



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET – SUITE 300
DENVER, COLORADO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

APR 23 2007

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Henry Gutz, Commissioner
Daggett County
POB 219
Manila, UT 84046

Re: Administrative Order
Docket No. SDWA-08-2007-0048
Dutch John
PWS ID #UTAH05001

Dear Mr. Gutz:

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 (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Daggett County (County) is a supplier of water as defined by the SDWA and that the County has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.135(a)(1), 141.32(d), 141.23(d), 141.24(h), 141.21, 141.201, 141.31(b), and 141.21(g)(2) for inadequate disinfection byproduct precursor removal (total organic carbons); failure to monitor for disinfection byproduct precursors, nitrate, pesticides and bacteriological quality; and failure to notify the State and public of these violations.

If the County complies with the enclosed Order 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 the County to comply.

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 can be sent to Kathelene Brainich at the address on the letterhead, including the mailcode 8ENF-W, or you may call Ms. Brainich at (800) 227-8917, extension 6481, or (303) 312-6481. If you wish to have an informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please ask your attorney to direct any legal questions to Thomas Sitz at the above 800 number, extension 6918, or at (303) 312-6918.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane L. Sipe for".

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

Enclosure

cc: Patti Fauver, UT DEQ
Wesley Scott Slaugh, Dutch John

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2007 APR 23 PM 12:34

_____)
 IN THE MATTER OF)
)
 Daggett County)
 Dutch John, UT)
)
 Respondent)
)
 Proceedings under Section 1414(g))
 of the Safe Drinking Water Act,)
 42 U.S.C. § 300g-3(g))
 _____)

RECEIVED
 EPA REGION 8
 REGIONAL OFFICE
 400 WEST 10TH AVENUE
 DENVER, CO 80202

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0048

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. Daggett County, Utah (Respondent) is a political subdivision of the State of Utah and therefore is a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Dutch John Water System (the "System"), located in Daggett County, Utah for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents 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 "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 et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to an October 29, 2003 sanitary survey by the Utah Department of Environmental Quality ("DEQ"), the System is supplied by a surface water source with conventional treatment. The System serves approximately 185 persons.
6. The Utah DEQ has primary enforcement authority for the public water supply program of the Act in the State of Utah ("State"). On November 30, 2006, EPA issued a Notice of Violation to the State regarding the System's violations of the Act and 40 C.F.R. part 141. The State chose not to commence enforcement for the violations within 30 days of EPA's letter.
7. EPA has provided the State 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 the State 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. § 141.135(a)(1) requires surface water systems using conventional filtration treatment to operate with enhanced coagulation or enhanced softening to achieve the total organic carbon (TOC) percentage reduction levels specified in



40 C.F.R. § 141.135(b)(2), unless the system can meet at least one of the alternative compliance criteria listed in 40 C.F.R. § 141.135(a)(2) or 40 C.F.R. § 141.135(a)(3).

2. 40 C.F.R. § 141.135(c) requires surface water systems using conventional filtration treatment, other than those identified to meet the requirements of 40 C.F.R. § 141.135(a)(2) or 40 C.F.R. § 141.135(a)(3), to determine enhanced coagulation compliance quarterly by calculating the running annual average (RAA) of TOC reduction ratio beginning after the system has collected 12 months of data.
3. 40 C.F.R. § 141.135(c)(1)(iii) requires TOC reduction ratio be calculated by dividing the actual TOC reduction percentage by the required TOC reduction percentage specified in 40 C.F.R. § 141.135(b)(2). 40 C.F.R. § 141.135(c)(1)(v) requires the RAA for TOC reduction ratio be at least 1.00.
4. Respondent failed to meet at least one of the alternative compliance criteria listed in 40 C.F.R. § 141.135(a)(2) or 40 C.F.R. § 141.135(a)(3), and the System's running annual average for TOC reduction ratio for the period of 3rd quarter 2005 through 3rd quarter 2006 is less than 1.00, in violation of 40 C.F.R. § 141.135(a)(1).

II.

1. 40 C.F.R. § 141.132(d) requires surface water systems using conventional filtration treatment to monitor for disinfection byproduct precursors (DBPP), including "paired samples" of TOC in source water and treated water, and alkalinity samples in the source water. Specifically, a system must collect one pair of TOC samples and one source water alkalinity sample per month per plant.



2. Respondent failed to monitor the System's water for disinfection byproduct precursors during the 4th quarter of 2005, in violation of 40 C.F.R. § 141.132(d).

III.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate maximum contaminant level (MCL) as stated in 40 C.F.R. § 141.62.
2. Respondent last monitored for nitrate in 2005 but failed to monitor in 2003 and 2006, in violation of 40 C.F.R. § 141.23(d).

IV.

1. 40 C.F.R. § 141.24(h) requires all community and non-transient, non-community water systems that have no detects during initial monitoring and have a population less than 3,301, to monitor the water once during each repeat three year compliance period to determine compliance with the MCL for pesticide/herbicide organic contaminants as stated in 40 C.F.R. § 141.61(c).
2. Respondent failed to monitor the water for pesticide/herbicide organic contaminants during the three year compliance period 2003-2005, in violation of 40 C.F.R. § 141.24(h).

V.

1. 40 C.F.R. § 141.21 requires public water systems to monitor the water at least once per month the system serves water to the public to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.



2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during February 2006 and May 2004, in violation of 40 C.F.R. § 141.21.

VI.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any National Primary Drinking Water Regulations (NPDWR) violations, including violations of any MCL, maximum residual disinfectant level, treatment technique, monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondent has not provided public notice of the violations detailed in the preceding Sections I, II, III, IV, and V, in violation of 40 C.F.R. § 141.201.

VII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR (40 C.F.R. Part 141) to the State within 48 hours.
2. Respondent failed to report to the State the noncompliance detailed in Sections I, II, III, IV and VI above, in violation of 40 C.F.R. § 141.31(b).

VIII.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.
2. Respondent failed to report to the State the noncompliance detailed in Section V above, in violation of 40 C.F.R. § 141.21(g)(2).



ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 90 days of the effective date of this Order, Respondent shall submit to EPA and the State detailed plans for bringing Respondent's System into compliance with the RAA for TOC reduction at 40 C.F.R. § 141.135(a)(1) or meet at least one of the alternative compliance criteria listed in 40 C.F.R. § 141.135(a)(2) or 40 C.F.R. § 141.135(a)(3). The plans shall include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project. The proposed schedule shall include specific milestone dates, a final compliance date with the regulations listed above (that shall be within 12 months from the date of EPA's approval of the plans) and shall be submitted to EPA for approval. The plans must be approved by EPA before modifications and/or construction can commence. Please be advised that the State DEQ requires that a permit be issued by their office prior to any construction or modifications.
2. The schedule for construction and/or completion of modifications will be incorporated into this Order upon written approval by EPA.
3. Within 180 days of the date of this Order, Respondent shall submit to EPA and the State quarterly reports on the progress made toward bringing Respondent's System into compliance with the TOC percentage reduction levels specified in 40 C.F.R. § 141.135(b)(2) or at least one of the alternative compliance criteria



listed in 40 C.F.R. § 141.135(a)(2) or 40 C.F.R. § 141.135(a)(3). Each quarterly report is due by the 10th day of the month following the end of each calendar quarter.

4. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.132(d) to perform monthly monitoring for disinfection byproduct precursors. Each month Respondent shall collect one source water sample to be analyzed for alkalinity and collect a pair of samples (one from the source water and one from the treated water) to be analyzed for TOC. Respondent shall report analytical results and calculated RAA arithmetic calculations of TOC reduction/ratio to EPA and the State within the first 10 days of the end of each quarter, as required by 40 C.F.R. § 141.134(a) and (b).
5. Within 30 days of the date of this Order, and per the schedule in the regulations thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(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 40 C.F.R. § 141.31(a).
6. Within 30 days of the date of this Order, and per the regulations thereafter, Respondent shall comply with the pesticide/herbicide organic contaminants monitoring requirements as stated in 40 C.F.R. § 141.24(h) to determine compliance with the pesticide/herbicide organic contaminants MCLs appearing at 40 C.F.R. § 141.61(c). 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 40 C.F.R. § 141.31(a).

7. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring to determine compliance with the MCLs as stated in 40 C.F.R. § 141.63.

Respondent shall report analytical results to EPA and the State within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

8. Within 30 days of the effective date of this Order, Respondent must provide public notice of all violations specified in Sections I, II, III, IV, and V of the Findings of Violation section of this Order: *Inadequate disinfection byproduct precursor removal 3rd quarter 2005-3rd quarter 2006, failure to monitor for TOC 4th quarter 2005, failure to monitor nitrate 2003 and 2005, and failure to monitor for total coliform February 2006 and May 2004.* Respondent may use an annual report detailing all monitoring violations that occurred in the last 12 months covered by the report, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; AND (2) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. The



Respondent must repeat the failure to monitor violations public notice annually for as long as the monitoring violation, variance, exemption, or other situation persists: every three months for treatment technique (the TOC violation in Section I) and MCL violations. If the public notice is posted, the notice must remain in place for as long as the violation, variance, exemption, or other situation persists, but in no case less than seven days. Respondent may use the Consumer Confidence Report (“CCR”) to provide public notice of the monitoring violations as long as (1) the CCR is provided to persons served no later than 12 months after the System learns of the violation or situation; (2) The public notice contained in the CCR follows the content requirements under 40 C.F.R. § 141.205; AND (3) the CCR is distributed following the delivery requirements under 40 C.F.R. § 141.204(c). 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 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

9. 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 National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA and the State within 48 hours.
10. Except where a different reporting period is specified in paragraph 9 above, 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.

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

Kathelene Brainich (8ENF-W)	AND	Patti Fauver, Acting Compl. Mgr.
U. S. EPA Region 8		UT DEQ Drinking Water Program
1595 Wynkoop Street		POB 144830
Denver, Colorado 80202-1129		Salt Lake City, UT 84114-4830

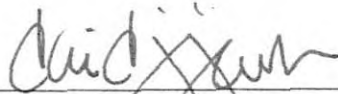
GENERAL PROVISIONS

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 Section 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).

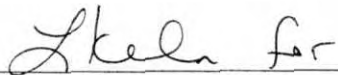


4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 23rd day of April, 2007.



Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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

