



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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2008 MAR 10 PM 12:43

EPA REGION VIII  
HEARINGS OFFICE

Ref: 8ENF-W

MAR 13 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Douglas Baker, Registered Agent  
Ram's Head Saloon and Fine Dining, Inc.  
5380 US Hwy 93 S  
P.O. Box 1147  
Darby, MT 59829

Re: Administrative Order  
Rams Head Saloon and Fine Dining  
Public Water System  
Docket No. SDWA-08-2008-0018  
PWS ID # MT0003844

Dear Mr. Douglas:

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 the Ram's Head Saloon and Fine Dining, 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 Ram's Head Saloon and Fine Dining, Inc. 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 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

Marc Weiner, who may 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  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures:

Order  
Public notice samples/templates

cc:

John Arrigo, MT DEQ  
Jon Dilliard, MT DEQ  
Andrea Vickory, MT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

|   |   |                              |
|---|---|------------------------------|
| IN THE MATTER OF                        | ) |                              |
|   | ) |                              |
| Ram's Head Saloon and Fine Dining, Inc. | ) |                              |
| Huntley, MT                             | ) | ADMINISTRATIVE ORDER         |
|   | ) |                              |
| Respondent                              | ) | Docket No. SDWA-08-2008-0018 |

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) in the Public Health Service Act (as amended by and hereafter referred to as the "Safe Drinking Water Act" or the "Act"), 42 U.S.C. § 300f, as properly delegated to the undersigned officials.

2. Ram's Head Saloon and Fine Dining, Inc. (Respondent) is a corporation which owns and/or operates the Ram's Head Saloon and Fine Dining Water System (the system) in Ravalli County, Montana which provides piped water to the public for human consumption. The system is supplied by a groundwater source and serves approximately 25 people per day through 1 service connection year round. 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. The Respondent received annual notification from the State regarding the system's monitoring requirements.

3. The Montana Department of Environmental Quality (MDEQ or the State) has primary enforcement authority for the Act in the State of Montana. On February 12, 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. 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 the following monitoring periods: 3<sup>rd</sup> quarter 2004 (July – September), 4<sup>th</sup> quarter 2005 (October – December), 2<sup>nd</sup> quarter 2006 (April – June), 4<sup>th</sup> quarter 2006, 1<sup>st</sup> quarter 2007 (January – March), 2<sup>nd</sup> quarter 2007, and January 2008 and therefore violated this requirement. As of January 1, 2008, Respondent is required by the MDEQ to monitor the system's water at least once per month to determine compliance with the MCL for total coliform bacteria. ARM 17.38.215(1)(b).

5. Respondents who collect fewer than five total coliform routine samples per month and have one or more total coliform positive samples are required to collect at least five routine samples during the next month the system serves water to the public. 40 C.F.R. § 141.21(b)(5). Respondent had a total coliform positive sample on March 21, 2005 and failed to collect at least five routine total coliform samples in April 2005 and therefore violated this requirement.

6. Respondent is required to monitor the system's water annually to determine compliance with the MCL for nitrate. 40 C.F.R. § 141.23(d). Respondent failed to monitor the water for nitrate during 2004 and 2006 and therefore violated this requirement.

7. Respondent is required to notify the public of any violations of the drinking water regulations, including violations of the MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements and testing procedures. 40 C.F.R. § 141.201. Respondent failed to notify the public of the violations outlined in Paragraphs 4 - 6 above (except the 2004 failure to monitor nitrate violation), and therefore violated this requirement. Public notice for failure to monitor total coliform violations for 2007 is not yet overdue.

8. Respondent is required to report 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 4 and 5 above, and therefore violated this requirement.

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 8 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:

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

11. Upon receipt of this Order, if the system has one or more total coliform positive samples in a month, Respondent shall 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). Respondent shall report analytical results to EPA and the State within the first ten days following the end of the monitoring period. 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 requirements to monitor the system's water for nitrate annually. 40 C.F.R. § 141.23(d). Respondent shall report analytical results to EPA and the State within the first ten days following the month in which sample results are received. 40 C.F.R. § 141.31(a).

13. Within 30 days of the effective date of this Order, Respondent must provide public notice of the violation(s) specified in Paragraphs 4 – 6 in this Order (except the 2004 failure to monitor for nitrate violation). 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. 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.

14. Respondent shall report any other violation of the drinking water regulations to EPA and the State within 48 hours of discovery.

15. 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

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

**GENERAL PROVISIONS**

16. 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.

17. 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.

3/17/08

Date

Matthew Cohn

David J. Janik, Acting Director  
Matthew Cohn, Acting Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

13 March 2008

Date

Diane L. Sipe

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