

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2:21 PM

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF:)	
)	Docket No. SDWA-08-2022-0014
Ed Rojas)	
)	ADMINISTRATIVE ORDER
Respondent.)	
)	
Northern Dream Lounge)	
<u>PWS ID #WY5600592</u>)	

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. Ed Rojas (Respondent) is an individual who owns and/or operates the Northern Dream Lounge Public Water System (System), which provides piped water to the public in Natrona County, Wyoming for human consumption.
3. The System is supplied by a groundwater source accessed via one well. The water is untreated.
4. The System has approximately one service connection and regularly serves an average of approximately 42 individuals daily at least 60 calendar days out of the year. Therefore, the System is a “public water system” as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2. Further, the System is a non-community water system that does not regularly serve at least 25 of the same persons over six months per year and, as such, is also a “transient, non-community water system” as defined in 40 C.F.R. § 141.2.
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 2020 and 2021 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 during November 2019, December 2019, January 2020, December 2021, and February 2022, and therefore, violated this requirement.

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9. Respondent was required to develop a written total coliform sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution System and submit it to the EPA for review. 40 C.F.R. § 141.853(a)(1). Respondent must collect total coliform samples according to the written sample siting plan. 40 C.F.R. § 141.853(a)(1). Respondent failed to submit a sample siting plan by April 10, 2018, to the EPA and, therefore, failed to conduct appropriate total coliform sampling. As a result, Respondent violated these requirements. A copy of the sample siting plan was later received on May 10, 2018. No further action is required at this time.

10. The violations identified in paragraphs 7 and 8, above, are classified as violations requiring Tier 3 public notice within 1 year, according to 40 C.F.R. § 141.204. The EPA's records reflect that the Respondent failed to notify the public of certain violations cited in paragraph 7 and 8 and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement. this requirement. The deadline for public notice of the 2021 violation cited in paragraph 7, and the deadlines for the December 2021 and February 2022 violations cited in paragraph 8 have not yet passed.

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

12. 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/s listed in paragraph 8, 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).

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15. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7 and 8, above. Thereafter, following any future violation of Part 141, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 calendar days after providing public notice, Respondent shall submit a copy of the notice and certification to the EPA. 40 C.F.R. § 141.31(d). 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>.

16. For any future violation of Part 141 for which this Order does not specify a reporting period, Respondent must 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, Respondent must report the violation to the EPA within that different period.

17. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.

16. If the population or number of connections served by the System *at least 60 days of the year* falls below 25 individuals, Respondent must 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/epa-r8-drinking-water-system-basic-information-form>

18. If Respondent (a) leases or sells the System to another person or entity, or (b) contracts with or hires any other person or entity to operate the System, Respondent must, 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 either of these circumstances, Respondent will remain obligated to comply with this Order.

19. Respondent must send all reporting and notifications required by this Order to the EPA at:

Email: R8DWU@epa.gov, and carballal-broome.christina@epa.gov

GENERAL PROVISIONS

20. This Order is binding on Respondent, his assigns and heirs, and any person (*e.g.*, employee, contractor, or other agent) acting in concert with Respondent.

21. This Order does 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.

22. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil administrative penalty of up to \$62,689 (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; 87 Fed. Reg. at 1679 (January 12, 2022).

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23. 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: April 18, 2022.

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