



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-W

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Joseph Otte, Mayor  
The Town of Denton  
P.O. Box 986  
Denton, MT 59430

Re: Administrative Order  
Docket No. SDWA-08-2007-0059  
The Town of Denton  
PWS ID #MT0000199

Dear Mayor Otte:

Enclosed you will find an Administrative Order (the 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 Order finds that The Town of Denton Water System is a supplier of water as defined by the Act and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 Code of Federal Regulations (C.F.R.) §§ 141.62(b), 141.23(f)(2), and 141.31(b) for exceeding the maximum contaminant level (MCL) for nitrate, failure to take confirmation samples following a nitrate MCL, and failure to notify the State of the violations.

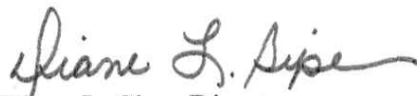
If The Town of Denton complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

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 Kimberly Pardue Welch at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Pardue Welch at (800) 227-8917, extension 6983, or (303) 312-6983. If you wish

to have an informal conference with EPA, you may also call or write Ms. Pardue Welch. If you are represented by an attorney, please ask your attorney to 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

cc: Lori Weinheimer, Town of Denton  
Jenny Chambers, MT DEQ  
Kate Miller, MT DEQ



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2007 JUL -5 PM 12: 25

IN THE MATTER OF )  
 )  
Town of Denton )  
Denton, Montana )  
 )  
Respondent )  
 )  
Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )  
\_\_\_\_\_ )

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0059

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 Town of Denton ("Respondent") is a municipality under the laws of Montana, and is 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 Town of Denton Water System (the "System"), located in Fergus County, Montana, 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 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 an October 25, 2005 sanitary survey conducted by the Montana Department of Environmental Quality (the "State" or "MDEQ"), Respondent operates a system that is supplied solely by ground water sources consisting of four spring collection boxes which capture shallow ground water and one deep well. The System includes 143 service connections and provides water to approximately 301 persons year-round.
6. MDEQ has primary enforcement authority for the Act in the State of Montana. On June 5, 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 violations 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).

### FINDINGS OF VIOLATION

#### I

1. 40 C.F.R. § 141.23 requires a community water system to conduct monitoring to determine compliance with the maximum contaminant levels (“MCLs”) of inorganic chemicals specified in 40 C.F.R. § 141.62.
2. 40 C.F.R. § 141.62(b) imposes and defines the MCL for nitrate as 10 milligrams per liter (“mg/L”).
3. Monitoring results submitted by Respondent for the System exceeded the MCL for nitrate on August 16, 2006 (11.7 mg/L), November 27, 2006 (12.2 mg/L), and February 27, 2007 (12.4 mg/L), in violation of 40 C.F.R. § 141.62(b).

#### II

1. 40 C.F.R. § 141.23(f)(2) requires a public water system that exceeds the MCL for nitrate to either 1) take a confirmation sample within 24 hours of notification of the analytical results or 2) immediately notify the consumers served by the system and take a confirmation sample within two weeks of notification.
2. Respondent failed to take a confirmation sample after the nitrate MCL exceedances on August 16, 2006, November 27, 2006, and February 27, 2007, in violation of 40 C.F.R. § 141.23(f)(2).

III

1. 40 C.F.R. § 141.31(b) requires owners and/or operators of public water systems to report any failure to comply with any NPDWR to the State within 48 hours, including MCL and monitoring requirements.
2. Respondent failed to report to the State instances of noncompliance detailed in Sections I and II, 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 the Order, and until such time as nitrate levels in the System's water are reliably and consistently less than 10 mg/L as determined and communicated in writing by MDEQ, Respondent must continue to provide bottled water to families with infants under six months of age.
2. Upon the effective date of the Order, Respondent must comply with the nitrate MCL identified in 40 C.F.R. § 141.62(b).
3. Within 60 days of the effective date of this Order, Respondent must submit a **compliance plan** to address the nitrate MCL exceedances. The plan shall include 1) proposed system modifications to address the nitrate MCL exceedances, 2) estimated costs of modifications, 3) and a schedule for construction of the project to bring the System into compliance with the nitrate MCL. The **schedule** shall include 1) specific milestone dates, 2) a final completion date which shall be no later than six months from the effective date of this Order, and 3) shall be

submitted to EPA and the State for approval. The plan must be approved by EPA before implementation.

4. Upon the effective date of this Order, Respondent must comply with all confirmation sampling requirements found in 40 C.F.R. § 141.23(f)(2). This requires public water systems that exceed the MCL for nitrate to either 1) take a confirmation sample within 24 hours of notification of the analytical results or 2) immediately notify the consumers served by the system and take a confirmation sample within two weeks of notification. If a confirmation sample is taken, the results of the initial and confirmation sample shall be averaged to determine the System's compliance with 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA and the State within the first ten days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
5. 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 to EPA and the State within 48 hours.
6. 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: Kimberly Pardue Welch

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

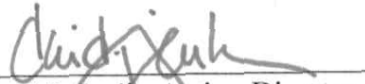
GENERAL PROVISIONS

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 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).

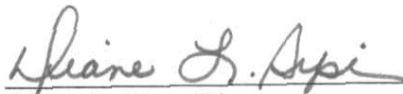


4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 5<sup>th</sup> day of July, 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