



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

Ref: 8ENF-W

JAN 27 2010

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Paul Neal Cooley, Registered Agent
Bitterroot Gateway MH and RV Park, L.L.C.
5707 West Harrier Ave.
Missoula, MT 59801

Re: Administrative Order
Bitterroot Gateway Mobile Home
Park Public Water System
Docket No. SDWA-08-2010-0007
PWS ID # MT0000443

Dear Mr. Cooley:

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 Bitterroot Gateway MH and RV Park, L.L.C. 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 Bitterroot Gateway MH and RV Park, L.L.C. 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

Amy Swanson, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6906 or (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,



Darcy O'Connor, Acting Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order

Public notice samples/templates

cc:

John Arrigo, MT DEQ

Shelley Nolan, MT DEQ

Terry L. Burkholder, Bitterroot Gateway MHP (via certified mail w/
return receipt)

Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2010 JAN 27 AM 10: 31

IN THE MATTER OF:) Docket No. SDWA-08-2010-0007
)
) EPA REGION VIII
Bitterroot Gateway) HEARING CLERK
)
MH and RV Park L.L.C.,)
) ADMINISTRATIVE ORDER
)
Respondent.)

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.* (the Act), as properly delegated to the undersigned officials.

2. Bitterroot Gateway MH and RV Park L.L.C. (Respondent) is a limited liability corporation which owns and/or operates the Bitterroot Gateway Mobile Home Public Water System (the system), which provides piped water to the public in Missoula County, Montana, for human consumption.

3. The system is supplied by a groundwater source consisting of two wells.

4. The system has approximately 23 service connections serving approximately 67 individuals daily at least 60 days out of the year. The system also has approximately 29 service connections used by year-round residents and/or regularly serves at least 53 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 § 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 § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

6. The drinking water regulations include monitoring requirements. The Montana Department of Environmental Quality (MDEQ or the State) has sent Respondent annual notifications of the specific monitoring requirements that apply to the system.

7. The MDEQ has primary enforcement authority for the public water system supervision provisions of the Act in the State of Montana. EPA

issued a notice of the system's violations to the State on December 10, 2009. The State elected not to commence an enforcement action against Respondent for the violations listed in the notice of violation within the thirty-day time frame set forth in § 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to the State and has provided the State the opportunity to confer with EPA regarding this Order.

VIOLATIONS

8. Respondent is required to monitor the system's water at every entry point to the distribution system for combined radium for four consecutive quarters to comply with the initial monitoring requirements. 40 C.F.R. § 141.26(a). Respondent failed to monitor the system's water at both well #1 and well #2 for combined radium during the 1st, 2nd, 3rd, and 4th quarters of 2007; 2nd and 4th quarters of 2008; and the 1st and 3rd quarters of 2009; and at well #1 during the 4th quarter 2009; and at well #2 during the 2nd quarter of 2009 and, therefore, violated this requirement.

9. Respondent is required to monitor the system's water at every entry point to the distribution system for gross alpha for four consecutive quarters to comply with the initial monitoring requirements. 40 C.F.R. § 141.26(a). Respondent failed to monitor the system's water at both well #1 and well #2 for gross alpha during the 1st, 2nd, and 3rd quarters of 2007 and, therefore, violated this requirement.

10. Respondent is required to monitor the system's water annually at every entry point to the distribution system for nitrate. 40 C.F.R. § 141.23(d). Respondent failed to monitor the system's water at well #2 for nitrate during 2008 and, therefore, violated this requirement.

11. Respondent is required to monitor the system's water at every entry point to the distribution system for certain inorganic contaminants at least once during every 3-year compliance period. 40 C.F.R. § 141.23(a), (c). Respondent failed to monitor the system's water at well #1 for inorganic contaminants during the 2005 - 2007 compliance period and, therefore, violated this requirement.

12. Respondent is required to monitor the system's water at well #2 at least annually for volatile organic contaminants. 40 C.F.R. § 141.24(f)(5). Respondent failed to monitor the system's water at well #2 for volatile organic contaminants during 2005 and 2008, and, therefore, violated this requirement.

13. 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 8 through 12 above and, therefore, violated this requirement. Public notice for the 2009 failure to monitor combined radium violations in paragraph 8 is not yet overdue.

14. 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 the drinking water regulations) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 8 through 13 above to the State 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 (unless a different deadline is specified below):

15. Between January 1, 2010 and March 31, 2010, and for subsequent quarters until the State specifies in writing a different monitoring frequency, Respondent shall monitor the system's water for combined radium at each entry point to the distribution system as required by 40 C.F.R. § 141.26(a).

16. Respondent shall monitor the system's water for gross alpha at each entry point to the distribution system every 9 years as required by 40 C.F.R. § 141.26(a) and according to the State which allowed for reduced monitoring following the 4th quarter 2007 and 1st quarter 2008 gross alpha monitoring results which were below the detection limit. 40 C.F.R. §§ 141.26(a)(2)(iii) and 141.26(a)(3). Respondent's next gross alpha sampling is due between 2017 – 2025.

17. Respondent shall monitor the system's water at each entry point to the distribution system annually for nitrate. 40 C.F.R. § 141.23.

18. Respondent shall monitor the system's water for inorganic contaminants. 40 C.F.R. § 141.23(a), (c). Respondent sampled well #1 for inorganic contaminants on February 20, 2008. Respondent's next inorganic contaminant sampling is due for well #1 between 2011 – 2013. Respondent's next inorganic contaminant sampling is due for well #2 by the end of 2010.

19. Respondent shall monitor the system's water for volatile organic contaminants. 40 C.F.R. § 141.24. Within 30 days of receipt of this Order, Respondent shall monitor well #2 for volatile organic contaminants, and thereafter in compliance with 40 C.F.R. § 141.24. Respondent's next volatile organic contaminant sampling for well #1 is due by the end of 2010.

20. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 8 through 12, above, as required by 40 C.F.R. part 141, subpart Q. Thereafter, following any future violation of the drinking water regulations, Respondent shall comply with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days of providing public notice, Respondent shall submit a copy of the notice to EPA and the State.

21. Respondent shall report any violation of the drinking water regulations to EPA and the State within 48 hours of discovery. 40 C.F.R. § 141.31(b).

22. Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which each sample result is received, as required by 40 C.F.R. § 141.31(a).

23. 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

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

GENERAL PROVISIONS

24. 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.

25. Violation of any part of this Order, the Act, 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(g)(3); 40 C.F.R. part 19.

Issued this 37th day of January, 2010.

David Rochlin

David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

L. Keenan for

Darcy O'Connor, Acting Director
Technical Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

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:

- 1) 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.
- 1) 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.]
- 1) 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 Bitterroot Gateway Mobile Home Park

Our water system violated several drinking water standards over the past several 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 collect combined radium samples for well #1 and well #2 during the 1st, 2nd, 3rd, and 4th quarters of 2007, 2nd and 4th quarters of 2008, and the 1st and 3rd quarters of 2009. Additionally, we failed to collect combined radium samples for well #1 during the 4th quarter of 2009 and well #2 during the 2nd quarter of 2009. We failed to collect gross alpha samples for well #1 and well #2 during the 1st, 2nd, and 3rd quarters of 2007. We failed to monitor well #2 for nitrate during 2008 and volatile organic contaminants during 2005 and 2008. We also failed to monitor well #1 for inorganic contaminants during 2005 – 2007 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 combined radium	1 sample quarterly for each well during initial sampling	1 st , 2 nd , 3 rd , and 4 th quarters of 2007, 2 nd and 4 th quarters of 2008, and 1 st , 2 nd (well # 2 only), 3 rd and 4 th (well #1 only) quarters of 2009	
Failure to monitor gross alpha	1 sample quarterly for each well during initial sampling	1 st , 2 nd , and 3 rd quarters of 2007	4 th Q 2007 and 1 st Q 2008 (reduced monitoring was applied by State)
Failure to monitor nitrate	1 sample annually	2008 (for well #2)	5/27/2009
Failure to monitor volatile organic contaminants	1 sample annually for well #2	2005 and 2008	
Failure to monitor inorganic contaminants	1 sample every three years	2005 – 2007 (for well #1)	

What happened? What is being done? [Include a description of how the system will return to compliance]

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 **Bitterroot Gateway Mobile Home Park**
State Water System ID#: **MT0000443**
Date distributed or dates posted: _____

Public Notice Certification

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
U. S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

AND

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

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 _____