

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)
)
J M Land & Developing Co.)
and Dale Ruby)
Gillette, Wyoming)
PWS ID #: WY5601602)
Ridgeway Community Well)
Respondents.)

**EMERGENCY ADMINISTRATIVE
ORDER**

Docket No. **SDWA-08-2008-0096**

2008 AUG 27 PM 2:53

EPA REGION VII
HEARING CLERK

AUTHORITY AND FINDINGS

This Order is issued by the Environmental Protection Agency pursuant to the authority of section 1431(a) of the Public Health Service Act (also known as the "Safe Drinking Water Act" or "Act"). 42 U.S.C. § 300i(a). The undersigned officials have been properly delegated the authority to issue this Order.

Failure to comply with this Order may result in civil penalties of up to \$16,500 per day. 42 U.S.C. § 300i(b) and C.F.R. part 19.

EPA may issue such Orders when certain conditions exist which may present an imminent and substantial endangerment to human health, and other state or local authorities have not acted to protect human health. 42 U.S.C. § 300i(a).

Respondent J M Land & Developing Co. is a corporation under the laws of the state of Wyoming as of June 20, 1978. Respondent Jesse Dale Ruby is an individual. Each Respondent is therefore a "person" as that term is defined in the Act. 40 U.S.C. § 1401(12).

Respondents own and/or operate the Ridgeway Community Well water system (the "System"), located on Ridgeway Road in Gillette, Wyoming, that provides water to the public for human consumption.

Any system that provides water to the public through pipes or other constructed conveyances and that has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year is a "public water system" subject to the requirements of the Act, 42 U.S.C. § 300f et seq., and its implementing regulations, 40 C.F.R. part 141.

The System serves an average of 60 persons daily via pipes through 17 service connections and is therefore a "public water system" subject to the Act and 40 C.F.R. part 141.

EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to human health. EPA has made this determination because all day on August 21, 2008, and for five to six hours on August 24, 2008, the System ran out of water in the storage tank, leading to a loss of pressure in the System's distribution system, including the System's pipes. Information provided by System users indicates loss of pressure is not an unusual event at Ridgeway Community Well. Loss of pressure may cause a net movement of

outside water into the System's pipes through the types of cracks, breaks, and joints that are common in all water systems' pipes. This movement presents a high potential for disease-causing organisms to contaminate the System's water.

Prior to issuing this Order, EPA consulted with the System and with state or local governmental authorities to confirm the facts and the potential endangerment and has determined that those authorities have not acted to protect the health of persons served by the System and that this Order is necessary to protect human health.

FINDING OF VIOLATION

Respondents are required to consult with EPA as soon as practical, but no later than 24 hours after the System learns of a situation with significant potential to have serious adverse effects on human health as a result of short-term exposure. 40 C.F.R. § 141.202(b)(2). The Respondents did not notify EPA within 24 hours following disruptions to the System's operation caused by a loss of pressure to the System's distribution system and, therefore, violated this requirement.

ORDER

INTENT TO COMPLY

1. Within 24 hours of receipt of this Order, Respondents shall notify EPA in writing of their intention to comply with the terms of this Order.

BOIL ORDER AND PUBLIC NOTICE

2. Within 24 hours of receipt of this Order, Respondents shall notify the public of the loss of pressure described above and distribute a boil water advisory. Directions on the required content for the public notice and advisory are included in Attachment A to this Order. Respondents shall submit a copy of the notice to EPA within 24 hours of its distribution. Respondents shall continue the public notice as set forth in Attachment A until EPA provides written notification that public notice may be discontinued. Respondents must carry out the public notice and other notice requirements that EPA directs. Respondents must provide the same public notice within 24 hours following any future loss of water pressure or similar emergency in the System.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

3. Within 24 hours of receipt of this Order, Respondents shall clean and flush the Ridgeway Community Well water system. This will include disinfecting the System's distribution system and any storage tanks that are part of the System.

4. Once the System has been flushed and disinfected, Respondents shall collect consecutive daily (one sample per day) special purpose total coliform samples from the System's distribution system to determine compliance with the total coliform maximum contaminant level (MCL). 40 C.F.R. § 141.63.
5. After Respondents collect a sufficient number of consecutive daily total coliform samples that are negative and receive written notification from EPA that daily total coliform sampling may be discontinued, Respondents shall collect weekly special purpose bacteriological samples of one sample per week of the System's water to determine compliance with the total coliform MCL. 40 C.F.R. § 141.63.
6. After Respondents collect a sufficient number of weekly total coliform samples that are negative and receive written notification from EPA that weekly total coliform sampling may be discontinued, Respondents shall thereafter resume monthly total coliform sampling to determine compliance with the total coliform MCL. 40 C.F.R. §§ 141.21 and 141.63.
7. If any of the designated routine sample results is total coliform-positive, Respondents shall collect four repeat samples within 24 hours of being notified of the total coliform-positive sample. 40 C.F.R. § 141.21(b). Furthermore, Respondents shall collect 5 routine total coliform samples in the month following any total coliform-positive sample result. 40 C.F.R. § 141.21(b)(5).
8. Respondents shall continue increased monitoring of total coliform bacteria until receiving written notice from EPA that increased sampling may be discontinued. Respondents shall collect all total coliform samples at sites that are representative of water throughout the System's distribution system. Additionally, Respondents shall report all sampling results to EPA by fax immediately upon receiving the results.
9. For the total coliform sampling in paragraphs 5 and 6 above, Respondents shall designate one sample as the monthly compliance sample to determine compliance with the MCL for total coliform. 40 C.F.R. § 141.63.
10. By providing oral or written notification, EPA may require Respondents to increase and/or decrease total coliform sampling at any time while this Order is in effect.

COMPLIANCE MEASURES

11. Within 30 days of receipt of this Order, Respondents shall provide EPA with a compliance plan and schedule that outlines actions to be taken that will ensure that there is no future loss of pressure in the System. The plan shall identify the cause of the pressure loss and describe efforts that Respondents will take to prevent a recurrence of pressure loss in the distribution system. If proposed System modifications are part of the plan, the plan shall include estimated costs of modifications and a schedule for

completion of the project and compliance with the Order and the Act. The proposed schedule shall include specific milestone dates and a final compliance date to be within 60 days from the date of EPA's approval of the plan. The plan and schedule must be approved by EPA before construction or modifications may commence. EPA's approval of Respondents' plan and schedule does not substitute for any State of Wyoming approval of plans and specifications (engineering plans), which may also be required before modifications can be made to the System.

12. The plan and schedule required by paragraph 11, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA. EPA may incorporate the above-required plans into a new Administrative Order. If implementation of the plan fails to achieve permanent compliance, EPA may order further steps and/or seek penalties for noncompliance.
13. Respondents shall submit monthly reports to EPA on the status of all corrective measures identified in the compliance plan until notified in writing by EPA to discontinue such reports. Reports shall be postmarked by the 15th of each month.
14. Within 10 days of completion of the approved plans and schedule required in paragraph 11, Respondents shall notify EPA in writing of project completion.

REPORTING

15. Respondents shall give daily updates to EPA, via phone, fax, or email, on progress of returning the System to compliance. Daily updates must be submitted to EPA until EPA notifies Respondents that daily reports may be discontinued.

NOTIFY EPA OF SITUATIONS WITH POTENTIAL ADVERSE EFFECTS ON PUBLIC HEALTH

16. Notify EPA as soon as practicable, but within 24 hours after Respondents learn of any violation or situation with the potential to have serious adverse effects on human health as a result of short term exposure to contaminants. 40 C.F.R. § 141.202(b)(2). Respondents must comply with this regulation in any future water outage event or any similar emergency situation.

ALTERNATE WATER SUPPLY FOR FUTURE LOSS OF PRESSURE INCIDENTS

17. Within 24 hours of any future water outage or any similar emergency situation, Respondents shall provide an alternate potable water supply to the System's users. Respondents shall use a public notice as described in paragraph 2 above to notify the System's users that the alternate water supply is available. The alternate water supply must be either 1) provided by a licensed water distributor, 2) purchased bottled water, or

3) provided by another public water system that meets the National Primary Drinking Water Regulations (40 C.F.R. part 141). Respondents shall make the alternate water supply available at no cost to all users of the System as needed for drinking and cooking until Respondents receive written notification from EPA that alternate water is no longer necessary. Respondents shall provide at least two liters of potable water daily per person at a central location that is accessible to all persons served by the System.

18. All contact with EPA shall be to:

Kathelene Brainich, 8ENF-W
US Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129
Telephone (800)227-8917 X 6481 or (303) 312-6481
Fax (303) 312-7518
e-mail: brainich.kathelene@epa.gov

19. This Order does not affect any legal requirement or EPA's legal enforcement options in this matter.
20. Issued and effective this _____ day of _____, 2008.



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



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