



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

2008 NOV 19 14:12:04

Ref: 8ENF-W

NOV 19 2008

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Clarice Bjornberg, Registered Agent
Turah Pines, Inc.
12360 Old Highway 10 east
Turah, MT 59825

Re: Administrative Order
Turah Pines Bar
Public Water System
Docket No. SDWA-08-2009-0009
PWS ID # MT0000843

Dear Ms. Bjornberg:

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 Turah Pines, 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 Turah Pines, 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:

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 NOV 13 PM 12:04

IN THE MATTER OF)
)
Turah Pines, Inc., Owner)
Turah Pines Bar)
Turah, MT)
)
Respondent)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2009-0009

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. Turah Pines, Inc. (Respondent) is a corporation which owns and/or operates the Turah Pines Bar Water System (the system) in Missoula 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 32 people per day through 1 service connection year round. The system is a "transient 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 October 14, 2008, EPA issued a Notice 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 Respondents to monitor the system's water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria. ARM 17.38.215(1)(b). Respondent failed to monitor the water for contamination of total coliform bacteria in February 2007 and, therefore, violated this requirement.

5. If more than one total coliform sample collected during a month tests positive for such bacteria, it is a violation of the MCL. 40 C.F.R. § 141.63. Respondent's sampling results in October 2007, December 2007, and January 2008 exceeded the MCL for total coliform bacteria and, therefore, violated this requirement.

6. Respondent is required to monitor the system's water annually for nitrate to determine compliance with the nitrate MCL. 40 C.F.R. § 141.23(d). Respondent failed to monitor the water for nitrate contamination in 2006 and, therefore, violated this requirement.

7. 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 violations listed in paragraphs 5 and 6 above (except for the October 2007 total coliform MCL) and, therefore, violated this requirement.

8. 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.

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 violations listed in paragraph 5 and, therefore, violated this requirement.

10. 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 8 - 9 above) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 6 and 7 above to the State and, therefore, violated this requirement.

ORDER

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

11. 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).

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. 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 total coliform MCLs at 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 above-mentioned regulations. The proposed schedule shall include specific milestone dates and a final compliance date (to be within 60 days from the date of EPA's approval of the plan). 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 (engineering plans) that are also required before modifications can be made to the system.

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

15. Respondent must achieve and maintain compliance with the total coliform MCLs at 40 C.F.R. § 141.63(a)(2) by the final date specified in the approved plan, or no later than 60 days after receiving EPA's approval of the plan and schedule required by paragraph 13, above, whichever is earliest. Respondent must meet that deadline even if the plan as approved does not

achieve compliance. If the plan fails to achieve compliance, EPA may order further steps and/or seek penalties for noncompliance.

16. Upon the effective date of this Order, and annually thereafter, Respondent shall monitor the system's water for nitrate. 40 C.F.R. § 141.23(d). 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).

17. Within 30 days of the effective date of this Order, Respondent must provide public notice of the violation(s) specified in Paragraphs 5 and 6 in this Order (except for October 2007 total coliform MCL). 40 C.F.R. §§ 141.201, 141.202 and 141.205. 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. 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.

18. 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).

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

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

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

GENERAL PROVISIONS

20. 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.

21. 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.

11/18/08
Date

Michael T. Risner
Michael Risner, Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

11-18-08
Date

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

TIER 3 TEMPLATES

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and instructions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here.

Mandatory language on unknown risk for monitoring violations, which must be included exactly as written, is presented in *italics* (141.205(d)).

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does *not* relieve you of your obligation to take steps reasonably calculated to notify all persons served:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

Templates

Monitoring Violations Annual Notice Template 3-1

Instructions for Monitoring Violations Annual Notice--Template 3-1

Template on Reverse

Since most monitoring violations are included in Tier 3, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following (141.204(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has been resolved, you must post the notice for at least one week (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the CCR, as long as public notification timing and delivery requirements are met (141.204(d)). You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in *italics* (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.

We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]

We plan to take the required samples soon, as described in the last column of the table above.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER
Monitoring Requirements Not Met for Turah Pines Bar

Our water system violated several drinking water standards over the past two years. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. We failed to monitor nitrate during 2006 and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

There is nothing you need to do at this time.

The table below lists the contaminant(s) we did not properly test for during the previous years, how often we are supposed to sample for [this contaminant/these contaminants] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	When all samples should have been taken	When samples were or will be taken
Failure to monitor for nitrate	One sample per year	2006	December 2007

What happened? What is being done?

For more information, please contact [name and number of contact person] _____ or
 {Address} _____

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by **Turah Pines Bar**
 State Water System ID#: **MT0000843**

Date distributed or dates posted: _____

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

Please send a copy of your notice and dates posted to:

Kimberly Pardue Welch
US EPA Region 8
8ENF-W
1595 Wynkoop Street
Denver, CO 80202-1129

Or, you may fax a copy to: Attn: Kimberly Pardue Welch at 303-312-7518.

Certification of Public Notification

I _____ certify that the attached public notification was issued from
(PWS Operator / Responsible Party)

_____ to _____
(Date) (Date)

The attached notice was issued by _____
(Method of delivery)

Signature _____ Date _____

Instructions for Resolved Total Coliform Notice –(Tier 2)

Template on Reverse

Since exceeding the total coliform bacteria maximum contaminant level is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation (141.203(b)). Check with the Division of Drinking Water to make sure you meet all the public notification requirements.

Community systems must use one of the following methods (141.203(c)):

- ☐ Hand or direct delivery
- ☐ Mail, as a separate notice or included with the bill

Non-community systems must use one of the following methods (141.203(c)):

- ☐ Posting in conspicuous locations for at least 7 days
- ☐ Hand delivery
- ☐ Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.203(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for hand delivery or mail. However, you may wish to modify it before using it for posting. If you do, you must still include all the required elements and leave the health effects language in italics unchanged. This language is mandatory (141.205(d)).

Description of the Violation

Make sure that the notice is clear about the fact that the coliform problem has been resolved, and there is no current cause for concern. The description of the violation and the MCL vary depending on the number of samples you take. The following table should help you complete the second paragraph of the template.

<u>If You Take Less Than 40 Samples a Month</u>	<u>If You Take More Than 40 Samples a Month</u>
State the number of samples testing positive for coliform. The standard is that no more than one sample per month may be positive.	State the percentage of samples testing positive for coliform. The standard is that no more than five percent of samples may test positive each month.

Corrective Action

In your notice, describe corrective actions you have taken. Listed below are some steps commonly taken by water systems with total coliform violations. Use one or more of the following actions, if appropriate, or develop your own:

- ☐ We have increased sampling for coliform bacteria to catch the problem early if it recurs.
- ☐ The well and/or distribution system has been disinfected and additional samples do not show presence of coliform bacteria.

After Issuing the Notice

Make sure to send a copy of each type of notice along with a certification that you have met all the public notice requirements to EPA and your Primacy Agency within ten days after issuing the notice (141.31(d)).

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

Please send a copy of your notice and dates posted to:

Kimberly Pardue Welch
US EPA Region 8
8ENF-W
1595 Wynkoop Street
Denver, CO 80202-1129

Or, you may fax a copy to: Attn: Kimberly Pardue Welch at 303-312-7518.

Certification of Public Notification

I _____ certify that the attached public notification was issued from
(PWS Operator / Responsible Party)

_____ to _____
(Date) (Date)

The attached notice was issued by _____
(Method of delivery)

Signature _____ Date _____

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Tests Showed Coliform Bacteria in Turah Pines Bar

Our water system recently violated a drinking water standard. Although this incident was not an emergency, as our customers, you have a right to know what happened and what we did to correct this situation.

We routinely monitor for drinking water contaminants. In **December 2007** we took five samples to test for the presence of coliform bacteria and two of those samples showed the presence of total coliform bacteria. Additionally, in **January 2008** we took five samples to test for the presence of coliform bacteria and five of those samples showed the presence of total coliform bacteria.

The standard is that no more than 1 sample per month may do so.

What should I do?

- § **You do not need to boil your water or take other corrective actions.** However, if you have specific health concerns, consult your doctor.
- § People with severely compromised immune systems, infants, and some elderly may be at increased risk. These people should seek advice about drinking water from their health care providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1 (800) 426-4791.

What does this mean?

This is not an emergency. If it had been, you would have been notified immediately. Coliform bacteria are generally not harmful themselves. *Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.*

Usually, coliforms are a sign that there could be a problem with the system's treatment or distribution system (pipes). Whenever we detect coliform bacteria in any sample, we do follow-up testing to see if other bacteria of greater concern, such as fecal coliform or *E. coli*, are present. **We did not find any of these bacteria in our subsequent testing.**

What happened? What was done?

[Describe corrective action here.]

For more information, please contact _____ at ____-____-____ or [mailing address].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by Turah Pines Bar
Water System ID#: MT 0000843

Date distributed: _____