UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

April 6, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003-1010-0002-6364-4690
RETURN RECEIPT REQUESTED

Big Horn County Commissioners
c/o Donald Russell, Chair
420 C Street
Basin, Wyoming 82410

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Meadowlark Lake Resort
PWS ID #WY5600362

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a state that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the owner of Meadowlark Lake Resort located in Big Horn County, WY. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The System is in violation of 40 C.F.R. §§ 141.63(b), 141.21, 141.23(d), 141.201, 141.21(g)(1), 141.21(g)(2), 141.31(b) for: exceedance of the acute maximum contaminant level (MCL) for total coliform bacteria; failure to monitor for total coliform bacteria; failure to monitor for nitrate; failure to provide public notice within one year of the violations; failure to report total coliform bacteria MCL violations to EPA by the end of the next business day after discovering the violation; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

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A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Jackson Naftel at (303) 312-6362.

Sincerely,

SIGNED

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

Enclosure
Order

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

April 6, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003-1010-0002-6364-4560
RETURN RECEIPT REQUESTED

Jim McCotter, Owner
Meadowlark Lake Resort
PO Box 86
Ten Sleep, WY 82442

Re: Administrative Order
Docket No.**SDWA-08-2004-0019**
PWS ID #5600362

Dear Mr. McCotter:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Meadowlark Lake Resort Water System (System) is a public water supplier as defined by the SDWA and that the owner of the System has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(b), 141.21, 141.23(d), 141.201, 141.21(g)(1), 141.21(g)(2), 141.31(b) for: exceedance of the acute maximum contaminant level (MCL) for total coliform bacteria; failure to monitor for total coliform bacteria; failure to monitor for nitrate; failure to provide public notice within one year of the violations; failure to report total coliform bacteria MCL violations to EPA by the end of the next business day after discovering the violation; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If you comply with the enclosed Order for a period of at least

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twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to $32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or
(3) a court injunction ordering you to comply.

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.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Jackson Naftel at the address on the letterhead, including the mailcode 8ENF-W, or you may call
Mr. Naftel at (800) 227-8917, extension 6362, or (303) 312-6362. If you wish to have an informal conference with EPA, you may also call or write Mr. Naftel. If you are represented by an attorney please feel free to have your attorney call Peggy Livingston at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

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

Enclosures
Order
SBREFA

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH
Joane Batts, Operator of Meadowlark Lake Resort

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF Jim McCotter, Owner Meadowlark Lake Resort P.O. Box 86 Ten Sleep, Wyoming 82442 Respondent Proceedings under Section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g)	ADMINISTRATIVE ORDER Docket No.**SDWA-08-2004-0019**

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Jim McCotter (Respondent) is an individual and therefore a "person" within the meaning of 40 C.F.R. § 141.2.

2. Respondent owns and/or operates a system, Meadowlark Lake Resort Water System (the System), located in Big Horn

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County, Wyoming, for the provision to the public of piped water for human consumption.

3. The Meadowlark Lake Resort Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.

5. According to a June 10, 1999 sanitary survey by an agent for EPA, the System is supplied solely by a ground water source consisting of one well. The system serves approximately 60 persons daily, through 14 service connections.

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FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires public water systems to monitor their water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(b) imposes and defines the acute MCL for total coliform bacteria as a fecal coliform positive or E. coli positive repeat sample, or any total coliform positive repeat sample following a fecal coliform positive or E. coli positive routine sample.
3. Monitoring results submitted by Respondent for the public water system during August 2000 exceeded the acute MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(b).

II.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor their water at least once per quarter that the system is serving water to the public to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 1st

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(January-March) quarter in 2002 and the 4th (October-December) quarter in 2003, in violation of 40 C.F.R. § 141.21.

III.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.

2. Respondent failed to monitor for nitrate in 2002, in violation of 40 C.F.R. § 141.23(d).

IV.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation (NPDWR) violation, including any violation of the MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.

2. Respondent did not provide public notice within one year of the noncompliance detailed in the preceding Sections II (for the first quarter 2002 violation) and III, in violation of 40 C.F.R. § 141.201.

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V.

1. 40 C.F.R. § 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliform in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to EPA the total coliform MCL violation detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(1).

VI.

1. 40 C.F.R. § 141.21(g)(2) requires any public water system that has failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.21(g)(2).

VII.

1. 40 C.F.R. § 141.31(b) requires that public water systems shall report any failure to comply with the National Primary Drinking Water Regulations to EPA within 48 hours.
2. Respondent failed to report to EPA within 48 hours the instances of noncompliance described in Findings of

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Violation Sections III and IV, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall comply with the total coliform MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

2. Within 30 days of the effective date of this Order, and annually thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

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3. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

4. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondent learns of the violation.

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.

6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.

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

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Jackson Naftel
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order, instituted under Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A), may subject Respondent to an administrative civil penalty of up to $27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than $32,500 per day of violation, assessed by a U.S. District Court, under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).

3. Violation of any requirement of the SDWA or its implementing regulations, instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than $32,500 per day of violation,

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assessed by an appropriate U.S. District Court, under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this **6th** day of **April**, 2004.

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

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

IF YOU WOULD LIKE COPIES OF THE ATTACHMENT, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON APRIL 6,2004.

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