



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

APR 20 2015

Ref: 8MO

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable Greg Norgaard
Mayor, City of Poplar
406 2nd Avenue West
Poplar, Montana 59255

Re: Administrative Order issued to the City of Poplar, Montana, PWS ID #083090051,
Docket No. **SDWA-08-2015-0011**

Dear Mayor Norgaard:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency (EPA) under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that the City of Poplar (City), as owner and/or operator of the Poplar public water system (System) has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any pertinent information you believe the EPA may not have.

If the City complies with the Order, the 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.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the drinking water regulations.

The Order requires the Town to notify the public of having violated the Drinking Water Regulations. Enclosed please find a public notice template explaining the public notice requirements in more detail.

To submit information or request an informal conference with the EPA, please contact Sienna Meredith at the above address or by phone at (800) 457-2690, extension 5026, or (406) 457-5026. Any questions

from the City's attorney should be directed to Amelia Piggott, Enforcement Attorney, who may be reached by phone at (800) 227-8917, extension 6410, or (303) 312-6410.

We urge your prompt attention to this matter.

Sincerely,



Julie A. DalSoglio, Director
EPA Region 8 Montana Office

Enclosures:

Order
SBREFA Information Sheet
Public Notice Template

cc:

Tina Artemis, EPA 8 Regional Hearing Clerk
Honorable A.T. Stafne, Chairman Assiniboine & Sioux Tribes
Shane Halverson, City of Poplar Public Works Director, by email

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2015 APR 20 AM 8:12

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF: _____)
)
)
City of Poplar, Montana)
)
)
Respondent. _____)

Docket No. SDWA-08-2015-0011

ADMINISTRATIVE ORDER

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 (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. The City of Poplar, Montana (Respondent) is a municipality that owns and/or operates the City of Poplar Public Water System (System), which provides piped water to the public in Roosevelt County, Montana, for human consumption.
3. The System is supplied by surface water purchased from the Assiniboine and Sioux Rural Water Supply System located approximately 15 miles west of Poplar. The water is pulled from the Missouri River and is treated by a conventional treatment process and is disinfected using sodium hypochlorite before entering the distribution system.
4. The System has approximately 970 service connections used by year-round residents and/or regularly serves an average of approximately 2,900 year-round residents. Therefore, the System is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.
5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141. The Drinking Water Regulations are "applicable requirements" as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The Drinking Water Regulations include monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

7. Respondent is required to monitor the System's water at three locations per month for total coliform bacteria. 40 C.F.R. § 141.21(a). Respondent failed to monitor the System's water for total coliform bacteria during December 2013, February 2014, and June 2014 and therefore, violated this requirement.
8. If the System has one or more sampling results that are positive for total coliform, Respondent is required to collect at least five routine samples during the next month the System provides water to the public. 40 C.F.R. § 141.21(b)(5). After the System's water tested positive for total coliform on May 15, 2014, Respondent failed to take at least five routine samples of the System's water in June 2014 and, therefore, violated this requirement.

9. Respondent is required to collect a set of total trihalomethane (TTHM) and haloacetic acid (HAA5) samples in the System's distribution system at least quarterly (40 C.F.R. § 141.621) at locations and on dates identified in the approved Monitoring Plan (40 C.F.R. § 141.622(a)(1)). Respondent failed to monitor the System's water for TTHM and HAA5 during the 2nd quarter (April – June) 2014 and, therefore, violated this requirement.

10. Respondent is required to complete corrective actions to correct significant deficiencies in accordance with an EPA approved corrective action schedule. 40 C.F.R. § 141.723(d). Respondent received a letter from the EPA on March 15, 2013, that detailed the significant deficiencies identified during the 2012 sanitary survey. In an e-mail sent on October 24, 2014, the EPA issued a final extension to the schedule for providing photo documentation that these significant deficiencies had been corrected. This e-mail required that photo documentation be submitted to the EPA by November 15, 2014. Respondent has not provided a labeled photograph of each hatch for the East and West storage tanks indicating a visible rubber gasket to account for the unknown integrity of the storage tanks during the sanitary survey, and therefore, violated this requirement.

11. Respondent is required to notify the public of certain violations of the Drinking Water Regulations. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of the violations cited in paragraph 7 and 10 above, and, therefore, violated this requirement.

12. Respondent is required to report any failure to comply with any coliform monitoring requirement to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations cited in paragraphs 7 and 8, above, to EPA and, therefore, violated this requirement.

13. Respondent is required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 9 and 10, above, to the EPA and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order:

14. Respondent is required to monitor the System's water at three locations per month for total coliform bacteria and, if any sample is positive for total coliform, conduct repeat and additional routine monitoring, as required by 40 C.F.R. § 141.21. Respondent shall report analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements in 40 C.F.R. part 141 to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.21(g)(2).



15. Respondent shall monitor for TTHM and HAA5 every 90 days at the location and on the dates identified in the approved Monitoring Plan, as required by 40 C.F.R. §§ 141.620-141.622. Respondent shall monitor at the specified location during the months of February, May, August and November, per the September 6, 2013, Monitoring Plan. Respondent shall submit the results with LRAA compliance calculations to the EPA within 10 days following the end of each compliance period. 40 C.F.R. § 141.629.

16. Within 30 days of receiving this Order, Respondent shall complete corrective actions for the significant deficiencies identified by the EPA in its letter of March 15, 2013. Respondent shall notify the EPA within 30 days after completion of the corrective actions, as required by 40 C.F.R. § 141.405(a)(2). Respondent shall provide evidence to the EPA, including photographs of the corrective actions and the following certification signed by a person of authority who represents the System, that the above corrective actions have been completed: "I certify under penalty of perjury that [insert name of individuals/company/representative] has/have completed corrective actions in accordance with the approved schedule to address the significant deficiencies at the City of Poplar public water system."

17. For any future violation of the Drinking Water Regulations for which this Order does not specify a reporting period, Respondent shall report the violation to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if the Drinking Water Regulations specify a different time period for reporting the particular violation, Respondent shall report the violation to the EPA within that different period.

18. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7-10 above, following the instructions provided with the public notice templates enclosed with this Order. Thereafter, following any future violation of the Drinking Water Regulations, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to the EPA.

19. This Order shall be binding on Respondent, and any person (e.g., employee, contractor, or other agent) acting in concert with Respondent.

20. If Respondent (a) leases or sells the System to another person or entity, or (b) contracts with or hires any other person or entity to operate the System, Respondent shall, no later than the date of such lease, sale, or other contract, provide a copy of this Order to the lessee, purchaser, or contractor. No later than 10 days thereafter, Respondent shall notify the EPA in writing of the lease, sale, or other contract, with such notification to include the name and contact information of the person who has leased, bought, or contracted to operate the System. Respondent shall remain obligated to comply with this Order even if Respondent leases the System to another person or entity or hires another person or entity to operate the System.



21. Respondent shall send all reporting and notifications required by this Order in writing to:

Sienna Meredith
U.S. EPA Region 8
10 West 15th Street, Suite 3200
Helena, MT 59626

GENERAL PROVISIONS

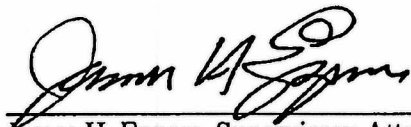
22. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

23. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

24. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

25. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: April 20, 2015.


James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice


Julie A. DalSoglio
Montana Office Director

TIER 3 PUBLIC NOTICE TEMPLATE

Instructions for Monitoring Violations Notice

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.

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)).

NOTICE: CITY OF POPLAR

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Were Not Met for _____
(Name of system)

Our water system violated several drinking water standards over the past year. 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. During _____ we did not complete monitoring or testing for _____ (compliance period) _____ and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

The table below lists the contaminant(s) we did not properly test for, how often we are supposed to sample for them, 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	Number of samples taken	When all samples should have been taken	When samples were or will be taken
Total Coliform	Monthly	3	December 2013 February 2014	
Total Coliform	Following Positive Sample on May 15, 2014	5	June 2014	
TTHM and HAAS (Disinfection byproducts)	Quarterly	1 set	2 nd Quarter 2014 (April-June)	

What happened? What is being done?

We took the following action to correct the situation (describe):

For more information, please contact _____ at _____ or _____
(Name) (Telephone)

(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 was prepared by _____
(Name of preparer)