



**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 23 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas F. Kenneally, Registered Agent
Town Pump, Inc.
P.O. Box 6000
600 S. Main
Butte, MT 59701

Re: Administrative Order
Town Pump #9100
Public Water System
Docket No. SDWA-08-2008-0067
PWS ID # MT0004424

Dear Mr. Kenneally:

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. section 300f et seq. Among other things, the Order describes how Town Pump Inc. has violated the National Primary 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 Town Pump, Inc. complies with the Order for at least twelve months, 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.

To submit information or request an informal conference with EPA, 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. For legal questions, the attorney assigned to this matter is

Jean Belille, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6556 or (303) 312-6556.

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
Public notice samples/templates

cc:

Roger Hovis, Town Pump #9100
John Arrigo, MT DEQ
Shelly Nolan, MT DEQ
Tina Artemis, EPA Regional Hearing Clerk (via e-mail)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2008 SEP 23 AM 11:53

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
Town Pump, Inc.)
Town Pump #9100)
Anaconda, MT)
)
Respondent)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0067

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.

2. Town Pump, Inc. (Respondent) is a corporation which owns and/or operates the Town Pump #9100 Water System (the system) in Deer Lodge County, Montana which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of one well and serves approximately 500 people per day through 1 service connection year round. The system is a "non-community" water system as defined in 40 C.F.R. § 141.2. Respondent is subject to the requirements of the Act and the National Primary Drinking Water Regulations (drinking water regulations), at 40 C.F.R. part 141. The Respondent received annual notification from the Montana Department of Environmental Quality (MDEQ or the State) regarding the system's monitoring requirements.

3. The MDEQ has primary enforcement authority for the Act in the State of Montana. On June 9, 2008 and August 21, 2008, EPA issued Notices of Violation to MDEQ regarding the violations at the system. MDEQ elected not to commence an 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). EPA has provided a copy of this Order to MDEQ and 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). EPA is issuing this Order requiring the system to comply with the "applicable requirements" it violated. An "applicable requirement" includes requirements 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).

VIOLATIONS

4. Montana Department of Environmental Quality requires Respondent to monitor the system's water at least once per month to determine compliance with the MCL for total coliform bacteria. ARM 17.38.215(1)(b). Respondent failed to monitor the water for contamination of total coliform bacteria in November 2006, May 2007, June 2007, September 2007, November 2007, and January 2008 and, therefore, violated this requirement.

5. Respondents who collect fewer than 40 total coliform samples per month and have more than one total coliform positive sample during the monthly monitoring period are determined to be in violation of the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). Respondent exceeded the MCL for total coliform bacteria during October 2005 and, therefore, violated this requirement.

6. The Montana Department of Environmental Quality requires Respondents who are constructing, altering, or extending a public water system to submit a design report and plans and specifications for review and approval by the State. Respondents are required to construct or operate the system according to the State's approved plans and specifications. ARM 17.38.101. Respondent failed to construct the public water system according to the plans and specifications which were approved by the State on March 1, 2005 and, therefore, violated this requirement. Specifically, a concrete pad was not installed around the base of the well per approved plans.

7. The Montana Department of Environmental Quality requires Respondents, within 90 days following the completion of construction, alteration, or extension of a public water system, to submit a complete set of signed and certified "as-built" drawings to the MDEQ. ARM 17.38.101. Respondent failed to submit a complete set of signed and certified "as-built" drawings to MDEQ within 90 days following the completion of construction and, therefore, violated this requirement.

8. The law requires Respondent to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. § 141.201 *et seq.* Respondent failed to notify the public of the May 2007 and June 2007 failure to monitor total coliform violations outlined in Paragraph 4 above, and therefore, violated this requirement. Public notice for the September 2007, November 2007, and

January 2008 failure to monitor total coliform violations is not yet overdue.

9. Respondent is required to report any total coliform MCL violations to the State by the end of the next business day after the system learns of the violation. 40 C.F.R. §§ 141.21(g)(1). Respondent failed to report to the State the MCL violation listed in paragraph 5 above and, therefore, violated this requirement.

10. Respondent is required to report any failure to comply with a coliform monitoring requirement to the State within ten days after the system learned of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to the State the failure to monitor total coliform violations listed in paragraph 4 above and, therefore, violated this requirement.

11. 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 paragraphs 9 and 10 above) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraph 8 above to the State and, therefore, violated this requirement.

ORDER

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

12. Upon receipt of this Order, Respondent shall comply with the total coliform MCL as stated in 40 C.F.R. § 141.63. Any violation of the total coliform MCL shall be reported to EPA and the State no later than the end of the next business day after Respondent learns of it. 40 C.F.R. § 141.21(g)(1).

13. Within 30 days of the effective date of this Order, Respondent shall provide EPA with a schedule for the system to correct the significant deficiencies identified during the April 7, 2008 Sanitary Survey and ensure the well is constructed according to the State's March 1, 2005 approved plans including,

- a. Installing a sanitary well cap on well#1
- b. Extending the conduit for the well pump wiring to eliminate the gap between it and the sanitary seal well cap.
- c. Installing a concrete pad around the base of the well per approved plans to ensure that surface water runoff and contaminants flow away from the well head.

The proposed schedule shall include specific milestone dates and a final compliance date (to be within 90 days from the effective date of this Order). The schedule shall also include estimated costs of modifications. The schedule must be approved by EPA before construction or modifications can commence. EPA's approval of Respondent's schedule does not substitute for any State of Montana approvals of plans and specifications (engineering plans) which may also be required before modifications can be made to the system.

14. The schedule required by paragraph 13, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.

15. Within 30 days of completion of the approved schedule required in paragraph 13, Respondent shall notify EPA in writing of project completion and provide photographs of the corrected deficiencies noted in paragraph 13 above. Additionally, Respondent shall provide a complete set of signed and certified "as-built" drawings to the State and EPA. ARM 17.38.101.

16. If additional total coliform MCL violations occur while this Order is in effect, Respondent shall within 30 days of the next violation provide EPA with a compliance plan and schedule for the system to come into compliance with the MCL for coliform bacteria. 40 C.F.R. § 141.63. The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project and compliance with the total coliform MCL. The proposed schedule shall include specific milestone dates and a final compliance date (that shall be within 90 days of EPA approval). The plan and schedule must be approved by EPA before construction or modifications can commence. EPA's approval of Respondents' plan and schedule does not substitute for the State of Montana's approval of plans and specifications which are required before modifications can be made to the system.

17. The plan and schedule required by paragraph 16, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.

18. Respondent must achieve and maintain compliance with the total coliform MCL at 40 C.F.R. § 141.63 by the final date specified in the approved plan, or no later than 90 days after receiving EPA's approval of the plan and schedule required by paragraph 16, above, whichever is earliest. If the plan fails to achieve compliance, EPA may order further steps and/or

seek penalties for noncompliance.

19. Upon receipt of this Order, Respondent shall monitor monthly for total coliform bacteria. ARM 17.38.215(1)(b). Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results are received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a). Any violation of the total coliform monitoring requirements shall be reported to EPA and the State within ten days after Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

20. Within 30 days of the effective date of this Order, Respondent must provide public notice of the violations specified in Paragraph 4 in this Order (except the November 2006 failure to monitor total coliform violation). 40 C.F.R. §§ 141.201 *et seq.* Respondent shall submit a copy of the public notice to EPA and the State within ten days of completion of the public notice. 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 public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notification requirements following any future drinking water regulations violation. 40 C.F.R. § 141.201 *et seq.*

21. Respondent shall report any other violation of the drinking water regulations to EPA and the State within 48 hours of discovery. 40 C.F.R. § 141.31(b).

22. Reporting requirements specified in this Order shall be provided by certified mail to:

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

AND

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

GENERAL PROVISIONS

23. 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.

24. Violation of any part of this Order, the Act, or the drinking water regulations may subject Respondent to a civil penalty of up to \$32,500 (as adjusted for inflation) per day of violation, 42 U.S.C. § 300g-3(g)(3); 40 C.F.R. part 19.

SEP 19 2008

Date



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

9/19/08

Date



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