



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

Ref: 8ENF-W

SEP 29 2009

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

The Honorable John Bachman
City of Eagle Butte
P.O. Box 150
Eagle Butte, SD 57625

Re: Administrative Order
Eagle Butte
Public Water System
Docket No. SDWA-08-2009-0092
PWS ID #SD4600010

Dear Mayor Bachman:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300f *et seq.* Among other things, the Order alleges that the City of Eagle Butte (the city) has violated the National Primary Drinking Water Regulations (drinking water regulations).

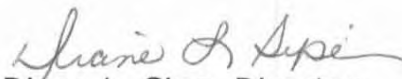
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If the city complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the drinking water regulations.

To submit information, or request an informal conference with EPA, please contact Kimberly Pardue Welch at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6983 or (303) 312-6983. Any questions from the city's attorney should be directed to Peggy Livingston, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6858 or (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Order

SBREFA Information sheet

cc:

Mark Mayer, South Dakota Department of Environment and Natural
Resources

Jon Ganje, Utility Manager

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
)
City of Eagle Butte, SD,)
)
)
Respondent.)

Docket No. **SDWA-08-2009-0092**

ADMINISTRATIVE ORDER

1. This 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 *et seq.* (the Act), as properly delegated to the undersigned officials.

2. The City of Eagle Butte (Respondent) is a municipality that owns and/or operates the Eagle Butte Water System (the Eagle Butte System) which provides piped water to the public in Dewey County, South Dakota, for human consumption.

3. The Eagle Butte System is a consecutive system of the Tri-County Rural Water System, which uses a surface water source. The Eagle Butte System delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light.

4. The Eagle Butte System has approximately 1,000 service connections used by year-round residents and/or regularly serves at least 4,000 year-round residents. Therefore, the Eagle Butte System is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and § 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 § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

6. As of the date of this Order, EPA has primary responsibility throughout South Dakota for enforcement of 40 C.F.R. part 40, subparts U and V, which are part of EPA's Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR).

VIOLATIONS

7. Respondent was required to submit a Stage 2 DBPR standard monitoring plan, system specific study, or 40/30 certification (as described in 40 C.F.R. § 141.603) for the Eagle Butte System by April 1, 2008. 40 C.F.R. § 141.600. Respondent failed to submit a standard monitoring plan, system specific study, or 40/30 certification by April 1, 2008, and, therefore, violated this requirement. On August 26, 2009, EPA received a copy of a standard monitoring plan and distribution system schematic for the Eagle Butte System.

8. Beginning April 1, 2009, Respondent was required to comply with the analytical and monitoring requirements for chloramines in 40 C.F.R. §§ 141.131(c) and 141.132(c)(1), the compliance requirements in 40 C.F.R. § 141.133(c)(1), and the reporting requirements in 40 C.F.R. § 141.134(c). 40 C.F.R. § 141.624. Respondent failed to begin monitoring for chloramines by April 1, 2009, and, therefore, violated this requirement.

9. Respondent is required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified in the drinking water regulations) within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 7 and 8 above and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

10. Respondent shall monitor according to the standard monitoring plan referenced in paragraph 7, above. 40 C.F.R. §§ 141.600 and 141.601.

11. Respondent shall comply with the analytical and monitoring requirements for chloramines in 40 C.F.R. §§ 141.131(c) and 141.132(c)(1), and the compliance requirements in 40 C.F.R. § 141.133(c)(1), and report monitoring results as required by 40 C.F.R. § 141.134(c). 40 C.F.R. § 141.624. Respondent shall report analytical results to EPA within the first 10 days of the end of each quarter in which the samples are collected. 40 C.F.R. § 141.134(a).

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

Kimberly Pardue Welch
U.S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

GENERAL PROVISIONS

13. 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.

14. Violation of any part of this 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.

Issued: September 29, 2009.

David Rochlin

David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Diane L. Sipe

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