

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)	
)	Docket No. SDWA-08-2024-0005
Debbie Millard,)	
Respondent.)	ADMINISTRATIVE ORDER
)	
Elephant Head Lodge Public Water System)	
)	
<u>PWS ID #WY5600461</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. Debbie Millard (Respondent) is an individual who owns and/or operates the Elephant Head Lodge Public Water System (System), which provides piped water to the public in Park County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via a spring. The water is untreated.
4. The System is operated seasonally from May to September. The System has approximately 17 service connections and/or regularly serves an average of approximately 80 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 regularly serves at least 25 of the same persons over six months per year and, as such, is also a “non-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 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 EPA on July 14, 2021, which detailed significant deficiencies. Respondent was required to complete the corrective actions by January 26, 2022. The EPA’s record reflects that the Respondent failed to complete all corrective actions by January 26, 2022, and failed to notify the EPA

within 30 calendar days of completion of a significant deficiency corrective action, and therefore violated these requirements.

8. Respondent is required to complete seasonal start-up procedures as required by 40 C.F.R. §§ 141.854-861. Prior to opening to the public each year, Respondent must send the EPA a signed certification of its completed start-up procedures using the EPA's approved checklist. Respondent failed to submit a signed copy of the completed checklist to the EPA prior to opening to the public in May 2022 and therefore violated this requirement. (Note: EPA received the Seasonal Startup Checklist on August 31, 2022, indicating that the System opened to the public on May 15, 2022.)

9. Respondent is required to notify the public of certain violations of Part 141 and, within 10 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 Tier 2 violation, requiring public notice within 30 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 copies of the public notices and certifications 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 violation identified in paragraph 8, above, is classified as a violation 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 violation 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.

ORDER

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

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

13. Within **30 calendar days** of receipt of this Order, Respondent shall consult with the EPA regarding action to correct significant deficiencies and shall submit a proposed schedule and plan to the EPA for completion of all corrective actions 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).

(Note: EPA has modified the significant deficiencies (SDs) listed on the 2019 sanitary survey based on subsequent inspection of the System. The SDs below were identified as "unknown integrity" SDs in the 2019 survey, and have been revised to "no overflow" SDs.)

Corrective Actions still required to be completed:

6) Gravity Tank ID: ST04 - Storage Tank #4
No overflow on finished water storage tank. *

In order to protect the integrity of the tank in the case of control system failure leading to overfilling, the tank must have an overflow that is separate from the vent.

**The float in this tank has failed in the past, resulting in flooding of the cabin. This was previously an unknown integrity, but has been revised to a no overflow SD.*

8) Gravity Tank ID: ST05 - Storage Tank #5
No overflow on finished water storage tank. *

In order to protect the integrity of the tank in the case of control system failure leading to overfilling, the tank must have an overflow that is separate from the vent.

**The float in this tank has failed in the past, resulting in flooding of the cabin. This was previously an unknown integrity, but has been revised to a no overflow SD.*

10) Gravity Tank ID: ST06 - Storage Tank #6
No overflow on finished water storage tank. *

In order to protect the integrity of the tank in the case of control system failure leading to overfilling, the tank must have an overflow that is separate from the vent.

**This was previously an unknown integrity, but has been revised to a no overflow SD.*

Debbie Millard

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14. The System must achieve compliance with the plan by the final compliance deadline specified in the Schedule. If Respondent's plan fails to achieve permanent compliance, the EPA may order further steps, seek penalties for noncompliance, or both.

15. Respondent shall complete seasonal start-up procedures as required by 40 C.F.R. §§ 141.854-861. The EPA approved start-up procedures checklist can be found at https://www.epa.gov/sites/production/files/2014-12/documents/rtrc_seasonal_startup_checklist.pdf. Prior to opening to the public each year, Respondent shall send to the EPA a signed copy of the completed start-up procedures checklist.

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 violation cited in paragraph 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>.

18. 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.

19. If the population or number of connections served by the System at least 60 days of the year falls below 25 individuals or 15 connections, 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/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#new>.

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 carbballal-broome.christina@epa.gov

GENERAL PROVISIONS

22. This Order is binding on Respondent, her assigns and heirs, 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 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).

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: October 24, 2023.

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