



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

Ref: 8MO

JUN 14 2007

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Joseph Loncki, Registered Agent 7006 0100 0005 19436095
Roman Catholic Bishop of Great Falls, Montana
P.O. Box 1399
Great Falls, MT 59405-0000

LAWCO 7006 0100 0005 19436088
Registered Agent for St. Labre Indian School
P.O. Box 2529
Billings, MT 59103-2529

Re: Administrative Order
Pretty Eagle School Public Water System
Docket No. SDWA
PWS ID # 083090016 (formerly
MT0003943)

Dear Mr. Loncki and LAWCO Representative:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f, et seq., and its implementing regulations. Among other things, the Order finds that the Roman Catholic Bishop of Great Falls and the St. Labre Indian School own and/or operate the Pretty Eagle School Public Water System (the System) and are "suppliers of water" as defined by the SDWA. The Order alleges that the Roman Catholic Bishop of Great Falls and the St. Labre Indian School violated the SDWA and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.86, 141.23, 141.31(b), and 141.201, for: failure to comply with the monitoring requirements for nitrates and lead/copper, failure to provide public notice of a violation, and failure to report the violations to EPA.

If the System 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.




A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. SBREFA does not eliminate your responsibility to comply with the SDWA.

Among other things, the Order requires the Pretty Eagle School to provide a public notification of violations of the SDWA. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of public notice, please do not hesitate to contact Eric Finke of EPA, whose telephone number is provided below.

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 Eric Finke at the address on the letterhead, or you may call Mr. Finke at (800) 457-2690, extension 5026, or (406) 457- 5026. If you wish to have an informal conference with EPA, you may also call or write Mr. Finke. If you are represented by an attorney or have legal questions, please call Amy Swanson at (800) 227-8917, extension 6906, or at (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,


John F. Wardell, Director
Montana Office

Enclosures

Order
Public Notice template
SBREFA Information Sheet

cc: ✓ The Very Reverend Jay Peterson, Diocesan Administrator for the Roman Catholic
Diocese of Great Falls-Billings
✓ Mr. Robert G. Gregory, Pretty Eagle School, c/o St. Labre Indian School
✓ Carl Venne, Crow Tribe Chairman
✓ Carolyn Morrisson, Crow Tribe Environmental Director

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2007 JUN -4 AM 8:20

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
 Roman Catholic Bishop of Great Falls, Owner,)
 and St. Labre Indian School, Operator,)
 Pretty Eagle School)
 St. Xavier, Montana)
)
 Respondents.)
)
 Proceedings under section 1414(g))
 of the Safe Drinking Water Act,)
 42 U.S.C. § 300g-3(g))

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0057

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 (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 EPA Montana Office, EPA Region 8.

FINDINGS

1. The Roman Catholic Bishop of Great Falls and St. Labre Indian School are corporations and therefore "persons" within the meaning of 40 C.F.R. § 141.2.
2. Respondents Roman Catholic Bishop of Great Falls and St. Labre Indian School (hereafter referred to collectively as Respondents) respectively own and operate the Pretty Eagle School Public Water System (the System), located in Big Horn County, Montana, for the provision of water to the public for human consumption.

3. According to records maintained by the EPA, 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), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and/or operate a public water system and therefore are "suppliers 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. Respondents therefore are subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.
5. According to a November 2000 sanitary survey by The Cadmus Group, the System is supplied solely by a groundwater source consisting of one well and which serves approximately 165 persons daily while school is in session.

FINDINGS OF VIOLATION

- I. Failure to monitor/report Lead and Copper
 - A. 40 C.F.R. §§ 141.86(c) and 141.86(d)(1)(ii) require public water systems serving 101 to 500 persons to monitor for Lead and Copper by collecting one sample from 10 sites each six-month monitoring period until eligible for reduced monitoring.
 - B. Respondents failed to monitor for Lead and Copper during the 1st and 2nd six-month periods in 2001 through 2004, the 1st half of 2005, and the 2nd half of 2006.

- C. Respondents failed to collect a sufficient number of samples during the 2nd half of 2005, and 1st half of 2006.
 - D. Respondents failure to monitor for Lead and Copper during the six-month monitoring periods set forth in subpart B above, and collect a total of 10 samples during the monitoring periods described above in subpart C, constitute violations of 40 C.F.R. §§ 141.86(c) and 141.86(d)(1)(ii).
- II. Failure to monitor/report Nitrate
- A. 40 C.F.R. § 141.23 requires public water systems to monitor their water for Nitrate to determine compliance with the Maximum Contaminant Levels (MCL) as stated in 40 C.F.R. § 141.62(b).
 - B. Respondents last monitored for Nitrate in 2005 and 2006, but failed to monitor for Nitrate during 2004, in violation of 40 C.F.R. § 141.23.
- III. Failure to provide public notice of a violation
- A. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violation of the National Primary Drinking Water Regulations (NPDWRs), including monitoring requirements and testing procedures in 40 C.F.R. Part 141.
 - C. Respondents have not provided public notice of the violations detailed in the preceding Sections I and II, in violation of 40 C.F.R. § 141.201.
- IV. Failure to report a violation to the EPA
- A. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR to EPA within 48 hours.

B. Respondents failed to report to the EPA the violations detailed in Sections I II, and III above, in violation 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. Within the first six months of 2007, and the second six-month period of 2007, Respondents shall comply with the standard Lead and Copper monitoring requirements as stated in 40 C.F.R. §§ 141.86(c) and (d) by collecting at least one sample from 10 monitoring sites to determine compliance with the Action Levels appearing at 40 C.F.R. § 141.80(c). Respondents shall report analytical results to EPA within the first 10 days following the end of each applicable monitoring period, as required by 40 C.F.R. § 141.90(a). In the years following 2007, Respondents shall comply with standard or reduced monitoring requirements as determined by EPA based on the 2007 sample results.
2. No later than 30 days from the effective date of this Order, Respondents shall return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205, by providing public notice of the violations specified under the Findings of Violation Section in this Order. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R. § 141.201, et seq., following any future NPDWR violation. Respondents shall submit a copy of the public notice to EPA 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 (2) by mail or direct delivery to each customer and service connection; AND (3) 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, variance, exemption, or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days. Respondents may use Consumer Confidence Reports (CCR) to provide public notice as long as (1) the CCR is provided to persons served no later than 12 months after the System learns of the violation or situation; (2) the public notice contained in the CCR follows the content requirements under 40 C.F.R. § 141.205; AND (3) The CCR is distributed following the delivery requirements under 40 C.F.R. § 141.204(c).

3. Upon the effective date of this Order, Respondents shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR to EPA within 48 hours.

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

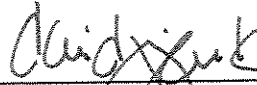
Eric Finke
EPA Montana Office
10 West 15th Street, Suite 3200
Helena, MT 59626

GENERAL PROVISIONS

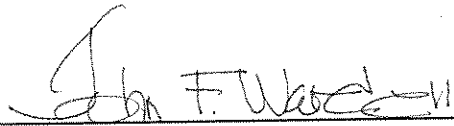
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1, et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondents 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 Act or its implementing regulations may subject Respondents 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 14 day of June, 2007.



David J. Janik, Acting Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



John F. Wardell, Director
EPA Montana Office