



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

NOV 23 2007

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mary and Bill Matovich, Owners
Branding Iron Saloon
3610 US Hwy 87 South
Roundup, MT 59072-6819

Re: Administrative Order
Branding Iron Saloon Public Water System
Docket No. SDWA-08-2008-0002
PWS ID # MT0003690

Dear Mary and Bill Matovich:

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 you have violated the National Primary Drinking Water Regulations.

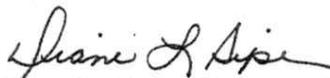
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Branding Iron Saloon complies with the Order for twelve months, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization, or governmental jurisdiction is a small entity as defined by SBREFA.

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
Kate Miller, MT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 NOV 23 AM 9:16

IN THE MATTER OF)
)
Mary and Bill Matovich, Owners)
Branding Iron Saloon)
Roundup, MT)
)
Respondents)

FILED
EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0002

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. Mary and Bill Matovich (Respondents) are individuals who own and/or operate the Branding Iron Saloon Water System (the system) in Musselshell County, Montana which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of one well and serves approximately 25 people through 1 service connection year-round. The system is a "non-community" water system as defined in 40 C.F.R. § 141.2. Respondents are 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 system last had a sanitary survey conducted on February 10, 1999; however, Respondents received annual notification from the State regarding the system's monitoring requirements.

3. Montana Department of Environmental Quality (MDEQ or the State) has primary enforcement authority for the Act in the State of Montana. On October 10, 2007, EPA issued a Notice of Violation to MDEQ regarding the violations at the System. MDEQ elected not to commence an appropriate 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. Respondents are 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. Montana Department of Environmental Quality requires Respondents 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). Respondents failed to monitor the water for contamination of total coliform bacteria in November 2002, August – September 2003, February

2004, May 2004, August – September 2004, November 2004, March 2005, May – June 2005, November – December 2005, March – July 2006, September – December 2006, and January – July 2007, and therefore violated this requirement.

5. Respondents are required to monitor the system's water at least once annually to determine compliance with the MCL for nitrate. 40 C.F.R. § 141.23(d). Respondents failed to monitor for nitrate in 2004 and 2006, and therefore violated this requirement.

6. Respondents are 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. Respondents failed to notify the public of the violations outlined in Paragraphs 4 and 5 above (2006 and 2007 violations for failure to monitor total coliform and nitrate are not yet overdue), and therefore violated this requirement.

7. Respondents are 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). Respondents failed to report to the State the failure to monitor total coliform violations listed in paragraph 4 above, and therefore violated this requirement.

8. Respondents are required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified in paragraph 7 above) to the State within 48 hours. 40 C.F.R. § 141.31(b). Respondents failed to report the violations listed in paragraph 5 and 6 above to the State, and therefore violated this requirement.

ORDER

Based on the above violations, Respondents are ordered to perform the following actions:

9. Upon receipt of this Order, Respondents shall monitor monthly for total coliform bacteria. ARM 17.38.215(1)(b). Respondents 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 total coliform monitoring requirements shall be reported to EPA within ten days after the Respondents learn of it. 40 C.F.R. § 141.21(g)(2).

10. Within 30 days of the effective date of the Order and annually thereafter, Respondents shall monitor the system's water for nitrate. 40 C.F.R. § 141.23(d). Respondents shall report analytical results to EPA and the State within the first ten days following the month in which sample results are received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a).

11. Within 30 days of receiving this order, Respondent shall provide notice to the public of the violations listed in paragraph 4 and 5 above or any subsequent violations by (1) posting the notice for at least 7 days in public locations where it will be seen by people served by the

system, (2) mailing or delivering the notice to each customer and connection, or (3) any other effective method if people would not be notified by either of the first two notice options. Specific notice requirements can be found in the attached templates. Respondent shall send a copy of the notices to EPA within 10 days after providing the notice. 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.

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

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

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

AND

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

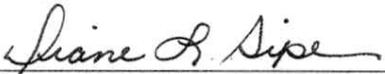
GENERAL PROVISIONS

14. 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.

15. Violation of any part of this Order, the Act, or the drinking water regulations may subject Respondents 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.



Michael T. Risher, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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

TIER 3 TEMPLATES

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and instructions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here.

Mandatory language on unknown risk for monitoring violations, which must be included exactly as written, is presented in *italics* (141.205(d)).

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does *not* relieve you of your obligation to take steps reasonably calculated to notify all persons served:

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.

Templates

Monitoring Violations Annual Notice–Template 3-1

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:

- 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 primary 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
US EPA Region 8
8ENF-W
1595 Wynkoop Street
Denver, CO 80202-1129

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 _____

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER
Monitoring Requirements not met for Branding Iron Saloon

Our water system violated several drinking water standards over the past five 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 monitor for total coliform bacteria at various times during 2002 – 2007 and also failed to monitor for nitrate in 2004 and 2006 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 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
Total coliform	1 sample per month	Nov 2002, Aug – Sept 2003, Feb 2004, May 2004, Aug- Sept 2004, Nov 2004, March 2005, May – June 2005, Nov – Dec 2005, March – July 2006, Sept – Dec 2006, and Jan – July 2007	
Nitrate	1 sample annually	2004 and 2006	

What happened? What is being done?

For more information, please contact [owner / operator name] _____, Owner / Operator,
 at [phone] ___-___-___ 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 **Branding Iron Saloon**
 State Water System ID#: MT0003690

Date distributed or dates posted: _____

bcc: Tina Artemis, 8RC
Brenda Cazier, 8ENF-PT
Marc Weiner, 8ENF-L
Jack Rychecky, 8P-W-MS
John Gillis (via email)
Lisa Kahn, 8ENF-W
John Wardell, 8MOO
Eric Finke, 8MOO
Reading File

cc address:

John Arrigo, Administrator
Enforcement Division
Montana Department of
Environmental Quality
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

Kate Miller, Rule Specialist Manager
Public Water Supply Compliance Section
1520 E. Sixth Avenue
P.O. Box 200901
Helena, MT 59620-0901

