



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

Ref: 8MO

APR 17 2013

CERTIFIED MAIL RETURN
RECEIPT REQUESTED

Debra L. Scott
Beaverhead County Clerk and Recorder
2 South Pacific Street, Ste. #3
Dillon, MT 59725

Re: Amendment of the Administrative Order
Beaverhead County Jackson Water and Sewer
District Public Water System
Docket No. SDWA-08-2010-0004
PWS ID #MT0002590

Dear Ms. Scott:

Enclosed is an Amended Administrative Order (Amended Order) issued by the United States Environmental Protection Agency (EPA) under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g), to the Beaverhead County Jackson Water and/or Sewer District (District). The Amended Order is intended to update a previously issued administrative order.

The following is a summary of some events leading to the Amended Order:

- On December 14, 2009, the EPA issued an Administrative Order (Order) to the District, directing the District, among other things, to submit a compliance plan and schedule for bringing the District's public water system (System) into compliance with the Maximum Contaminant Level (MCL) for arsenic; to prepare and distribute required Consumer Confidence Reports (CCRs) to the System's customers, the EPA, and the State of Montana (State); to certify to the State and the EPA that the CCRs had been distributed; and to provide required public notices of prior and any future violations of the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).
- On March 15, 2010, the EPA notified the District that it had violated the Order by failing to submit a compliance plan and schedule and by failing to provide the EPA with the CCR for 2007.
- On June 24, 2010, the EPA issued an Administrative Order Addendum to the District, approving a compliance schedule for bringing the System into compliance with the arsenic MCL and incorporating the approved schedule into the Order as an enforceable requirement. The schedule included a final compliance deadline of May 31, 2015.

- On September 7, 2011, the EPA notified the District that it had violated the Order by failing to provide its 2010 CCR to the EPA and the State.
- On January 17, 2012, the EPA approved a modified compliance schedule for the District. The modified schedule included the same final compliance date but extended an interim deadline for the District to prepare a Preliminary Engineering Report (PER). The EPA's letter also indicated that the District had exceeded the MCL for combined radium in March of 2011 and that the District was required to continue monitoring quarterly for combined radium and arsenic. The letter also directed the District, as part of its compliance schedule, to apply for funding to revise its PER if needed to address radionuclides.
- On November 13, 2012, the EPA extended the interim compliance deadline for submitting a revised PER, again retaining the same ultimate compliance date.
- On January 31, 2013, Steve Wonacott, P.E., Morrison-Maierle, Inc., on behalf of the District, requested an extension of the deadline for the District to submit its revised PER to the EPA. Mr. Wonacott's email indicated that the District had applied for and obtained approval for funding from the United States Department of Agriculture (USDA Rural Development) but that USDA Rural Development had not yet set a date for releasing funds to the District.
- On February 19, 2013, the EPA notified the District that it had failed to monitor for arsenic during the fourth quarter of 2012 and had failed to report its failure to monitor to the State and the EPA within 48 hours. The letter also indicated that the District had failed to monitor for combined radium during three quarters in 2012, but the EPA has since learned that the District did, in fact, conduct this monitoring.

To consolidate the changes into one document and to update the remaining requirements, the EPA is now issuing the enclosed Amended Order. The following is a summary of the changes reflected in the Amended Order and the reasons for these changes.

- Monitoring for Combined Radium. Paragraph 11 of the Amended Order cites violations of the requirement to monitor for combined radium.
- Reporting Monitoring Results for Combined Radium. Paragraph 12 of the Amended Order cites violations of the requirement to report monitoring results for combined radium.
- MCL for Combined Radium. Paragraph 13 of the Amended Order cites violations of the MCL for combined radium.
- Revision to Compliance Schedule. The compliance schedule that the EPA approved on June 24, 2012, as revised by the EPA's letters dated January 17, 2012, and November 13, 2012, is being updated (1) to eliminate the deadlines the District has already met and (2) to grant Mr. Wonacott's request to extend the final compliance date to December 1, 2015. The revised compliance schedule and final compliance date are set forth in paragraphs 18 and 20 of the Amended Order.

- Public Notice. Paragraph 22 of the Amended Order requires the District to provide public notice of the arsenic MCL violations that occurred in 2011 and 2012 and of the combined radium MCL violations.

Please note that the EPA expects each milestone in the compliance schedule and the final MCL compliance deadline of December 1, 2015, to be met. While not creating any right to an extension, the EPA, in its discretion, may consider granting an extension to any of these deadlines under limited circumstances. If unexpected events occur that are beyond the District's control and that may require the District to request an extension of any deadline, the District is responsible for notifying the EPA well in advance of the deadline date. The EPA will not consider extending a deadline without a clear justification for its need. The District must provide the following information in writing for any request for an extension: a description of the work that has been completed and the additional work that may not be completed by the deadline date, the unexpected events that have occurred or may occur and how the District has attempted to foresee and use its best efforts to overcome these obstacles, and a proposed new deadline date with a justification for the length of the proposed extension.

Please contact Sienna Meredith, Environmental Specialist, at (406) 457-5026, or 1-866-457-2690, if you have any questions concerning this Amended Order. If the District is represented by an attorney who has questions, please ask the attorney to call Peggy Livingston, EPA Enforcement Attorney, at (303) 312-6858, or 1-800-227-8917, extension 312-6858.

Sincerely,


Julie A. DalSoglio, Director
Montana Office

Enclosures

Amended Administrative Order
Public notice template

cc: Tina Artemis, EPA Regional Hearing Clerk
Tom Dawson, President, Beaverhead Jackson
Water and Sewer District
Laverne Jackson, Beaverhead Jackson Water and Sewer
District (via certified mail/return receipt requested)
Joan Hullett, Operator, Beaverhead Jackson Water and Sewer
District (via certified mail/return receipt requested)
Jeanette Robertson, Beaverhead Jackson Water and Sewer
District (via certified mail/return receipt requested)
Tom Wagenknecht, Beaverhead county sanitarian (by email)
Callie McIntosh, RCAC, Rural Development Specialist (by email)
John Arrigo, MT DEQ
Shelley Nolan, MT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2013 APR 17 AM 11:41

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)

Beaverhead County Jackson Water)
and/or Sewer District,)

Respondent.)

Docket No. SDWA-08-2010-0004

AMENDED ADMINISTRATIVE ORDER

1. This Amended Administrative Order (Amended 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 through 300j-26 (Act), as properly delegated to the undersigned officials.
2. Beaverhead County Jackson Water and/or Sewer District is a public body created by or pursuant to Montana law that owns and/or operates the Beaverhead Jackson public water system (System), which provides piped water to the public in Beaverhead County, Montana, for human consumption.
3. The System is supplied by ground water from the Jardine Hot Springs. The water is not treated.
4. The System has approximately 26 service connections used by year-round residents and/or regularly serves at least 30 year-round residents. Therefore, the System is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.
5. Respondent is 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 section 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 (State). The EPA issued a notice of the System's violations to the State on November 10, 2009. The State elected not to commence an enforcement action against Respondent for the violations listed in the notice of violation within the 30-day time frame set forth in section 1414(a) of the Act, 42 U.S.C. § 300g-3(a). The EPA has provided a copy of this Amended Order to the State and has provided the State the opportunity to confer with the EPA regarding this Amended Order.
7. The maximum contaminant level (MCL) for arsenic was changed from 0.050 milligrams per liter (mg/L) to 0.010 mg/L beginning January 23, 2006. Because the System's water historically contained arsenic in levels greater than the new MCL, Respondent requested an exemption from the arsenic MCL on January 13, 2006. The State granted this exemption on January 3, 2008, with an arsenic MCL compliance date of January 23, 2009. A condition of the exemption required Respondent to sample the System's water quarterly for arsenic beginning in the first (January-March) quarter of 2008. (Systems that exceed the arsenic MCL as calculated in 40 C.F.R. § 141.23(i) are also required to monitor quarterly

for arsenic. 40 C.F.R. § 141.23(c)(7).) The requirement to monitor quarterly for arsenic is an “applicable requirement” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i), and the condition of the exemption requiring quarterly monitoring is also enforceable pursuant to section 1416(b)(3) of the Act, 42 U.S.C. § 300g-5(b)(3).

VIOLATIONS

8. Respondent has been required to monitor the System’s water for arsenic quarterly beginning in the first quarter of 2008, as a condition of the State’s exemption. See also 40 C.F.R. §§ 141.23(c)(7) and 141.23(g). Respondent failed to monitor the System’s water for arsenic during the first quarter of 2008, the second (April-June) quarter of 2008, the third (July-September) quarter of 2008, and the first quarter of 2009 and, therefore, violated this requirement.

9. The MCL for arsenic is 0.010 mg/L, based on a running annual average of quarterly samples. 40 C.F.R. §§ 141.62(b) and 141.23(i)(1). If any one sample would cause an annual average to be exceeded, then this is a violation immediately. 40 C.F.R. § 141.23(i)(1). For samples taken in the second quarter of 2009, the third quarter of 2009, and all four quarters of 2010, 2011, and 2012, the System’s water exceeded the MCL for arsenic, and, therefore, Respondent violated this requirement.

10. Respondent is required to prepare and deliver an annual Consumer Confidence Report (CCR) to the System’s customers and to the State by July 1st of each year. Within the following three months, Respondent is required to certify to the State that it has distributed the CCR to customers and that the CCR includes information that is correct and consistent with previously submitted monitoring data. The CCR is to include information about the quality of the System’s water using data collected during, or prior to, the previous calendar year. 40 C.F.R. §§ 141.151-141.155. Respondent failed to meet the required deadlines for preparing and delivering annual CCRs for 2007 and 2010 to the System’s customers and to the State and for providing certifications to the State. Therefore, Respondent violated these requirements. After the required deadlines, the State and the EPA received the certifications that the annual CCRs for 2007 and 2010 had been distributed.

11. Respondent is required to monitor the System’s water for combined radium-226 and -228 once every quarter until notified otherwise by the State. 40 C.F.R. § 141.26(a). Respondent failed to monitor the System’s water for combined radium during the second and third quarters of 2011 and, therefore, violated this requirement.

12. Respondent is required to report the results of testing for combined radium-226 and -228 to the State no later than (1) the first 10 days following the month in which the result is received or (2) the first 10 days following the end of the required monitored period, whichever is earlier. 40 C.F.R. § 141.31(a). Respondent failed to report its monitoring results for radium-226 and -228 to the State for the second, third, and fourth quarters of 2012 within the required time period and, therefore, violated this requirement.

13. The MCL for combined radium-226 and -228 is five picocuries per liter (pCi/L). 40 C.F.R. § 141.66(b). The State and EPA have notified Respondent that it is required to monitor quarterly for combined radium. See also 40 C.F.R. § 141.26(a)(3)(v). If any one sample result causes the running



annual average of sample results to exceed the MCL at any sample point, the System is out of compliance immediately. 40 C.F.R. § 141.23(c)(3)(ii). Each monitoring result during the second, third, and fourth quarters of 2012 caused the running annual average to exceed the MCL and, therefore, Respondent violated 40 C.F.R. § 141.66(b).

14. Respondent is required to notify the public of certain violations of the Drinking Water Regulations. 40 C.F.R. §§ 141.201-141.211. Respondent failed to provide timely public notification of (a) the arsenic monitoring violations cited in paragraph 8, above, and (b) the arsenic MCL violations cited in paragraph 9, above, that occurred before 2011. Respondent failed to notify the public of (a) the arsenic MCL violations cited in paragraph 9, above, that occurred in 2011 and 2012 and (b) the combined radium MCL violations cited in paragraph 12, above. Therefore, Respondent violated this requirement.

15. Respondent is 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). Respondent failed to report the violations listed in paragraphs 8 through 14, above, to the State and, therefore, violated this requirement.

ORDER

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

16. Within 30 days of receipt of this Amended Order, and during each calendar quarter until a different monitoring frequency is determined by the State, Respondent shall monitor the System's water for arsenic. 40 C.F.R. § 141.23. Respondent shall report analytical results to the State within the first 10 days following the month in which sample results are received, in accordance with 40 C.F.R. §§ 141.23(i) and 141.31(a), and provide the EPA with a copy of this notification. Respondent shall report any violation of the arsenic monitoring requirements to the EPA and the State within 48 hours. 40 C.F.R. § 141.31(b).

17. Upon receipt of this Amended Order and thereafter, during each calendar quarter and until a different monitoring frequency is determined by the State, Respondent shall monitor the System's water quarterly for combined radium, 40 C.F.R. § 141.26(a). Within the first 10 days following the month in which sample results are received, Respondent shall report any analytical results to the State, as required by 40 C.F.R. § 141.31(a), and provide the EPA with a copy of this notification. Respondent shall report any violation of the combined radium monitoring requirements to the EPA and the State within 48 hours. 40 C.F.R. § 141.31(b).



18. Respondent shall adhere to the following compliance schedule:

Action	Deadline for Completion
Revise Preliminary Engineering Report (PER)	September 15, 2013
Submit revised PER to the United States Department of Agriculture (USDA Rural Development), the EPA, and the State	October 1, 2013
Complete changes to PER to address any comments received from reviewing agencies, and apply for funding for final design and preparation of plans and specifications	January 30, 2014*
Apply for construction funding	May 1, 2014
Submit final design, bid documents, and plans and specifications to USDA Rural Development, the EPA, and the State for approval	December 1, 2014
Complete any necessary changes to final design, bid documents, and plans and specifications, and initiate construction bidding process	April 15, 2015*
Award construction contract	May 15, 2015
Construct treatment system	December 1, 2015

*Respondent may request that the EPA extend the January 30, 2014, and April 15, 2015, deadlines based on any delay in obtaining timely comments and/or approval from a reviewing agency. However, if all agencies provide comments on the PER by December 1, 2013, and if all comments and required agency approvals for the final design, bid documents, and plans and specifications are completed by February 1, 2015, the EPA expects that Respondent will be able to meet these deadlines.

19. Beginning within 90 days of the issuance of this Amended Order, Respondent shall provide the State and the EPA with quarterly reports on the progress made toward bringing the System into compliance with the arsenic and combined radium MCLs. Each quarterly report is due by the 10th day of the month following the relevant quarter.

20. Respondent must achieve and maintain compliance with the arsenic and combined radium MCLs by December 1, 2015. Respondent must meet that deadline even if the plan as submitted does not achieve compliance. If implementation of the plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

21. Upon receipt of this Amended AO and thereafter, Respondent shall prepare and distribute annual CCRs and provide certifications as required by 40 C.F.R. §§ 141.152-141.155.

22. Within 30 days after receipt of this Amended Order, Respondent shall provide public notice of the combined radium MCL violations cited in paragraph 13, above, and the arsenic MCL violations for all four quarters in 2011 and 2012 cited in paragraph 9, above, as required by 40 C.F.R. part 141, subpart Q. Following any future violation of the Drinking Water Regulations, Respondent shall comply



with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days of providing public notice, Respondent shall submit a copy of the notice to the EPA.

23. Respondent shall direct all reporting required by this Amended Order to:

Sienna Meredith 8 MO
U. S. EPA Region 8
10 West 15th Street, Suite 3200
Helena, MT 59626

AND

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

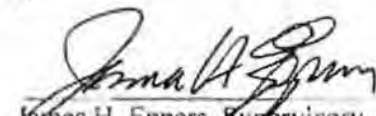
GENERAL PROVISIONS


24. This Amended Order does not constitute a waiver, suspension, or modification of any requirement of the Act or Drinking Water Regulations. Issuance of this Amended Order is not an election by the EPA to forgo any civil or criminal action.

25. Violation of any part of this Amended 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.

26. Respondent may seek federal judicial review of this Amended Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: April 17, 2013.


James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice


Julie A. DalSoglio, Director
Montana Office



Arsenic and Combine Radium MCL

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Beaverhead County Jackson WSD has levels of Arsenic and Combine Radium above Drinking Water Standards

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We monitor quarterly for the presence of drinking water contaminants. Testing results we received on 3/26/11, 6/26/11, 9/27/11, 12/31-11, 3-26-12, 6-30-12, 9-29-12, and 12-31-12 show that our system exceeded the standard, or maximum contaminant level (MCL), for **arsenic**. The standard for arsenic is 0.01 milligrams per liter (mg/L). The average level of arsenic based on the most recent 4 samples collected was **0.049 mg/L**.

We monitor quarterly for the presence of drinking water contaminants. Testing results we received on 6-30-12, 9-29-12, and 12-31-12 show that our system exceeded the standard, or maximum contaminant level (MCL), for **combine radium**. The standard for combined radium is 5.00 pCi/l. The average level of combine radium based on the most recent 4 samples collected was **6.07 pCi/L**

What should I do?

- **You do not need to use an alternative (e.g., bottled) water supply.** However, if you have specific health concerns, consult your doctor.

What does this mean?

This is not an immediate risk. If it had been, you would have been notified immediately. *However, Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.* Some people who drink water containing combined radium (-226 & -228) in excess of the MCL over many years may have an increased risk of getting cancer.

What happened? What is being done?

[Describe corrective action.]

For more information, please contact

Arsenic and Combine Radium MCL

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 Water System MT0002590 Date distributed _____
Beaverhead County Jackson WSD. ID# _____

After Issuing the Notice

Make sure to send EPA Region 8 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:

Sienna Meredith
US EPA Region 8
10 West 15th Street
Suite 3200
Helena, MT 59626

Or, you may fax a copy to: Attn: Sienna Meredith at 406-457-5055.

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 _____