



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

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UP MAIL MARK

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Bret Heidkamp, Registered Agent
Valley Grove Homeowners Association, Inc.
180 Frontier Drive
Bozeman, MT 59718

Re: Administrative Order
Valley Grove Subdivision
Public Water System
Docket No. SDWA-08-2009-0025
PWS ID # MT0003780

Dear Mr. Heidkamp:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (the Act), 42 U.S.C. section 300f et seq. Among other things, the Order describes how Valley Grove Subdivision has violated the National Primary Drinking Water Regulations.

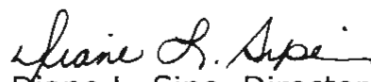
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Valley Grove Subdivision complies with the Order for at least twelve months, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

To submit information or request an informal conference with EPA, contact Kimberly Pardue Welch at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6983 or (303) 312-6983. For legal questions, the attorney assigned to this matter is

Peggy Livingston, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6858 or (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,


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

Enclosures

Order

Public notice samples/templates

cc:

John Arrigo, MT DEQ

Shelley Nolan, MT DEQ

Tina Artemis, EPA Regional Hearing Clerk (via e-mail)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2009 MAR -3 11 8: 15

IN THE MATTER OF)
)
Valley Grove Homeowners)
Association, Inc., Owner)
Valley Grove Subdivision)
Bozeman, MT)
)
Respondent _____)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2009-0025

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. Valley Grove Homeowners Association, Inc. (Respondent) is a corporation that owns and/or operates the Valley Grove Subdivision Water System (the system) in Gallatin County, Montana, which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of four wells and serves approximately 750 people per day through 353 service connections year round. The system is a "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 has received annual notifications 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 public water supply protection provisions of the Act in the State of Montana. On January 27, 2009, 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).

VIOLATIONS

4. 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. 40 C.F.R. § 141.21. If more than one sample collected during a month tests positive for such bacteria, it is a violation of the MCL. 40 C.F.R. § 141.63. Respondent's sampling results in December 2007 exceeded the MCL for total coliform bacteria and, therefore, violated this requirement.

5. Respondent is required to monitor the system's water at least once per month to determine compliance with the MCL for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to monitor the system's water for contamination of total coliform bacteria during December 2004 and, therefore, violated this requirement.

6. Respondent is required to monitor the system's water every three years to determine compliance with the action levels for lead and copper. 40 C.F.R. § 141.86(d). Based on the population served by Respondent's system, Respondent is required to collect at least 10 samples during each monitoring period. 40 C.F.R. § 141.86(c). Respondent most recently monitored for lead and copper correctly on September 25, 2008. However, Respondent failed to collect the required number of samples during the 2002 – 2004 and the 2005 – 2007 monitoring periods and, therefore, violated this requirement. Respondent collected 5 instead of 10 samples during each of those monitoring periods.

7. The law requires Respondent 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 the violations listed in paragraphs 5 and 6 above and, therefore, violated this requirement.

8. Respondent is required to report any sampling results that exceed the MCL for total coliform to the State by the end of the next business day after the system learns of the violation. 40 C.F.R. § 141.21(g)(1). Respondent failed to report to the State the MCL violation listed in paragraph 4 above and, therefore, violated this requirement.

9. 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 the failure to monitor total coliform violation listed in paragraph 5 above and therefore, violated this requirement.

10. Respondent is required to report any failure to comply with any of the drinking water regulations (except where a different reporting period

is specified in the drinking water regulations) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraph 7 above to the State and, therefore, violated this requirement.

ORDER

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

11. Upon receipt of this Order, Respondent shall comply with the total coliform MCL as stated in 40 C.F.R. § 141.63. Any violation of the total coliform MCL shall be reported to EPA and the State no later than the end of the next business day after Respondent learns of it. 40 C.F.R. § 141.21(g)(1).

12. Upon receipt of this Order, Respondent shall monitor monthly for total coliform bacteria. 40 C.F.R. § 141.21. 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).

13. Upon receipt of this Order, Respondent shall monitor triennially, or as directed by the State, for lead and copper. Respondent shall collect 10 samples during each sampling event, unless directed otherwise by the State. 40 C.F.R. §§ 141.86(c) and 141.86(d). Respondent's next lead and copper sampling is due between June 1 and September 30, 2012. Respondent shall report analytical results to EPA and the State within the first 10 days following the end of the monitoring period, as required by the drinking water regulations. 40 C.F.R. § 141.90.

14. Within 30 days of receipt of this Order, Respondent must provide public notice of the violations specified in paragraphs 5 and 6 of this Order. 40 C.F.R. §§ 141.201, 141.202 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the system; 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, 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 delivery to community organizations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements following any future drinking water regulations violation. 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).

15. Respondent shall report all analytical results to EPA and the State within the first 10 days following the month in which samples results are received, or within the first 10 days following the end of the monitoring period, whichever is shortest. 40 C.F.R. § 141.31(a).

16. 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).

17. Reporting requirements specified in this Order shall be provided by certified mail to:

Kimberly Pardue Welch
U. S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

AND

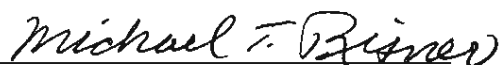
Shelley Nolan
Montana Department of
Environmental Quality- PWSS
P.O. Box 200901
Helena, MT 59620-0901

GENERAL PROVISIONS

18. 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.

19. Violation of any part of this Order, the Act, 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(g)(3); 40 C.F.R. part 19.

Issued this ____ day of _____, 2009.



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



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

TIER 3 TEMPLATES

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and instructions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here.

Mandatory language on unknown risk for monitoring violations, which must be included exactly as written, is presented in *italics* (141.205(d)).

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does *not* relieve you of your obligation to take steps reasonably calculated to notify all persons served:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

Templates

Monitoring Violations Annual NoticeBTemplate 3-1

Instructions for Monitoring Violations Annual Notice--Template 3-1

Template on Reverse

Since most monitoring violations are included in Tier 3, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following (141.204(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has been resolved, you must post the notice for at least one week (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the CCR, as long as public notification timing and delivery requirements are met (141.204(d)). You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in *italics* (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

Please send a copy of your notice and dates posted to:

Kimberly Pardue Welch
US EPA Region 8
8ENF-W
1595 Wynkoop Street
Denver, CO 80202-1129

Or, you may fax a copy to: Attn: Kimberly Pardue Welch at 303-312-7518.

Certification of Public Notification

I _____ certify that the attached public notification was issued from
(PWS Operator / Responsible Party)

_____ to _____
(Date) (Date)

The attached notice was issued by _____
(Method of delivery)

Signature _____ Date _____

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER
Monitoring Requirements Not Met for Valley Grove Subdivision

Our water system violated several drinking water standards over the past two years. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. We failed to monitor total coliform during December 2004 and failed to collect the correct number of lead and copper samples during the 2002 – 2004 and 2005 – 2007 sampling period and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

There is nothing you need to do at this time.

The table below lists the contaminant(s) we did not properly test for during the previous years, how often we are supposed to sample for [this contaminant/these contaminants] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	When all samples should have been taken	When samples were or will be taken
Failure to monitor for Total coliform	One sample per month	December 2004	January 2005 and monthly since
Lead and Copper	10 samples every three years	2002 – 2004 and 2005 – 2007 (Valley Grove Subdivision collected only 5 samples for each monitoring period listed)	9/25/2008

What happened? What is being done?

For more information, please contact [name and number of contact person] _____ or [Address] _____

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by **Valley Grove Homeowners Association, Inc.**
 State Water System ID#: **MT0003780**

Date distributed or dates posted: _____