

1/4/2023

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1:51pm

Received by  
EPA Region VIII  
Hearing Clerk

IN THE MATTER OF: )  
 )  
Fairview Water and Sewer District, )  
 )  
Respondent. )  
 )  
Fairview Water and Sewer District Public )  
Water System )  
PWS ID #WY5600166 )

Docket No. SDWA-08-2023-0003

**ADMINISTRATIVE ORDER**

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. Fairview Water and Sewer District (Respondent) is a public body created by or pursuant to Wyoming law that owns and operates the Fairview Water and Sewer District Public Water System (System), which provides piped water to the public in Lincoln 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 80 service connections used by year-round residents and regularly serves an average of approximately 230 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 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). The EPA sent the Respondent a sanitary survey report dated April 15, 2013, which detailed a significant deficiency. The EPA approved a corrective action schedule to complete corrective action by June 30, 2020. The EPA’s record reflects that the Respondent failed to complete corrective action by June 30, 2020, and failed to notify the EPA of corrective action completion by July 30, 2020, 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 August and September 2018 and therefore, violated this requirement. Respondent sampled the System's water for total coliform bacteria on October 1, 2018.

9. Respondent is required to notify the public of certain violations of Part 141 and, within 10 calendar days after completing public notice, provide a copy of the public notice and certification to the EPA. 40 C.F.R. §§ 141.31(d) and 141.201-141.211. The violation identified in paragraph 7, above, is classified as a violation requiring Tier 2 public notice within 30 calendar days, according to 40 C.F.R. § 141.203. The EPA's records reflect that the Respondent failed to notify the public of the violation cited in paragraph 7, and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement.

10. Respondent is required to notify the public of certain violations of Part 141 and, within 10 calendar days after completing public notice, provide a copy of the public notice and certification to the EPA. 40 C.F.R. §§ 141.31(d) and 141.201-141.211. The violations identified in paragraph 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 the violations cited in paragraph 8, and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement.

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

14. Within 30 calendar days of receipt of this Order, Respondent shall consult with the EPA regarding action to correct a significant deficiency and shall submit a proposed schedule and plan to the EPA for completion of the corrective action specified below. The plan shall include proposed modifications to the System and estimated costs of modifications. The EPA will review the proposed schedule and any approved schedule (Schedule) shall be incorporated into this Order with each

milestone to be an enforceable requirement upon written approval by the EPA. Within 10 calendar days after completing all tasks included in the Schedule, Respondent shall notify the EPA of the project's completion. Respondent shall provide sufficient evidence of the project's completion 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).

Corrective Action:

- Storage Tank ST01 (250K gallon tank): The overflow is directly connected to a sanitary or storm sewer. Water storage tanks that overflow to sewer or storm drains must use piping that has an air gap that is at least 3 pipe diameters above ground level at the overflow point to the sewer or storm drain over a splash pad.

15. 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).

16. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 7, above, persists, Respondent shall notify the public of this violation. 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>.

17. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraph 8, above. Thereafter, following any future violations 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>.

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 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).

20. 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.

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

Email: R8DWU@epa.gov, and james.dustin@epa.gov

### **GENERAL PROVISIONS**

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

23. 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.

24. 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).

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: January 4, 2023

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