

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

V.

WALDRON'S VALLEY CAFE – T0825

RESPONDENT

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND ORDER**

**Findings of Fact, Conclusions of Law**

1. Respondent, Waldron's Valley Cafe, is a Transient Non-Community public water system, within the meaning of The Rules & Regulations Pertaining to Public Water Systems (Regulations). As a result of this classification under Arkansas regulations, respondent is required to comply with the federal Safe Drinking Water Act (SDWA), and the National Primary Drinking Water Regulations (NPDWR). Respondent is therefore subject to the requirements of these regulations.

2. In accordance with Section V, Paragraph A., Section VII, and Section XVII of the Regulations, Respondent is required to comply with the National Primary Drinking Water Regulations, 40 CFR § 141, et seq.

3. Respondent owns and operates Waldron's Valley Cafe located in Madison County, Arkansas.

4. Waldron's Valley Cafe is supplied by a ground water Under the Direct Influence (GWUDI) of Surface Water source.

5. Respondent is and was required to comply with Section V and Section VII of the Regulations, Act 333 of 1957, and 40 CFR § 141.74, which place specific requirements on disinfectant contact time.

6. Respondent violated Section's V and VII of the Regulations and 40 CFR § 141.72, by failing to have proper disinfectant Contact Time to meet requirements and received Treatment Technique violations for the month(s) of January, February, March, April, and May 2003.

7. Respondent is and was required to comply with Sections IX and X of the Regulations and 40 CFR § 141.70 in which filtration *"is required as a treatment technique for public water systems supplied by a surface water source and public water systems supplied by a ground water source under the direct influence of surface water. In addition, these regulations establish treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, and turbidity. Each public water system with a surface water source or a ground water source under the direct influence of surface water must provide treatment of that source water that complies with these treatment technique requirements." The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:*

- (a) (1) At least 99.9 percent (3-log) removal and/or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer; and (2) At least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where

the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

- (b) A public water system using a surface water source or a ground water source under the direct influence of surface water is considered to be in compliance with the requirements of paragraph (a) of this section if ... It meets the filtration requirements in Sec. 141.73 and the disinfection requirements in Sec. 141.72(b).
- (c) Each public water system using a surface water source or a ground water source under the direct influence of surface water must be operated by qualified personnel who meet the requirements specified by the State.

8. Respondent violated Sections IX and X of the Regulations and 40 CFR § 141.70 by failing to have filtration installed within eighteen months of notification that the Respondent's water source is and was ground water under the direct influence of surface water. The required date for installation of filtration was November 14, 2002. Therefore treatment technique violations have been issued for the months of September, October, November and December 2003.

9. Respondent is and was required to comply with Section V of the Rules and Regulations Pertaining to Public Water Systems, and 40 CFR § 141.63 to deliver water to the free flowing outlet of the ultimate user of the water system with concentrations of fecal coliform bacteria not to exceed the maximum contaminant level (MCL). The MCL for coliform bacteria is one positive sample per sampling period for water systems collecting fewer than forty (40) samples per sampling period. An acute MCL is when a system has a fecal positive repeat sample or any total coliform positive repeat sample following a fecal positive sample.

10. Respondent violated Section V of the Rules and Regulations Pertaining to Public Water Systems and 40 CFR § 141.63, by delivering water that exceeded the maximum contaminant level for coliform bacteria during the month of October 2003. This was an Acute MCL.

11. On February 27, 2004, the Director, Division of Engineering, Arkansas Department of Health, issued Respondent an Administrative Order, Enforcement Action Number AO04020T0825, under the authority of A.C.A. § 20-7-101, *et seq.*, and the Regulations. That Order addressed the above enumerated violations of the Regulations and its implementing regulations by requiring Respondent to comply with the Regulations and 40 CFR § 141.

12. Respondent violated that Administrative Order and Sections IX and X of the Regulations and 40 CFR § 141.70 during the month of March 2004 by failing to have filtration installed within eighteen months of notification that the Respondent's water source is and was ground water under the direct influence of surface water.

13. A hearing before officials of the Arkansas State Board of Health pursuant to Ark. Code Ann. §§ 20-7-101, *et seq.*, 20-57-201, *et seq.*, and the administrative procedures of the Arkansas State Board of Health was conducted on May 13, 2004 at 10:00 a.m. in the 5th Floor Board Room of the Arkansas Department of Health, 4815 West Markham, Little Rock, Arkansas.

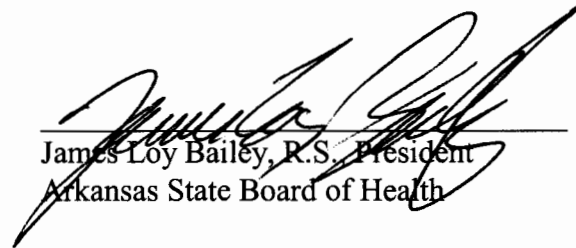
14. The Respondent (Gina Waldron) appeared pursuant to notice. David Quattlebaum, the Compliance and Enforcement Officer for the Arkansas Department of Health, testified and presented evidence.

15. David Quattlebaum testified that assurances have been made that the Respondent will connect to the Compton Water System within the next two months.

**ORDER**

After due deliberation, the Board of Health adopted the recommendations of the Administrative Hearings Subcommittee that the proposed fine of \$24,375.00 be imposed but suspended provided that the Respondent connect to the Compton Water System within ninety (90) days of this Order. The Respondent must continue to abide by the applicable state and federal regulations regarding safe drinking water. The Respondent must have twelve (12) months of compliance with applicable rules and regulations.

IT IS SO ORDERED this 22<sup>nd</sup> day of July 2004.

  
James Loy Bailey, R.S. President  
Arkansas State Board of Health