



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

JUL 02 2009

Ref: 8MO

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

JoAnn L. Johnson  
Chouteau County Clerk and Recorder, Registered Agent  
Carter-Chouteau County Water District  
1308 Franklin St.  
Fort Benton, MT 59442

Re: Administrative Order  
Docket No. SDWA-08-2009-0019  
Carter-Chouteau County Water District  
Public Water System  
PWS ID # MT0003798

Dear Ms. Johnson:

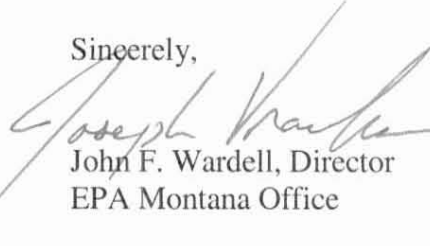
Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300g-3(g). Among other things, the Order describes how the Carter-Chouteau County Water District Public Water System has violated the National 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 Carter-Chouteau County Water District complies with the Order for 24 months after completing construction, 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.

You may submit information or request an informal conference with EPA by contacting Eric Finke at the above address or by phone at toll free (866) 457-2690 extension 5026, or (406) 457-5026. For legal questions, the attorney assigned to this matter is Marc Weiner, who can be reached at EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129 (with the mailcode 8ENF-L) or by phone at toll free (800) 227-8917 extension 6913, or (303) 312-6913.

I urge your prompt attention to this matter.

Sincerely,



John F. Wardell, Director  
EPA Montana Office

*Per John Wardell*

Enclosures

Order

Public notice samples/templates

cc: Carter-Chouteau County Water District (via certified mail w/ return receipt)  
Tina Artemis, Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2009 JUL -2 AM 11:14

IN THE MATTER OF )  
 )  
Carter-Chouteau County )  
Water District )  
Carter, MT ) ADMINISTRATIVE ORDER  
 )  
Respondent ) Docket No. SDWA-08-2009-0019

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. Carter-Chouteau County Water District (Respondent) is a municipality which owns and/or operates the Carter-Chouteau County Public Water System (the system) in Chouteau County, Montana which provides piped water to the public for human consumption. The system is supplied by an infiltration gallery and serves approximately 200 people per day through 85 service connections year round. The system is a "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. On July 1, 1999, the MDEQ notified Respondent by letter that Respondent's water source is ground water under the direct influence of surface water. Accordingly, Respondent was required to meet all the requirements for filtration avoidance specified in 40 C.F.R. § 141.71(a) and (b) by January 1, 2001. Respondent did not meet these requirements by January 1, 2001 and, therefore, was required to install filtration and disinfection as specified in 40 C.F.R. §§ 141.73 and 141.72(b) by July 1, 2002 and subpart T by January 1, 2005.

4. The MDEQ has primary enforcement authority for the Act in the State of Montana. On November 19, 2008, and on April 14, 2009, EPA issued Notices 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**

5. Respondent is required to collect at least one total coliform sample every month to determine compliance with the total coliform maximum contaminant level (MCL) as stated in 40 C.F.R. § 141.63. 40 C.F.R. § 141.21(a)(2). According to records maintained by the MDEQ, Respondent failed to monitor the water for contamination of total coliform bacteria in July 2005 and August 2008 and, therefore, violated this requirement.

6. Respondent is required to collect at least 5 routine samples during the month following a positive test result for total coliform. 40 C.F.R. § 141.21(b)(5). According to records maintained by the MDEQ, Respondent failed to collect such samples during March 2005 following positive results in February 2005 and, therefore, violated this requirement.

7. Respondent is required to collect one paired disinfection by-product sample per year per treatment plant during the month of warmest water temperature. 40 C.F.R. § 141.132(b). According to records maintained by the MDEQ, Respondent failed to collect samples during 2004 and 2006 and, therefore, violated this requirement.

8. Respondent is required to monitor for nitrate annually to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62(b)(7). 40 C.F.R. § 141.23(d). According to records maintained by the MDEQ, Respondent failed to monitor for nitrate during 2004 and, therefore, violated this requirement.

9. Respondent is required to monitor for lead and copper concentrations during June, July, August, or September once during each 3-year compliance period. 40 C.F.R. § 141.86(d)(4). According to records maintained by the MDEQ, Respondent failed to monitor for lead and copper concentrations during the 2002-2004 compliance period and, therefore, violated this requirement.

10. Respondent is required to maintain compliance with the Maximum Contaminant Level (MCL) for Arsenic as stated in 40 C.F.R.

§ 141.62(b). 40 C.F.R. § 141.23(i)(1). Respondent exceeded the MCL for arsenic in December 2008 and, therefore, violated this requirement.

11. Prior to October 1, 2007, Respondent was required to monitor for arsenic annually. 40 C.F.R. § 141.23(c)(1). According to records maintained by the MDEQ, Respondent failed to sample for arsenic during 2004 and, therefore, violated this requirement.

12. Beginning October 1, 2007, Respondent was required to monitor for arsenic concentrations quarterly. 40 C.F.R. § 141.23(c)(7). According to records maintained by the MDEQ, Respondent failed to monitor for arsenic concentrations during the 1<sup>st</sup> and 3<sup>rd</sup> quarters of 2008 and, therefore, violated this requirement.

13. Respondent is required to monitor for volatile organic chemical concentrations annually. 40 C.F.R. § 141.24(f)(5). According to records maintained by the MDEQ, Respondent failed to monitor for volatile organic chemical concentrations during 2004 and, therefore, violated this requirement.

14. Respondent is required to deliver to its customers and submit to the State a Consumer Confidence Report (CCR) by July 1 of each year. Each report must cover the prior calendar year. 40 C.F.R. § 141.152(b). According to records maintained by the MDEQ, Respondent failed to deliver and submit a Consumer Confidence Report covering calendar year 2005 and, therefore, violated this requirement.

15. Within 3 months after distributing its CCR to its customers, Respondent is required to certify to the State that its CCR has been distributed and is correct and consistent with monitoring data previously submitted to the primacy agency. 40 C.F.R. § 141.155(c). Respondent failed to provide such a certification to the State for the CCR covering calendar year 2007 and, therefore, violated this requirement.

16. Beginning January 1, 2000, Respondent was required to collect one fecal or total coliform density sample from source water prior to the first point of disinfection during each week the system served water to the public. 40 C.F.R. § 141.74(b)(1). According to records maintained by the MDEQ, Respondent never collected such samples and, therefore, violated this requirement from January 1, 2000 to the present.

17. Beginning January 1, 2000, Respondent was required to perform turbidity measurements on samples of source water taken prior to the first

point of disinfection every 4 hours that the system served water to the public. 40 C.F.R. § 141.74(b)(2). According to records maintained by the MDEQ, Respondent failed to perform such measurements during November 2005; May 2006; June, July, September, and November 2008 and, therefore, violated this requirement.

18. Beginning January 1, 2000, Respondent was required to determine the total inactivation ratio for Giardia Lamblia and viruses each day that the system was in operation. 40 C.F.R. § 141.74(b)(3) and (4). According to records maintained by the MDEQ, Respondent never determined the total inactivation ratio and, therefore, violated this requirement from January 1, 2000 to the present.

19. Beginning January 1, 2000, Respondent was required to continuously monitor the residual disinfectant concentration entering the distribution system and record the lowest value each day. 40 C.F.R. § 141.74(b)(5). Respondent failed to conduct such monitoring during May 2006; September and October 2007; and June, July, September, and November 2008 and, therefore, violated this requirement.

20. Respondent was required to install filtration which meets the requirements of 40 C.F.R. § 141.73 within 18 months of failing to meet any one of the filtration avoidance criteria of 40 C.F.R. § 141.71(a) and (b). 40 C.F.R. §§ 141.71, 141.73. Respondent failed to meet the filtration avoidance criteria of 40 C.F.R. § 141.71(a) and (b) as of January 1, 2001 and has not met filtration avoidance criteria at any time since. Therefore, Respondent was required to install filtration by July 1, 2002. Respondent has not installed filtration and, therefore, has violated this requirement from July 1, 2002 to the present.

21. Respondent was required to meet the requirements for enhanced filtration and disinfection for systems serving fewer than 10,000 people in accordance with of subpart T of the regulations by January 1, 2005. 40 C.F.R. Part 141 subpart T. Respondent has not met the requirements for enhanced filtration and disinfection and, therefore, has violated this requirement from January 1, 2005 to the present.

22. Respondent was required to begin collecting data for the development of a disinfection profile by January 1, 2004. 40 C.F.R. § 141.532(a). Respondent was required complete a disinfection profile by January 1, 2005. 40 C.F.R. § 141.502. Respondent did not collect data and did not develop a disinfection profile and, therefore, violated these requirements.



23. 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. Except for the 2008 violations listed in paragraphs 5, 12, 17, and 19 above, Respondent failed to notify the public of the violations outlined above, and therefore, violated this requirement. Public notice for the 2008 violations listed in paragraphs 5, 12, 17, and 19 is not yet overdue.

24. 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 and 6 above and, therefore, violated this requirement.

25. 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 24 above) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 7 through 23 above to the State and, therefore, violated this requirement.

### **ORDER**

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

26. Upon receipt of this Order, Respondent shall monitor for total coliform bacteria monthly. 40 C.F.R. § 141.21(a)(2).

27. Upon receipt of this Order, Respondent shall collect at least 5 routine total coliform samples during the month immediately following a positive test result for total coliform bacteria. 40 C.F.R. § 141.21(b)(5).

28. Upon receipt of this Order, Respondent shall monitor for disinfection by-product samples once per year per treatment plant during the month of warmest water temperature. 40 C.F.R. § 141.132(b).

29. Upon receipt of this Order, Respondent shall comply with the MCL for arsenic as stated in 40 C.F.R. § 141.62(b). EPA understands that Respondent has installed reverse osmosis units at each home and is operating the units under a State-approved operation and maintenance plan.

30. Upon receipt of this Order, Respondent shall collect one nitrate sample annually to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62(b)(7). 40 C.F.R. § 141.23(d).

31. Upon receipt of this Order, Respondent shall monitor for lead and copper concentrations during June, July, August, or September once during each 3-year compliance period. 40 C.F.R. § 141.86(d)(4). Respondent's next set of lead and copper samples must be collected during 2011.

32. Upon receipt of this Order, Respondent shall monitor for arsenic concentrations quarterly until otherwise directed by the State. 40 C.F.R. § 141.23(c)(7).

33. Upon receipt of this Order, Respondent shall monitor for volatile organic chemical concentrations annually. 40 C.F.R. § 141.24(f)(5).

34. Within 30 days of receipt of this Order, Respondent shall deliver to its customers and submit to the State and EPA a Consumer Confidence Report (CCR) for the 2005 calendar year. By July 1 of every year thereafter, Respondent shall deliver a CCR to its customers and submit a copy to the State and EPA along with the certification required by 40 C.F.R. § 141.155(c). Each report must cover the prior calendar year and comply with the requirements for CCRs contained in 40 C.F.R. §§ 141.151 through 141.155.

35. Within 30 days of the effective date of this Order, Respondent shall submit for EPA approval a Plan and Schedule to return to compliance with 40 C.F.R. part 141, subparts H, T, and W. The Plan and Schedule shall culminate in either (i) the installation of a new source of water within 12 months from the effective date of this Order, or (ii) the installation of filtration with disinfection within 18 months from the effective date of this Order. Such plan shall include, but not be limited to (1) acquiring funding; (2) submitting a design report with plans and specifications which meet the requirements of ARM 17.38.101(4) and Circular DEQ-1 to the EPA and MDEQ for review and approval; (3) estimated costs; and (4) an operation and maintenance plan which assures that the Carter-Chouteau County Water District public water supply provides safe and adequate water and maintains compliance with all National Primary Drinking Water Regulations (NPDWRs). The Schedule shall include, but not be limited to (1) a final compliance date which is 12 months from the effective date of this Order for a new source of water, or 18 months from the effective date of this Order for installation of filtration; and (2) a sufficient number of intermediate milestone dates to assure that compliance is achieved by the final compliance date.



36. Respondent shall make alterations to the Plan and Schedule as may be required by the EPA in accordance with Circular DEQ-1, and the Plan and Schedule must be approved by EPA before construction of the new source or modification of the existing source may begin. Upon EPA approval, the Plan and Schedule shall be incorporated by reference into this Order, and any failure to comply with the Plan or Schedule shall be a violation of this Order. Prior to construction, Respondent must also obtain approval of plans and specifications as may be required by MDEQ.

37. Beginning with the first full calendar quarter after EPA approval of the Plan and Schedule, Respondent shall submit quarterly reports of progress toward meeting the requirements of the Plan and Schedule and returning to compliance with 40 C.F.R. part 141, subparts H, T, and W. Progress reports shall be submitted to EPA by the tenth calendar day following the end of each calendar quarter.

38. Within 30 days of completion of installation, Respondent shall submit as-built specifications and drawings to MDEQ.

39. Until such time as filtration or the new source are fully operational, Respondent shall comply with all requirements contained in 40 C.F.R. part 141, subparts H, T, and W for unfiltered systems using ground water under the direct influence of surface water, including, but not limited to, monitoring, disinfection, reporting, and requirements to calculate contact time (CT) and inactivation ratios.

40. Until such time as filtration or the new source are fully operational, Respondent shall maintain in place the Health Advisory and Tier 2 Public Notice as currently required by the MDEQ.

41. Until such time as filtration or the new source are fully operational, Respondent shall issue a "boil water" notice and provide an alternate source of drinking water to its customers free of charge whenever source water turbidity exceeds 5 NTU or whenever the residual chlorine concentration falls below 0.2 mg/l anywhere within the distribution system. Boil water notices shall be delivered by hand or mail to the home of each customer and shall be posted in prominent locations at all places where the public has access to water supplied by the system. Boil water notices shall contain the following language:

"Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which

can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. These organisms may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

UNTIL FURTHER NOTICE, ALL WATER DERIVED FROM THE PUBLIC WATER SYSTEM USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR OTHERWISE USED FOR HUMAN CONSUMPTION, **SHALL BE BOILED FOR AT LEAST THREE (3) MINUTES, AT A ROLLING BOIL, BEFORE USE.** ALL STORED WATER, DRINK OR ICE MADE RECENTLY FROM THIS WATER SUPPLY SHALL BE DISCARDED."

Respondent shall maintain the boil water notice and continue providing alternate water until such time as EPA determines in writing that turbidity and chlorine residual are reliably and consistently restored below 5 NTU and at or above 0.2 mg/l, respectively.

42. Within 30 days of the effective date of this Order, Respondent must provide public notice of the violations specified in paragraphs 5 through 23 of this Order. 40 C.F.R. §§ 141.201, et seq. 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) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; AND (2) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. The public water system must repeat the notice every three months as long as the violation or situation persists. 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.

43. 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, as required by the drinking water regulations. 40 C.F.R. § 141.31(a).

44. Respondent shall report any violations of the total coliform monitoring requirements to EPA and the State within ten days after Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

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

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

Eric Finke  
U. S. EPA Montana Office  
10 W. 15<sup>th</sup> St., Suite 3200  
Helena, MT 59626

**AND**

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

**GENERAL PROVISIONS**

47. 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.

48. 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).

02 July 2009

Date

*Joseph Warden for John Wardell*  
John F. Wardell, Director  
Montana Office

Date

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