

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

IN THE MATTER OF:

)

) Docket No. SDWA-08-2020-0041

Roger Dailey

)

) **ADMINISTRATIVE ORDER**

August 19, 2020  
12:43 PM

Respondent.

)

Received by

Spencer Homesite Water Association Public  
Water System

)

EPA Region VIII

PWS ID #WY5600184

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Hearing Clerk

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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. Roger Dailey (Respondent) is an individual who owns or operates the Spencer Homesite Water Association Public Water System (System), which provides piped water to the public in Fremont County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via two wells. The water is untreated.
4. The System has approximately 17 service connections used by year-round residents and regularly serves an average of approximately 40 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. 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).
6. Part 141 includes monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

**VIOLATIONS**

7. Respondent is required to monitor the System’s water annually for nitrate at every entry point to the distribution System which is representative of each well after treatment. 40 C.F.R. §§ 141.23(a) and (d). Respondent failed to monitor the System’s water for nitrate during 2019, and therefore, violated this requirement.
8. Respondent is required to monitor the System’s water monthly for total coliform bacteria. 40 C.F.R. §§ 141.853-858. Respondent failed to monitor the System’s water for total coliform bacteria from November of 2019 through June of 2020, and therefore, violated this requirement.

9. Respondent is required to certify to the EPA that an annual Consumer Confidence Report (CCR) has been distributed to the System's customers, and that the information is correct and consistent with compliance monitoring data previously submitted to the EPA. The certification is due within 3 months of distributing the CCR. 40 C.F.R. § 141.155. Respondent failed to provide CCR certification for calendar years 2016, 2017, and 2018. Therefore, Respondent violated this requirement.

10. Respondent is required to complete corrective action of a significant deficiency or comply with an EPA-approved corrective action plan and schedule within 120 calendar days (or earlier if instructed by the EPA) of receiving written notification from the EPA of a significant deficiency. 40 C.F.R. § 141.404(a). Respondent is required to notify the EPA within 30 calendar days of completion of a significant deficiency corrective action. 40 C.F.R. § 141.405(a)(2). Respondent received a sanitary survey report from the EPA on August 6, 2018, which detailed significant deficiencies. The EPA approved a schedule for the System to complete the corrective actions by February 16, 2019. Respondent failed to complete all corrective actions by February 16, 2019, and failed to notify the EPA within 30 calendar days of completion of a significant deficiency corrective action and therefore, violated this requirement. Respondent completed corrective action of the significant deficiencies on January 22, 2020.

11. Respondent is required to report any violation of total coliform monitoring requirements to the EPA within 10 calendar days after discovering the violation. 40 C.F.R. § 141.861(a)(4). Respondent failed to report the violation listed in paragraph 8, above, to the EPA and therefore, violated this requirement

12. Respondent is required to report any failure to comply with any Part 141 requirement to the EPA within 48 hours (except where Part 141 specify a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 7 and 9, above, to the EPA and, therefore, violated this requirement.

### **ORDER**

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

13. Within 30 calendar days after receipt of this Order, and as required by Part 141 thereafter, Respondent shall monitor the System's water for nitrate, in accordance with 40 C.F.R. §§ 141.23(a) and (d). Respondent 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. Respondent shall monitor the System's water monthly for total coliform bacteria. If a sample is positive for total coliform, within 24 hours of being notified of the positive result, Respondent shall collect a set of three repeat samples for each total coliform-positive sample. 40 C.F.R. § 141.853-858. Respondent 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. Within 30 days after receipt of this Order, Respondent shall certify to the EPA that the CCRs for calendar years 2015, 2016, 2017 and 2018 have been distributed to the System's customers, and that the information is correct and consistent with compliance monitoring data previously submitted to the EPA. Thereafter, Respondent shall provide CCR certifications as required by 40 C.F.R. § 141.155.
16. Within 10 calendar days after completing a corrective action of a significant deficiency, Respondent shall notify the EPA of the project's completion. Respondent shall provide sufficient evidence to the EPA including photographs of the corrective actions. Thereafter, if the EPA identifies any significant deficiency at the System, Respondent shall complete corrective action for each significant deficiency and provide notification to the EPA within 30 calendar days of completion, as required by 40 C.F.R. §§ 141.403(a) and 141.405(a)(2)
17. Respondent shall report any violation of total coliform monitoring requirements to the EPA within 10 calendar days after discovering the violation and notify the public in accordance with subpart Q of this part, as required by 40 C.F.R. § 141.861(a)(4).
18. Respondent shall report any violation of Part 141 to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or Part 141, Respondent shall report within that different period.
19. Respondent is ordered to comply with all provisions of the Act and Part 141 including, but not limited to, each requirement cited above.
20. If Respondent (a) leases or sells the System to another person or entity, or (b) contract with or hire any other person or entity to operate the System, Respondent shall, within ten days, provide a copy of this Order to the lessee, purchaser, or contractor and notify the EPA in writing of the change. In either of these circumstances, Respondent shall remain obligated to comply with this Order.
21. Respondent shall send all reporting and notifications required by this Order to the EPA at:

Email: R8DWU@epa.gov, and latino.steven@epa.gov

### **GENERAL PROVISIONS**

22. This Order shall be binding on Respondent, his successors and assigns, and any person (e.g., employee, contractor, or other agent) acting in concert with Respondent.
23. 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.
24. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$58,328 (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; 85 Fed. Reg. at 1754 (January 13, 2020).

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25. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: August 19, 2020.

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