b). After a sample of the system's water taken on June 17, 2010 tested positive for *E. coli*, a repeat sample tested positive for total coliform. Therefore, Respondents violated the acute MCL for total coliform.

8. Within 24 hours of being notified of any total coliform positive routine sample of the system's water, Respondents are required to collect a set of 4 repeat samples. 40 C.F.R. § 141.21(b). Respondents failed to take 4 repeat samples of the system's water within 24 hours of being notified of a total coliform positive sample on August 24, 2009 and June 17, 2010 and, therefore, violated this requirement.

9. Respondents are required to monitor the system's water monthly for total coliform bacteria. ARM § 17.38.215(1)(b). This regulation is an "applicable requirement" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i). Respondents failed to monitor the system's water for total coliform bacteria during the months of November 2008 and April 2010 and, therefore, violated this requirement.

10. If the system has one or more total coliform positive samples, Respondents are required to collect at least 5 routine samples during the next month the system provides water to the public. 40 C.F.R. § 141.21(b)(5). After the system's water tested positive for total coliform on September 14, 2009, Respondents failed to take at least 5 routine samples of the system's water in October 2009 and, therefore, violated this requirement.

11. Respondents are required to monitor the system's water annually for nitrate. 40 C.F.R. § 141.23(d). Respondents failed to monitor the system's water for nitrate during 2009, and, therefore, violated this requirement.

12. If two or more samples collected in any month from the system's water are positive for total coliform, then Respondents have violated the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During the month of March 2010, two or more samples from the system were positive for total coliform, and, therefore, the Respondents violated this requirement.



13. Respondents are required to notify the public of certain violations of the drinking water regulations. 40 C.F.R. §§ 141.201 et seq. Respondent did not notify the public of the 2009 violation listed in paragraph 8, the 2008 violation listed in paragraph 9, and the violation listed in paragraph 12, and, therefore, violated this requirement.

14. Respondents are required to report any failure to meet a coliform monitoring requirement to the State no later than 10 days after learning of this violation. 40 C.F.R. § 141.21(g)(2). Respondent did not notify the State of the violations cited in paragraphs 8, 9, and 10 above, and, therefore, violated this requirement.

15. Respondents are required to report any coliform MCL violation to the State no later than the end of the first business day after learning of it. 40 C.F.R. § 141.21(g)(1). Respondents did not notify the State of the MCL violation cited in paragraphs 7 and 12, above, and, therefore, violated this requirement.

16. Respondents are required to report any failure to comply with any of the drinking water regulations to the State within 48 hours (except where a different reporting period is specified in the drinking water regulations). 40 C.F.R. § 141.31(b). Respondents failed to report the violation listed in paragraph 11, above, to the State and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondents are ordered to perform the following actions upon Respondents' receipt of this Order (unless a different deadline is specified below):

17. Respondents shall comply with the acute total coliform MCL as stated in 40 C.F.R. § 141.63(b). If any test result shows that fecal coliforms or *E.coli* are present in the system's water, Respondents shall notify the EPA and the State no later than the end of the day on which the system was notified of the test result. If the system is notified of the result after the appropriate EPA or State office are closed, then the Respondents shall notify the EPA and the State before the end of the next business day. 40 C.F.R. § 141.21(e).



18. If any total coliform routine sample for the system is total coliform positive, Respondent shall collect a set of 4 repeat samples within 24 hours of being notified of a positive result, following the procedures in 40 C.F.R. § 141.21. Respondents shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a). Respondents shall report any violation of the total coliform monitoring requirements to EPA and the State within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

19. Respondents shall monitor the system's water monthly for total coliform bacteria, as required by 40 C.F.R. § 141.21. Respondents shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a). Respondents shall report any violation of the total coliform monitoring requirements to EPA and the State within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

20. If any routine sample for the system is total coliform positive, Respondents shall collect at least 5 routine samples during the next month in which the system provides water to the public, following the procedures in 40 C.F.R. § 141.21. Respondents shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a). Respondents shall report any violation of the total coliform monitoring requirements to EPA and the State within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

21. Within 30 days of receipt of this Order, and per the regulations thereafter, Respondents shall monitor the system's water for nitrate. 40 C.F.R. § 141.23. Respondents shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a). Respondents shall report any violation of the nitrate monitoring requirements to EPA and the State within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b).



22. Within 30 days of receipt of this Order, Respondents shall provide EPA with a compliance plan and schedule for the system to come into compliance with the MCL for total coliform as stated in 40 C.F.R. § 141.63(a). The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project and compliance with the total coliform MCL. The proposed schedule shall include specific milestone dates and a final compliance date. The final compliance date shall be within 6 months from the date of EPA's approval of the plan and schedule. The proposed plan and schedule must be approved by EPA before construction or modifications may begin. EPA's approval of Respondents' plan and schedule does not substitute for any State of Montana approvals of plans and specifications that may also be required before modifications may be made to the system.

23. The plan and schedule required by paragraph 22, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.

24. Within 10 days of completing all tasks included in the plan and schedule required by paragraph 22, above, Respondents shall notify EPA of the project's completion.

25. Respondents must achieve and maintain compliance with the total coliform MCL 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 10 above, whichever is earliest. Respondents must meet that deadline even if the plan as approved does not achieve compliance. If the plan fails to achieve permanent compliance, EPA may order further steps and/or seek penalties for noncompliance.

26. Within 30 days of receiving this Order, Respondents shall notify the public of the 2009 violation listed in paragraph 8, the 2008 violation listed in paragraph 9, and the violation listed in paragraph 12 above, following the instructions provided with the public notice templates provided to Respondents with this Order. For any future violations of the drinking water regulations, Respondents shall provide public notice as required by 40 C.F.R. part 141, subpart Q.



27. Respondents shall direct all reporting required by this Order to:

Shawn McCaffrey, 8ENF-W
U. S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

AND

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

GENERAL PROVISIONS

28. 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.

29. Violation of any part of this Order or the drinking water regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

Issued: Aug 31, 2010.

David Rochlin

Michael T. Risner, Director
David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Arturo Palomares

Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency-Region 8

