



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

2008 OCT 15 11:05:52

Ref: 8ENF-W

OCT 14 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard Opper, Director
Montana Department of
Environmental Quality
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

NOTICE OF VIOLATION

Docket No. **SDWA-08-2009-0007**
Gamma Ruby's Cafe
5 Third Street
Hobson, MT 59452
PWS ID# MT0002011

Dear Mr. Opper:

The above referenced public drinking water system has violated certain provisions of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300f, et seq. and the National Primary Drinking Water Regulations at 40 C.F.R. part 141. The violations consist of exceeding the maximum contaminant level (MCL) for nitrate, failure to collect and analyze confirmation samples after an exceedance of the MCL for nitrate, failure to provide public notice, and failure to notify the State of the violations. Our records, obtained from the Montana Department of Environmental Quality's Public Water Supply Online Query Reports, indicate the violations noted below. Please have your staff notify Kimberly Pardue Welch at (303) 312-6983 within 20 days if your records show any discrepancies with these determinations of violation.

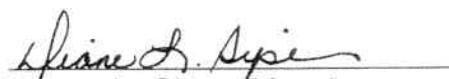
<u>Date of Violation</u>	<u>Violation</u>
November 2007	Exceeded the MCL for nitrate. [40 C.F.R. § 141.62(b)]
November 2007	Failure to collect a confirmation sample within 24 hours of receipt of notification of the results of the first nitrate MCL violation or failure to immediately issue public notice and collect confirmation sample within two weeks of notification of the results of the first nitrate MCL violation. [40 C.F.R. § 141.23(f)(2)]
2007	Failure to notify public of above referenced failure to collect nitrate confirmation sample violation. [40 C.F.R. § 141.202]
2007	Failure to report the above-referenced violations to the State. [40 C.F.R. § 141.31(b)]

This Notice of Violation is issued pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g-3(a). If the State does not commence appropriate enforcement action within 30 days from the receipt of this notification, EPA is authorized either to issue an Administrative Order under section 1414(g) of the Act, 42 U.S.C. § 300g-3(g) requiring the public water system to comply with the regulations or requirements, or to commence civil action under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

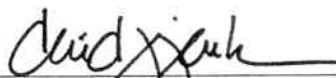
Please inform EPA of any change in the compliance status of this system. You may wish to have your staff confer with Ms. Pardue Welch to determine the Agency's position concerning this system and to exchange appropriate information. If the State does not commence appropriate enforcement action within 30 days from the receipt of the notification, EPA will proceed with issuance of an administrative order.

A copy of this Notice of Violation has been concurrently sent to the system identified above. Also enclosed for the benefit of the System is a copy of EPA's Small Business Regulatory Enforcement and Fairness Act (SBREFA) fact sheet containing information on compliance assistance resources and tools available to small businesses. EPA has agreed to notify small businesses of their right to comment on regulatory enforcement activities at the same time of an Agency enforcement action. SBREFA does not eliminate the responsibility to comply with the Act.

Sincerely,



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



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

Enclosure:

SBREFA fact sheet

cc: James A. Brawdy, Owner (via certified mail w/ return receipt) ✓
John Arrigo, MT DEQ (w/o enclosures)
Shelly Nolan, MT DEQ (w/o enclosures)
Tina Artemis, EPA Regional Hearing Clerk (via e-mail)