



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

MAR 23 2007

Ref: 8ENF-W

CERTIFIED MAIL LETTER # 7003 2260 0002 0331 6786  
RETURN RECEIPT REQUESTED

Corporation Service Company, Registered Agent  
Corporation of the Presiding Bishop of the Church  
of Jesus Christ of Latter Day Saints  
PO Box 1691  
Helena, MT 59624-1691

Re: Administrative Order  
Docket No. SDWA-08-2007-0017  
ID # MT0003644

Dear Sir:

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 (the Act, 42 U.S.C. section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that LDS Church Frenchtown is a public water supplier as defined by the Act and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.31(a), 141.201, 141.21(g)(2) and 141.31(b), for: failure to monitor for bacteriological quality; failure to report bacteriological monitoring results to the State within the required time frame; failure to provide public notice of the violations; and failure to notify the State of the violations.

If LDS Church Frenchtown 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 you to comply.

Among other things, the Order requires LDS Church Frenchtown to provide a public notification of violations of the Act. 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 Darcy O'Connor, 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

Darcy O'Connor at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. O'Connor at (800) 227-8917, extension 6391, or (303) 312-6391. If you wish to have an informal conference with EPA, you may also call or write Ms. O'Connor. If you are represented by an attorney or have legal questions, please call Amy Swanson at the above 800 number, extension 6906, or at (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Order  
Public Notice template

cc: John Arrigo, MT DEQ  
Kate Miller, MT DEQ  
Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints  
Alice Walton, Missoula MT FM Group

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2007 MAR 23 AM 8:04

IN THE MATTER OF )  
 )  
Corporation of the Presiding Bishop )  
Of the Church of Jesus Christ of Latter )  
Day Saints )  
LDS Church Frenchtown )  
Frenchtown, MT )  
 )  
Respondent )  
 )  
Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )  
\_\_\_\_\_ )

EPA REGION 8  
HEADING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0017

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 Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. The Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints ("Respondent") is a corporation under the laws of Utah 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 LDS Church of Frenchtown Water System (the "System"), located in Missoula County, Montana for the provision to the public of piped water for human consumption.

3. 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 "transient, non-community" water system within the meaning of 40 C.F.R. § 141.2.
4. 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 therefore 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").
5. According to a December 6, 2002 sanitary survey conducted by the Missoula City-County Health Department, Respondent operates a system that is supplied solely by a ground water source consisting of one well located on site. Water is supplied to the church year-round. The System provides water to approximately 480 persons year-round.
6. The Montana Department of Environmental Quality ("MDEQ" or the "State") has primary enforcement authority for the Act in the State of Montana. On January 17, 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 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).

7. 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).
8. 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).
9. EPA is issuing this Order pursuant to section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), to require the System to comply with the “applicable requirements” it violated.
10. An “applicable requirement” includes, among other things, a requirement of an applicable approved State program, such as Montana’s “Public Water Supply Requirements” at Administrative Rules of Montana (“ARM”) 17.38.101 through 703. 42 U.S.C. § 300g-3(i).

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.21(3)(i) requires non-community water systems using only ground water and serving 1,000 persons or fewer to monitor for total coliform each calendar quarter that the system provides water to the public to determine compliance with the maximum contaminant level (“MCL”) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. ARM 17.38.215(1)(b) requires transient non-community water systems using only ground water and serving 1,000 persons or fewer to monitor each calendar month

that the system provides water to public unless a written notice is provided by MDEQ that quarterly monitoring can be conducted.

3. From July 1998 through June 2006, the System was given authorization by MDEQ to monitor for total coliform quarterly to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
4. A June 30, 2006 letter from MDEQ required the System to begin monthly monitoring for total coliform bacteria in July 2006.
5. Respondent failed to monitor for total coliform for the following months: September 2006, November 2006 and December 2006, in violation of ARM 17.38.215(1)(b) and 40 C.F.R. § 141.21.

## II.

1. 40 C.F.R. § 141.31(a) requires public water systems to report to the State the results of any test measurements required by the regulations within (1) the first ten days following the month in which the results were received, or (2) the first ten days after the monitoring period stipulated by the State, whichever of these is shortest.
2. On February 9, 2007, Respondent provided MDEQ with copies of the bacteriological monitoring results for the following dates: August 16, 2004; November 1, 2004; and May 2, 2005.
3. Respondent failed to provide the above monitoring results within the first ten days following the month in which the results were received, in violation of 40 C.F.R. § 141.31(a).

III.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems to report any failure to comply with a coliform bacteria monitoring requirement to the State within ten business days after the system discovers the violation.
2. Respondent failed to report to the State instances of noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(2).

IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violations of the NPDWRs, including violations of the MCL, maximum residual disinfection level (“MRDL”), treatment technique (“TT”), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the violations outlined in Sections I and II, in violation of 40 C.F.R. § 141.201.

V.

1. 40 C.F.R. § 141.31(b) requires owners and/or operators of public water systems to notify the State within 48 hours the failure to comply with any NPDWR, including public notice requirements.
2. Respondent failed to report to the State instances of noncompliance detailed in Section IV, 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. Upon the effective date of this Order, Respondent shall monitor the water for total coliform monthly as required by ARM 17.38.215(1)(b) to determine compliance with the total coliform MCL appearing at ARM 17.38.207(l) and 40 C.F.R. § 141.63(a)(2). Respondent shall report results to EPA and the State within ten days following the end of each monitoring period, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA and the State within ten days after the System discovers the violation.
3. Within 30 days from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violation Sections I and II in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 *et seq.* following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA and the State within ten 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 or newsletter distributed to customers; use of E-mail to notify employees or students; or delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The System must repeat the notice every three months as long as the violation or situation persists.

4. Except where a different reporting period is specified above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. part 141) to the EPA and the State within 48 hours.
5. Reporting requirements specified in this Order shall be provided by certified mail to the following addresses:

U. S. EPA Region 8 (8ENF-W)  
1595 Wynkoop Street  
Denver, Colorado 80202  
Attn: Darcy O'Connor

Montana Department of  
Environmental Quality – PWSS  
P.O. Box 200901  
Helena, MT 59620-0901  
Attn: Kate Miller

#### 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 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 sections 1414(g)(3)(A) and (C) of the Act, 42 U.S.C. § 300g-3(g)(3)(A) and (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).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 23<sup>rd</sup> day of March, 2007.



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