



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

JUL 5 2007

Ref: 8ENF-L

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Dr. S. C. Schearer, Pastor
Heritage Baptist Church of Great Falls
900 52nd Street North
Great Falls, MT 59403

Re: Final Administrative Order on Consent
Docket No. SDWA-08-2007-0043
PWS ID #MT0003956

Dear Dr. Schearer:

I have included a copy of the signed Final Administrative Order on Consent for your records. Your cooperation in assisting the U.S. Environmental Protection Agency (EPA) to ensure the provisioning of safe drinking water to the persons and children served by the Heritage Baptist Church of Great Falls public water system (System) is greatly appreciated.

If Heritage Baptist Church complies with the AOC for a period of 12 months, EPA may choose to close the order. Violating the AOC may lead to (1) a penalty of \$32,500 per day of violation, (2) a separate penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Please do not hesitate to contact me at (800) 227-8917, extension 6983, or (303) 312-6983, if you have any questions concerning the requirements under this AOC. Again, thank you for your assistance in this matter.

Sincerely,

Kimberly Pardue Welch

Kimberly Pardue Welch
Water Technical Enforcement Program

Enclosure

Administrative Order on Consent

cc: Jenny Chambers, MT DEQ
Kate Miller, MT DEQ
Eugene Pizzini, MT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 JUL -5 PM 12:26

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
Heritage Baptist Church of) Docket No. SDWA-08-2007-0043
Great Falls, Montana)
)
Respondent.) ADMINISTRATIVE ORDER
) ON CONSENT
)
Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

This Administrative Order on Consent ("AOC") is entered into between Complainant United States Environmental Protection Agency Region 8, and Respondent Heritage Baptist Church of Great Falls, Montana ("Respondent"), pursuant to 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 Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, and the undersigned Respondent's representative.

For the purposes of this AOC, EPA and Respondent (hereafter referred to collectively as "the Parties") agree as follows:

FINDINGS

1. The Heritage Baptist Church of Great Falls, Montana ("Respondent") is a non-profit corporation under the laws of Montana and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.

2. Respondent owns and/or operates a system, the Heritage Baptist Church of Great Falls, Montana, Water System (“the System”), located in Cascade County, Montana, for the provision to the public of piped water for human consumption.
3. Although fluctuations in the number of persons served by the System cause the System to drop occasionally below the requisite population for a non-transient, non-community water System, the System consents to be regulated as a “public water system” within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a “non-transient, non-community” water system within the meaning of 40 C.F.R. § 141.2, to protect the health of persons and children served by the System. Respondent also plans to operate and supply drinking water to a day care at the church which will regularly qualify the System as a non-transient system.
4. According to the records of the Montana Department of Environmental Quality (“MDEQ” or “the State”), which has primary enforcement authority for the Act in the State of Montana, the System is classified as a “non-transient, non-community public water system.” As a policy matter, MDEQ does not permit systems that have fluctuating populations to switch between transient and non-transient classifications and, once a system qualifies as non-transient, it remains subject to the applicable requirements.
5. Respondent owns and/or operates a public water system and is therefore a “supplier 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. Respondent is 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, also known as the National Primary Drinking Water Regulations (“NPDWRs”).

6. According to a March 28, 2006, sanitary survey conducted by the Great Falls City-County Health Department, Respondent operates a system that is supplied with finished water by Prairie Water Hauler through a non-piped connection to two cisterns. One cistern supplies water to the church, the other cistern supplies water to the school. The System provides water year-round.
7. On April 4, 2007, EPA issued a Notice of Violation pursuant to section 1414(a) of the Act, 42 U.S.C. § 300g- 3(a), to MDEQ regarding the violation at the public water system. MDEQ elected not to commence an appropriate 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).
8. EPA 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).
9. EPA has provided a copy of this Order to MDEQ pursuant to section 1414(g)(2) of the Act, 42 U.S.C. § 300g-3(g)(2).

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.86(d)(1)(ii) requires small and medium size community and non-transient, non-community water systems, to conduct initial sampling for two consecutive six month periods for lead and copper.
2. Respondent failed to monitor for lead and copper during the following six-month periods: July through December 2002; July through December 2003; January through June 2005, and July through December 2006, in violation of 40 C.F.R. § 141.86.

II.

1. 40 C.F.R. § 141.86(c) requires community and non-transient, non-community water systems that serve a population between 101 and 500 to collect a minimum of one sample from ten sites each monitoring period for lead and copper. MDEQ has reduced the number of samples required from Respondent to one sample from five sites during each monitoring period.
2. Respondent failed to collect samples from the required number of sample locations during the following six-month periods: January through June 2003; July through December 2004; July through December 2005; and January through June 2006, in violation of 40 C.F.R. § 141.86(c).

III.

1. 40 C.F.R. § 141.204(b)(1) requires owners and/or operators of public water systems to provide public notice of any violations of the NPDWRs within one year of Respondent learning of the violations.
2. Respondent posted and provided EPA a copy of the public notice of the violations outlined in Sections I and II on April 26, 2007.
3. Respondent failed to provide public notice of the 2002 – 2005 violations within one year of learning of the violations, in violation of 40 C.F.R. § 141.204(b)(1).

IV.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR to the State within 48 hours.
2. Respondent failed to report to the State the noncompliance detailed in Sections I through III, 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, THE PARTIES AGREE THAT:

1. Respondent will comply with the requirements as specified in the Act and 40 C.F.R. Part 141, Subpart I (Control of Lead and Copper).
2. With regard to the System's cistern and distribution system serving the school, Respondent will:

- a. With assistance from MDEQ, prepare and submit to EPA and the State for approval a site sampling plan in accordance with 40 C.F.R. § 141.86(a), identifying the number, location, and timing of samples to be taken. Respondent will provide copies of the final site sampling plan to MDEQ and EPA.
- b. Sample for lead and copper in accordance with 40 C.F.R. § 141.86 and the approved site sampling plan between July 1 and December 31, 2007 (2nd half of 2007), and again between January 1 and June 30, 2008 (1st half of 2008). Respondent will report the results and other information to EPA and the State within the first 10 days following the end of each applicable monitoring period, as required by 40 C.F.R. § 141.90(a).
- c. If the results of the 90th percentile lead level exceed .015 mg/L (15 ppb) or the 90th percentile copper level exceeds 1.3 mg/L, based on any future lead and copper samples collected, Respondent agrees to comply with all the requirements for optimal corrosion control as specified in 40 C.F.R. § 141.81(e); the requirements for water quality parameter ("WQP") monitoring and reporting as specified in 40 C.F.R. §§ 141.87, 141.89, and 141.90; and the requirements for source water monitoring and reporting as specified in 40 C.F.R. §§ 141.88, 141.89, and 141.90.
- d. Respondent will report the results of WQP monitoring in accordance with 40 C.F.R. §§ 141.90(a)(1)(vi) and (vii) and source water monitoring in accordance with 40 C.F.R. § 141.90(b).

RESERVATION OF RIGHTS

1. This AOC 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 AOC 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 AOC may subject the Respondent 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 Respondent 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).

GENERAL PROVISIONS

1. Respondent agrees to waive its right to a hearing on the matters contained herein pursuant to section 1414(g) of the Act, 42 U.S.C. 300g-3(g).
2. Each undersigned representative of the parties to this AOC certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this AOC and to execute and legally bind that party to it.

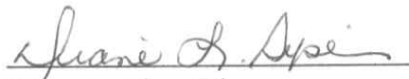
3. This AOC may be amended or modified only by written agreement executed by both parties and incorporated into an amended AOC.
4. Respondent consents to EPA's jurisdictional authority specified in this AOC.
5. The effective date of this AOC shall be the date of filing with the Region Hearing Clerk's Office.

SO CONSENTED TO AND AGREED:

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant,



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



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

HERITAGE BAPTIST CHURCH,
Respondent,



Dr. S.C. Schearer
Pastor