



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
1595 WYNKOOP STREET  
DENVER, COLORADO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

2007 DEC -8 AM 11:08

Ref: 8ENF-W

DEC - 8 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michael T. MacKay, Registered Agent  
Offshore Marina, Inc.  
8010 Royal Lane  
Sandy, Utah 84093

Re: Administrative Order  
Docket No. SDWA-08-2008-0101  
PWS ID #UTAH09086

Dear Mr. MacKay:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300f *et seq.* Among other things, the Order describes how Offshore Marina 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 Offshore Marina complies with the Order for 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 Kathelene Brainich at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. For legal questions, the attorney assigned to this matter is Marc Weiner, who can be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6913 or (303) 312-6913.

We urge your prompt attention to this matter.

Sincerely,

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

Enclosure

cc: Patti Fauver, UT DEQ  
Harold L. Bertola, Offshore Marina  
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2008 DEC -8 PM 1:00

IN THE MATTER OF )

Offshore Marina, Inc. )  
Sandy, Utah )

Respondent. )

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0101

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. Offshore Marina, Inc. (Respondent) is a corporation under the laws of the State of Utah as of September 23, 2002, that owns and/or operates the Offshore Marina Water System (the system) in Garfield county, Utah which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of two untreated wells, serves an average of 25 people daily through 2 service connection, and is open all year. 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.

3. The Utah Department of Environmental Quality has primary enforcement authority for the Act in the State of Utah (State). On September 3, 2008, EPA issued a Notice of Violation to the State regarding the violations at the system. The State elected not to commence an enforcement action against the system for the violations within the thirty-day timeframe 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 the State as well as the 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).

VIOLATIONS

4. Respondent is required to monitor the system's water annually for nitrate to determine compliance with the nitrate maximum contaminant level (MCL). 40 C.F.R. § 141.23(d). Respondent failed to monitor the water for nitrate contamination in 2003, 2004, 2005, 2006, and 2007 and, therefore, violated this requirement.

5. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to monitor the water for contamination of total coliform bacteria during 1<sup>st</sup> (January-March) quarter 2008, 4<sup>th</sup> (October-December) quarter 2005 and 2006, and 3<sup>rd</sup> (July-September) and 4<sup>th</sup> quarters 2003, and, therefore, violated this requirement.

6. Respondent is required to collect a set of four repeat samples within 24 hours of being notified of a total coliform positive routine sample. 40 C.F.R. § 141.21(b). Respondent failed to

collect a set of repeat samples after a January 2007 total coliform positive routine sample and, therefore, violated this requirement.

7. Respondent is required to collect 5 routine total coliform samples the month after the system has one or more total coliform positive samples. 40 C.F.R. § 141.21(b)(5). Respondent failed to collect at least 5 routine samples in February 2007 after a total coliform positive sample in the preceding month and, therefore, violated this requirement.

8. Respondent is required 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 that occurred from 2003 through 2007 listed in paragraphs 4 through 7 above within the timeframe specified in the regulations and, therefore, violated the requirement. On November 4, 2008, EPA received Respondent's public notice for the violations contained in this Order.

9. 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 paragraph 10 below) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 4 and 8 above to the State 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 paragraphs 5 through 7 above and, therefore, violated this requirement.

### **ORDER**

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

11. Within 30 days, and annually thereafter, Respondent shall monitor for nitrate as required by the drinking water regulations. 40 C.F.R. § 141.23(d).

12. Respondent shall monitor quarterly for total coliform bacteria. 40 C.F.R. § 141.21.

13. Respondent shall comply with all total coliform repeat sampling requirements. 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than four repeat total coliform bacteria samples within 24 hours of being notified of a total coliform positive routine sample.

14. Respondent shall comply with all total coliform routine sampling requirements. 40 C.F.R. § 141.21(b)(5). This requires that Respondent take no fewer than five routine total coliform bacteria samples during the next month after having one or more total coliform positive samples.

15. Respondent shall report all analytical results to EPA and the State within the first 10 days following the month in which sample results are received, or within the first 10 days following the end of the monitoring period, whichever is shortest. 40 C.F.R. § 141.31(a).

16. Respondent shall report any failure to comply with coliform monitoring requirements to EPA and the State within ten days after the system discovers the violation. 40 C.F.R. § 141.21(g)(2).

17. Respondent shall notify the public of any future violations by the manner and deadline specified by the drinking water regulations. 40 C.F.R. § 141.201 *et seq.* Respondent shall send a copy of the notice to EPA and the State within 10 days after providing the notice, 40 C.F.R. § 141.21(g)(2).

18. Respondent shall report any violation of the drinking water requirements to EPA and the State within 48 hours (except where a different reporting period is specified in paragraph 16 above). 40 C.F.R. § 141.31(b).

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

Kathelene Brainich, 8ENF-W	AND	Patti Fauver, Rule Manager
U. S. EPA Region 8		Dept. Environmental Quality
1595 Wynkoop Street		POB 144830
Denver, CO 80202-1129		Salt Lake City, UT 84114-4830

### 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.

12/5/08  
Date

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

12-04-08  
Date

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