



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

2008 NOV 24 AM 10:47

Ref: 8ENF-W

NOV 24 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Glenn McFarlane, Registered Agent  
Yellowstone Boys and Girls Ranch  
1732 South 72<sup>nd</sup> Street West  
Billings, MT 59106

Re: Amended Administrative Order  
Docket No. SDWA-08-2007-0037  
ID # MT0000154

Dear Mr. McFarlane:

Enclosed you will find an Amended Administrative Order ("Order"), which the Environmental Protection Agency ("EPA") has issued under the authority of the Safe Drinking Water Act ("the Act"), 42 U.S.C. section 300f et seq., and its implementing regulations. This Order amends the May 8, 2007 Administrative Order issued by EPA and includes several significant changes. EPA has added violations for 1) failure to take four total coliform repeat samples following a positive total coliform sample in June 2008, 2) failure to take five routine samples following a total coliform positive sample in the previous month for July 2008, and 3) failure to provide a Consumer Confidence Report for calendar year 2004. Due to changes in the System's required monitoring frequency for disinfection byproducts and nitrate, EPA has also adjusted the required monitoring for these two constituents under this Amended Order. Among other things, the Amendment to the Administrative Order finds that Yellowstone Boys and Girls Ranch is a public water supplier as defined by the Act and that it has violated the National Primary Drinking Water Regulations (drinking water regulations).

If the Yellowstone Boys and Girls Ranch complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Kimberly Pardue Welch at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Pardue Welch at (800) 227-8917, extension 6983, or (303) 312-6983. If you wish to have an informal conference with EPA, you may also call or write Ms. Pardue Welch. If you are represented by an attorney or have legal questions, please call Amy Swanson at the above 800 number, extension 6906, or at (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosure

Amended Administrative Order

cc: Gregory Leeds, Operator (via e-mail)  
Chris Vogeley, CEO, Yellowstone Boys and Girls Ranch  
John Arrigo, MT DEQ  
Shelly Nolan, MT DEQ  
Tina Artemis, EPA Regional Hearing Clerk



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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IN THE MATTER OF )  
 )  
Yellowstone Boys and Girls Ranch )  
Billings, MT ) ADMINISTRATIVE ORDER  
 )  
Respondent ) Docket No. SDWA-08-2007-0037

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) in the Public Health Service Act (as amended by and hereafter referred to as the "Safe Drinking Water Act" or the "Act"), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.

2. Yellowstone Boys and Girls Ranch (Respondent) is a corporation under the laws of Montana that owns and/or operates the Yellowstone Boys and Girls Ranch public water system (the system) in Yellowstone County, Montana which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of two wells and serves approximately 240 people per day through 48 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 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 October 9, 2008, EPA issued a 2<sup>nd</sup> 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. Respondent is required to monitor the system's water at least annually for nitrate to determine compliance with the nitrate maximum contaminant level (MCL). 40 C.F.R. § 141.23(d). Respondent failed to monitor the water for nitrate contamination in 2005 and, therefore, violated this requirement.

5. Respondent is required to monitor the system's water at least once per year per treatment plant to determine compliance with the MCL for disinfection byproducts. 40 C.F.R. § 141.132(b)(1). Respondent failed to monitor the water for disinfection byproducts (DBPs) during 2004, 2005, and 2006 and, therefore, violated this requirement.

6. Respondent is required to collect a set of four repeat samples within 24 hours of being notified of a total coliform positive routine sample. 40 C.F.R. § 141.21(b). Respondent failed to collect a set of repeat samples after the June 2008 total coliform positive routine sample and, therefore, violated this requirement.

7. Respondent is required to collect a set of five routine samples after a total coliform positive sample in the preceding month. 40 C.F.R. § 141.21(b)(5). Respondent failed to collect at least five routine samples in July 2008, after a total coliform positive routine sample in the previous month and, therefore, violated this requirement.

8. Respondent is required to distribute an annual Consumer Confidence Report (CCR) to its customers and provide a copy of the report to the State by July 1. 40 C.F.R. § 141.152(b) and 40 C.F.R. § 141.155(c). Respondent failed to submit a copy of its 2004 CCR to the State by July 1, 2005 and, therefore, violated this requirement.

9. Respondent is required to report any failure to comply with a total coliform monitoring requirement to the State within 10 days after the system learns of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to the State the failure to monitor total coliform violations listed in paragraphs 6 and 7 above and, therefore, violated this requirement.

10. Respondent is required to report any other failure to comply with any of 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 paragraphs 4, 5 and 8 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 the date of this Order, Respondent shall monitor for nitrate quarterly until notified by the State in writing of a different monitoring schedule, and per the regulations thereafter. 40 C.F.R. § 141.23(d). Respondent most recently sampled for nitrate on August 19, 2008, with sample results of 6.43 milligrams per liter (mg/L) and 5.15 mg/L for well #1 and well #2 respectively, both of which are greater than 50% of the nitrate MCL. The regulations require each community and non-transient, non-community water system with a groundwater source to monitor quarterly for nitrate for at least one year following any sample in which the concentration is greater than 50% of the MCL of 10 mg/L. 40 C.F.R. § 141.23(d)(2). As of October 1, 2008, Respondent is required to monitor the system's water at least once per quarter at the entry point to the distribution system to determine compliance with the nitrate MCL. 40 C.F.R. § 141.23(d)(2).

12. Upon the effective date of this Order, Respondent shall collect one disinfection byproducts sample per treatment plant at a location that represents maximum residence time during each monitoring cycle. 40 C.F.R. § 141.132(b). Respondent most recently monitored for disinfection byproducts on August 19, 2008. Respondent's next monitoring cycle is between July 1 – September 30, 2010. Respondent shall report analytical results to EPA and the State within 10 days after the end of each quarter in which samples were collected. 40 C.F.R. § 141.134 (a) and (b).

13. Upon receipt of this Order, if the system has one or more total coliform positive samples in a month, Respondent shall collect no fewer than four repeat total coliform bacteria samples within 24 hours of being notified of a total coliform positive routine sample. 40 C.F.R. § 141.21(b).

14. Upon receipt of this Order, if the system has one or more total coliform positive samples in a month, Respondent shall collect at least five routine samples during the next month the system provides water to the public. 40 C.F.R. § 141.21(b)(5).

15. Within 30 days of this Order, Respondent shall prepare its annual CCR for the year 2004 and distribute it to its customers. Respondent shall prepare and deliver annual CCRs thereafter. The CCRs must identify all violations incurred for the specific reporting year and should be submitted to the EPA and State within ten days of its distribution. Respondent shall

comply with the CCR requirements as stated in 40 C.F.R. § § 141.152-155.

16. Except where a different reporting period is specified above, Respondent shall report all analytical results to EPA and the State within the first 10 days following the month in which sample 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).

17. 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).

18. 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).

19. 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**

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

**GENERAL PROVISIONS**

20. 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.

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

4/21/08  
Date

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

11-21-08  
Date

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