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**U.S. EPA REGION 8
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)
) Docket No. SDWA-08-2024-0008
Cottonwood Homeowners Association)
and Gary Gerhard) **ADMINISTRATIVE ORDER**
)
Respondents)
)
Cottonwood Acres Public Water System)
PWS ID #WY5601233)

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned official.
2. Cottonwood Homeowners Association and Gary Gerhard (Respondents) are an association and individual (association president), respectively, that own and/or operate the Cottonwood Acres Public Water System, which provides piped water to the public in Goshen County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via four wells. The water is treated with sodium hypochlorite.
4. The System has approximately 38 service connections used by year-round residents and regularly serves an average of approximately 95 year-round residents. Therefore, the System is a “public water system” and a “community water system” as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.
5. Each Respondent is a “person” as defined in section 1401(12) of the Act, 42 U.S.C § 300f(12), and is subject to the Act and 40 C.F.R. part 141 (Part 141). Part 141 is an “applicable requirement” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. The maximum contaminant level (MCL) for nitrate is 10 milligrams per liter (mg/L), with compliance to be based on the average of an initial and a confirmation sample. 40 C.F.R. §§ 141.23(i)(3) and 141.62(b). An initial sample, taken at SP02 on November 13, 2023, was 10.9 milligrams per liter (mg/L) Nitrate as N, and the subsequent confirmation sample, taken at the same location on November 29, 2023, was 11.1 mg/L Nitrate as N. The average of the initial sample and the confirmation sample is 11 mg/L, and therefore Respondents violated the nitrate MCL.

ORDER

Respondents are ordered to perform the following actions upon Respondents' receipt of this Order (unless a different deadline is specified below):

7. Respondents are ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above, unless specifically provided otherwise below.
8. Respondents are ordered to continue providing public notice of the nitrate MCL violation cited in paragraph 6, above, until the EPA notifies the Respondents they may discontinue providing notice. (Note: To assist Respondents in complying with the requirement of 40 C.F.R. § 141.202(a)(2) to post a Tier 1 public notice following the nitrate MCL violation cited in paragraph 6, above, on November 22, 2023, the EPA provided Respondents with a public notice template. Respondents used this public notice on November 22, 2023, to notify persons served by the System of the contamination.)
9. Respondents shall provide an updated public notice of the nitrate MCL violation cited in paragraph 6, above, each quarter beginning on January 1, 2024. The public notice shall be based upon the template provided in the link in paragraph 10, below. Respondents may discontinue quarterly public notices only upon written notification by the EPA. Respondents shall submit a copy of each completed public notice and certification to the EPA within 10 calendar days after each public notice is issued. 40 C.F.R. §§ 141.31(d) and 141.201(c)(3).
10. Following any future violation of Part 141, Respondents shall comply with any applicable public notice provisions of 40 C.F.R. Part 141, Subpart Q. Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#pn>.
11. Within 30 calendar days after receipt of this Order, Respondents shall submit to the EPA a proposed schedule (Schedule) and plan to bring the System into compliance with the nitrate MCL as identified in 40 C.F.R. § 141.62(b). The plan shall include proposed modifications to the System and estimated costs of such modifications. The Schedule shall include a project start date, interim milestone deadlines, and a final compliance deadline (which shall be within one year of the date of issuance, found on the last page of this Order). Respondents shall not begin construction or modifications to the System before the EPA has approved Respondents' Schedule.
 - a. Each milestone in the Schedule shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.
 - b. Within 90 calendar days after receipt of the EPA's approval of the Schedule, Respondents shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with the nitrate MCL. Each quarterly report is due by the 10th

calendar day of the month following the relevant calendar quarter (e.g., April 10 for the first calendar quarter).

- c. Within 10 calendar days after completing all tasks included in the Schedule, Respondents shall notify the EPA of the project's completion.

12. The System shall achieve compliance with the nitrate MCL by the final compliance deadline specified in the EPA-approved Schedule. If the Respondents' plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

13. Respondents shall monitor the System's water for nitrate quarterly at every entry point to the distribution system that is representative of each well after treatment, in accordance with 40 C.F.R. § 141.23(a) and (d)(2). Respondents shall report results to the EPA within the first 10 calendar days following the end of the required monitoring period. 40 C.F.R. § 141.31(a).

14. Within 24 hours after any notification of nitrate analytical results that indicate the System's water exceeds the MCL of 10 mg/L, Respondents shall collect a nitrate confirmation sample from the System's water. See 40 C.F.R. §§ 141.23(f)(2) and 141.62. Thereafter, Respondents shall comply with all nitrate monitoring requirements at 40 C.F.R. § 141.23. Respondents shall report results to the EPA within the first 10 calendar days following the end of the required monitoring period. 40 C.F.R. §141.31(a).

15. For any future violation of Part 141 for which this Order does not specify a reporting period, Respondents shall report the violation to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if Part 141 specifies a different time period for reporting the particular violation, Respondents shall report the violation to the EPA within that different period.

16. If the population or number of connections served by the System falls below 25 individuals or 15 connections, Respondents shall notify the EPA in writing within 10 calendar days by submitting a completed basic information form. The form is available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#new>.

17. If Respondents (a) lease or sell the System to another person or entity, or (b) contract with or hire any other person or entity to operate the System, Respondents shall, within 10 calendar days, provide a copy of this Order to the lessee, purchaser, or contractor and notify the EPA in writing of the change. In any of these circumstances, Respondents shall remain obligated to comply with this Order.

18. Respondents shall send all reporting and notifications required by this Order to the EPA at:

Email: R8DWU@epa.gov, and brown.christopher.t@epa.gov

GENERAL PROVISIONS

19. This Order shall be binding on Respondents, their successors and assigns, and any person (*e.g.*, employee, contractor, or other agent) acting in concert with Respondents.
20. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or Part 141. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.
21. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$67,544 (as adjusted for inflation) per day of violation, a court injunction ordering compliance, or both. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 88 Fed. Reg. at 989 (January 6, 2023).
22. Respondents may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: December 7, 2023.

Colleen Rathbone, Manager
Water Enforcement Branch
Enforcement and Compliance Assurance Division