

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

IN THE MATTER OF )  
)  
)  
PUBLIC WATER SUPPLY )  
DISTRICT #1 OF OZARK COUNTY, MISSOURI )  
PWS Identification #MO5024444 )  
Respondent )  
) EMERGENCY  
) ADMINISTRATIVE ORDER  
)  
Proceeding under section 1431(a) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300i(a) ) Docket No. SDWA-07-2020-0143  
\_\_\_\_\_)

**STATUTORY AUTHORITY**

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 1431 of the Safe Drinking Water Act (SDWA or Act), 42 U.S.C. § 300i, as properly redelegated to the Director, Enforcement and Compliance Assurance Division with concurrence of the Regional Counsel, EPA Region 7.

**JURISDICTION**

1. EPA has jurisdiction to issue emergency orders pursuant to section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i.
2. The Missouri Department of Natural Resources (MDNR) has primary enforcement responsibility for the Act's public water supply protection program in Ozark County,

Missouri. The Public Water Supply District #1 of Ozark County, Missouri Public Water System is identified as Water System Number MO5024444.

### **FINDINGS**

3. Respondent Public Water Supply District #1 of Ozark County, Missouri Public Water System (Ozark PWSD #1 PWS or Respondent) is a “person” as defined in 40 C.F.R. § 141.2 for purposes of federal enforcement of the Act.
4. The Ozark PWSD #1 PWS provides water for human consumption in Ozark County, Missouri. The System serves approximately 243 year-round residents annually through approximately 216 service connections.
5. The System is a “public water system” and a “community water system” as defined in section 1401 of the Act, 42 U.S.C. § 300f and 40 C.F.R. § 141.2.
6. As the owner and operator of the Ozark PWSD #1 PWS, Respondent is a “supplier of water” as that term is defined in section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. As provided in section 1411 of the Act, 42 U.S.C. § 300g, Respondent is therefore required to comply with the Act and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. Part 141.
7. The System is supplied solely by groundwater from two active wells. The Ozark PWSD #1 PWS’s Average Daily Production is calculated at approximately 418,000 gallons per day.
8. 40 C.F.R. § 141.66 establishes the Maximum Contaminant Level (MCL) for radionuclides. The MCL for Combined Radium-226 and Radium-228 is 5 picocuries per Liter (pCi/L). The MCL for Gross Alpha Particle Activity is 15 pCi/L.

9. For each monitoring period since at least 2013, the Ozark PWSD #1 PWS has exceeded the MCL for Combined Radium-226 and Radium-228 and the MCL for Gross Alpha Particle Activity.
10. The radionuclides present in the Ozark PWSD #1 PWS are “contaminants” as defined in 40 C.F.R. § 141.2.
11. Radionuclides emit ionizing radiation, a known human carcinogen, when they radioactively decay. People who drink water containing alpha emitters or Radium-226 or Radium-228 in excess of the MCL may have an increased risk of getting cancer over time.
12. The MDNR issued notifications to Respondent on at least 38 occasions from November 2013 to February 2020 advising Respondent of violations of the Act’s MCLs for Combined Radium-226 and Radium-228, and for Gross Alpha Particle Activity.
13. On November 28, 2016, EPA issued Respondent a Notice of Violation pursuant to Section 1414 of the Act, 42 U.S.C. § 300g-3. The NOV cited violations of the MCLs for Combined Radium-226 and Radium-228, and for Gross Alpha Particle Activity.
14. By letter dated September 18, 2017, the MDNR transmitted to Respondent a draft Administrative Order on Consent requiring Respondent to take actions to address MCL violations for combined Radium-226 and Radium-228 and Gross Alpha Particle activity of the Radionuclide Rule under the Act. Respondent refused to enter into the Administrative Order on Consent with the MDNR.
15. On April 12, 2018, the MDNR unilaterally issued Respondent Administrative Order PDWB-2018-131 to address violations of the MCLs for combined Radium-226 and

Radium-228 and Gross Alpha Particle activity of the Radionuclide Rule under the SDWA.

16. Based on information from the MDNR, Respondent has failed to comply with requirements of Administrative Order PDWB-2018-131, and as of May 20, 2019, the matter was referred to the Missouri Attorney General's Office for escalated enforcement.
17. EPA has determined that the Ozark PWSD #1 PWS's ongoing noncompliance with the radionuclide MCLs has resulted in the presence of contaminants in the PWS which may present an imminent and substantial endangerment to the health of persons.
18. Prior to issuing this Order, EPA consulted with the MDNR and the Ozark PWSD #1 PWS to confirm the correctness of the information on which this action is proposed and to ascertain the actions which MDNR and the Ozark PWSD #1 PWS are or will be taking.
19. Despite actions taken by the MDNR as described in paragraphs 12, 14, 15, and 16 above, because of Respondent's failure to take appropriate actions, the health of persons served drinking water from the Ozark PWSD #1 PWS is not adequately protected.
20. This Order is necessary to ensure adequate protection of public health.

**EMERGENCY ADMINISTRATIVE ORDER**

21. Within three days of receipt of this Order, Respondent shall notify EPA in writing of its intention to comply with the terms of this Order.
22. Respondent shall continue to provide notice to the public of its ongoing radionuclide MCL violations pursuant to 40 C.F.R. § 141.203, and to provide certification to the MDNR that required public notice has been completed.

23. Respondent shall continue the public notice as set forth in paragraph 22 above until EPA provides written notification to discontinue public notice.
24. Within fourteen days of receipt of this Order, Respondent shall provide an alternate water supply to Public Water Supply District #1 of Ozark County users. The alternate water supply must be either 1) provided by a licensed water distributor, 2) purchased bottled water, or 3) provided by another public water system that meets the NPDWRs and shall be made available at no cost to all users of the PWS until Respondent receives written notification from EPA that alternative water is no longer necessary. Respondent shall provide at least one gallon of potable water daily per person.
25. Respondent shall provide a monthly summary report of actions they have taken to provide alternate water as outlined in paragraph 24 above. The summary report shall, at a minimum, include the following information: the number of requests for alternate water; the number of connections where alternate water was provided; the date alternate water was provided; and the quantity of water provided. The summary report shall be submitted no later than the 10<sup>th</sup> day of the month following the reporting period.
26. Within 90 days of the effective date of this Order, the Respondent shall submit to EPA and MDNR, for MDNR review and approval, an engineering report prepared by a professional engineer, licensed in Missouri, in accordance with 10 CSR 60-13.020 (2)(F) and the Minimum Design Standards for Missouri Community Water Systems, effective date December 10, 2013. The engineering report shall evaluate and propose multiple solutions for addressing the radionuclide MCL violations of the SDWA at the Ozark PWSD #1 PWS's and the projected cost to implement each solution.

27. If MDNR identifies any deficiencies in the engineering report in paragraph 26, Respondent shall correct all deficiencies and resubmit the report, or disapproved portions thereof, within thirty calendar days of notification, or such longer time as agreed to by EPA in writing.
28. Within thirty days of the approval of the engineering report in paragraph 26 by the MDNR, Respondent shall submit a Schedule of Compliance for abating the radionuclide MCL violations. The Schedule must contain, at a minimum, Respondent's preferred solution identified in the engineering report, how Respondent plans to fund the preferred solution(s), and the timeline for its implementation.
29. All information required of Respondent under this Order shall be submitted to:

Scott Marquess  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219  
Phone: 913-551-7131  
Email: [marquess.scott@epa.gov](mailto:marquess.scott@epa.gov)

And

Lance Dorsey  
Compliance and Enforcement Section Chief  
Public Drinking Water Branch  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, Missouri 65102  
Phone: 573-751-6982  
Email: [lance.dorsey@dnr.mo.gov](mailto:lance.dorsey@dnr.mo.gov)

### **GENERAL PROVISIONS**

30. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the 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.

31. The EPA may modify this Order to ensure protection of human health. The EPA will communicate any modification(s) to Respondent in writing and the modification(s) shall be incorporated into this Order.
32. The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from the EPA that Respondent has demonstrated, to the satisfaction of the EPA, that the terms of this Order have been satisfactorily completed.
33. Violation of any term of this Order may subject the Respondent to a civil penalty not to exceed \$24,386 (adjusted for inflation according to 40 C.F.R. part 19) for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).
34. Respondent may seek federal judicial review of the Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).
35. This Order shall be effective upon receipt by Respondent.

Signed this \_\_\_\_\_ day of May 2020

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David Cozad  
Director  
Enforcement and Compliance Assurance Division

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Christopher Muehlberger  
Assistant Regional Counsel  
Office of Regional Counsel