

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

IN THE MATTER OF:)	
)	
City of Humboldt, Nebraska)	EMERGENCY
PWS Identification # NE3114702)	ADMINISTRATIVE ORDER
)	
Respondent)	
)	Docket No. SDWA-07-2024-0087
Proceedings under Section 1431(a))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300i(a))	
_____)	

STATUTORY AUTHORITIES

1. This Findings of Violation and Administrative Order on Consent (Order) are made and issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 1431(a) of the Safe Drinking Water Act (SDWA or Act), 42 U.S.C. § 300i(a). The authority to take these actions has been delegated to the EPA Region 7 Enforcement and Compliance Assurance Division Director with concurrence of the Region 7 Regional Counsel or her designee.

2. Respondent is the City of Humboldt, Nebraska, which owns and/or operates the Public Water System (System or PWS) located in Richardson County, Nebraska, with PWS identification number NE3114702. Respondent also owns the Colonial Acres of Humboldt Nursing Home and Assisted Living Facility (Colonial Acres or Facility), located at 1043 10th Street in Humboldt, Nebraska, which is managed by the Rural Health Development Inc. (Facility management).

FINDINGS

3. Respondent City of Humboldt owns and/or operates a “public water system” (System) as defined in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2, in that it provides water through a piped system or other constructed conveyance to the public for human consumption and the System has at least 15 service connections or regularly serves at least an average of 25 individuals daily at least 60 days out of the year.

4. Respondent is a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, and the City is a “supplier of water” as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2.

5. The System is a “community water system” as defined in 40 C.F.R. § 141.2 and Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15).

6. Respondent's System utilizes a ground water source.

7. The EPA issued a drinking water Health Advisory for *Legionella* in March 2001. The Health Advisory does not recommend a threshold of concern for *Legionella* but rather recommends control measures and active surveillance for cases among vulnerable populations in health care settings because, among other things:

- a. Sufficient information is not available to support a quantitative characterization of the threshold infective dose (i.e., the dose required to produce infection) of *Legionella*; and
- b. Despite many advances in laboratory isolation and identification techniques and the availability of findings from recent epidemiological and experimental studies, the current state of the science does not allow for quantification of the potential risks caused by *Legionella* in water supplies.

8. *Legionella* bacteria can cause sickness and death through two forms of Legionellosis, Pontiac fever and the more severe Legionnaires' Disease, which is a potentially fatal illness involving pneumonia. The bacteria can be transported from water to the air by faucets, shower heads, cooling towers, HVAC systems, and nebulizers. Thus, drinking water contaminated by *Legionella* bacteria poses risks of exposure through showering, bathing, cooking, and respiratory therapy. People and patients in an assisted living facility are at increased risk for contracting legionnaires' disease and at increased risk of higher morbidity once contracted, including in particular patients who require intubation, have received ventilation assistance, or are receiving respiratory therapy, people taking corticosteroids or other immunosuppressive drugs, solid organ transplant patients, especially those requiring dialysis, and people with certain chronic health conditions (chronic obstructive pulmonary disease, diabetes, head or neck cancer, or end-stage kidney disease).

9. The state of Nebraska (State) has primary enforcement responsibility under Section 1413(a) of the SDWA, 42 U.S.C. § 300g-2(a), to ensure that suppliers of water in Nebraska comply with the requirements of the SDWA.

10. Among other service connections, the System provides water for human consumption to Colonial Acres. The Facility has a 49-bed long-term care unit and 16 assisted living apartments. Assisted living apartments are equipped with walk-in showers and mini kitchens. The Facility also provides in-patient and out-patient physical, occupational, respiratory, and speech therapy.

11. According to information provided to EPA by Nebraska Department of Environment and Energy (NDEE) and the Nebraska Department of Health and Human Services (DHHS), starting in at least September 2022, DHHS and the NDEE became aware of *Legionella* contamination in the Colonial Acres building and advised that the Facility prepare a more comprehensive Water Management Plan.

12. According to information provided to EPA by NDEE and DHHS, in December 2022, NDEE and DHSS met with representatives of Colonial Acres and learned that there had been reported cases of Legionellosis, the disease caused by *Legionella* bacteria, including fatalities and illnesses, that were linked to the Facility, and treatment and mitigation strategies were discussed.

13. According to information provided to EPA by the Facility, an additional fatality caused by Legionellosis occurred at Colonial Acres as recently as March 2024.

14. According to information provided to EPA by the Facility, point of use filters were installed on shower heads in the 16 assisted living apartments at the Facility on April 1, 2024. The Facility also indicated that they replace the filters every three months, consistent with the manufacturer's recommendations.

15. According to information provided to EPA by the Facility, the Facility is conducting on-going monitoring of their water system for the presence of *Legionella* subject to a Water Management Plan.

16. According to information provided to EPA by the Facility, the Facility has employed shock chlorination to mitigate Legionella contamination. According to the Facility's most recent monitoring, conducted in March 2024, despite efforts to mitigate Legionella, it remains present throughout the Facilities' water system.

17. According to information provided to EPA by NDEE, on April 1, 2024, NDEE received a call from a City of Humboldt Councilwoman, who requested assistance investigating potential funding options for mitigation of *Legionella* at Colonial Acres.

18. Representatives of NDEE, the City, and the Facility met on May 14, 2024, to discuss *Legionella* treatment and funding options. However, the City did not commit to pursuing any of the recommended options for mitigation of *Legionella* contamination in the Colonial Acres water supply lines.

19. According to information provided to EPA by People Service, Inc., the firm that operates the City's PWS, no *Legionella* contamination has been detected in the Humboldt PWS's distribution system outside of the Colonial Acres premises. According to information provided to EPA by the Facility, there are no backflow devices installed at the point of entry to the Facility.

20. The *Legionella* present in the System are "contaminants" as defined in 40 C.F.R. § 141.2.

21. EPA has determined that the information described above regarding *Legionella* contamination in the Colonial Acres Facility demonstrates that a contaminant is present in or

likely to enter the PWS which may present an imminent and substantial endangerment to the health of persons.

22. To the extent practicable, prior to issuing this Order, EPA consulted with the NDEE, DHHS and local authorities to confirm the correctness of the information on which this action is proposed and to ascertain the actions which NDEE, DHHS and local authorities are or will be taking.

23. Despite actions taken by NDEE, DHHS and local authorities to mitigate the situation, *Legionella* contamination remains and EPA has determined that those actions are not adequate, timely, or otherwise sufficient and that the actions specified in this Order are necessary to address the imminent and substantial endangerment.

24. This Order is necessary to protect public health.

ORDER

25. Based on the findings listed above, EPA is issuing this Order to require Respondent to take actions as may be necessary to protect the health of persons.

26. As soon as practical but not later than 24 hours of receipt of this Order, Respondent shall issue a Tier 1 Public Notice pursuant to 40 C.F.R. § 141.202 and § 141.205 regarding the potential presence and risk of exposure to *Legionella* at the Colonial Acres Facility. A copy of the completed public notice and certification must be submitted to EPA Region 7 within 24 hours of public notice completion.

27. Within two days of the receipt of this Order, Respondent, in coordination with the Facility management and consistent with NDEE requirements, shall implement mitigating measures at the Facility to further protect against the risk of exposure to *Legionella*. Respondent shall provide a detailed description of all mitigating measures at the Facility to EPA within 24 hours of taking such measures.

28. As soon as possible but no later than 14 days of the receipt of this Order, Respondent shall install a disinfection treatment system at or adjacent to the Facility, consistent with NDEE requirements, sufficient to control *Legionella* contamination.

- a. Respondent shall submit to NDEE for review and approval, proposed plans and specifications for the disinfection treatment system.
- b. Respondent shall coordinate with the Facility management regarding the installation of the disinfection treatment system.

29. All submittals required by this Order shall be submitted to EPA at the following address:

tipton.lantz@epa.gov
Lantz Tipton
Enforcement and Compliance Assurance Division
Water Branch
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Phone: (913) 551-7892

30. Electronic submissions to the EPA are preferred and will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically shall be submitted in hard-copy to the address provided above.

GENERAL PROVISIONS

31. 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 or any of the regulations promulgated thereunder, 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.

32. 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.

33. Violation of any term of this Order may subject the Respondent to a civil penalty not to exceed \$29,154 (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. The provisions of this Order are binding on Respondent and its officials, officers, directors, partners, agents, employees, attorneys, successors, heirs, and assigns, and on all persons, independent contractors, consultants, and contractors acting in concert with Respondent.

36. The provisions of this Order shall be severable. If any provision of this Order is found to be unenforceable, the remaining provisions shall remain in full force and effect.

37. The effective date of this Order shall be the date of Respondent's receipt.

38. This Order shall remain in effect until EPA notifies Respondent in writing that EPA has determined the Order may be terminated.

ORDERED

Jodi Bruno
Acting Director
Enforcement and Compliance Assurance Division

*In the Matter of Humboldt, Nebraska PWS and
Colonial Acres of Humboldt Nursing Home and Assisted Living Facility
SDWA-07-2024-0087*

CERTIFICATE OF SERVICE

I certify that on the date noted below, I filed the original and one true and correct copy of the signed Administrative Order with the Regional Hearing Clerk, Region 7.

I further certify that on the date noted below I sent a copy of the foregoing Administrative Order by electronic mail to:

rhondadettmer@yahoo.com
humboldt.clerk@gmail.com
Rhonda Dettmer
Mayor
City of Humboldt, Nebraska

tipton.lantz@epa.gov
Lantz Tipton
EPA Region 7 Enforcement and Compliance Assurance Division

mccoin.shane@epa.gov
Shane McCoin
EPA Region 7 Office of Regional Counsel

Signature