

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

**FILED**

Mar 11, 2025

11:16 am

**U.S. EPA REGION 8  
HEARING CLERK**

IN THE MATTER OF: )

Lower Valley Energy, Inc. )

Respondent. )

Lower Valley Energy Public Water System )  
PWS ID #WY5601403 )

Docket No. SDWA-08-2025-0011

**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. Lower Valley Energy, Inc. (Respondent) is a Wyoming corporation that owns and operates the Lower Valley Energy Public Water System (System), which provides piped water to the public in Teton 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 three service connections and/or regularly serves an average of approximately 40 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. The maximum contaminant level (MCL) for arsenic is 0.010 milligrams per liter (mg/L), with compliance to be based on a running annual average (RAA) of arsenic samples. 40 C.F.R. §§ 141.23(i)(1) and 141.62(b). The RAA of arsenic samples from the System for the third quarter of 2023 and the second quarter of 2024 was 0.012 mg/L, for the fourth quarter of 2023 and the third quarter of 2024 was 0.015 mg/L, and for the first quarter of 2024 and the fourth quarter of 2024 was 0.016 mg/L and exceeded the MCL and therefore, Respondent violated this requirement.
8. Respondent is required to monitor the System's water for inorganic contaminants (IOCs) at every entry point to the distribution System which is representative of each well after treatment during every three-year compliance period. 40 C.F.R. §§ 141.23(a) and (c). Respondent failed to monitor the System's water for IOCs during January 1, 2020, and December 31, 2022, and therefore, violated this requirement. (Note: Respondent returned this violation to compliance by sampling for IOCs during July 2023).
9. Respondent is required to monitor the System's water for synthetic organic contaminants (SOCs) at every entry point to the distribution System which is representative of each well after treatment at least once in every three-year compliance period. 40 C.F.R. § 141.24(h)(4)(iii). Respondent failed to monitor the System's water for SOCs during January 1, 2020, and December 31, 2022, and therefore, violated this requirement. (Note: Respondent returned this violation to compliance by sampling for SOCs during July 2023).
10. Respondent is required to monitor the System's water for volatile organic contaminants (VOCs) at every entry point to the distribution System which is representative of each well after treatment at least once in every three-year compliance period. 40 C.F.R. § 141.24(f)(5). Respondent failed to monitor the System's water for VOCs during January 1, 2020, and December 31, 2022, and therefore, violated this requirement. (Note: Respondent returned this violation to compliance by sampling for VOCs during July 2023).

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 paragraphs 7 through 10, 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):

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 after receipt of this Order, Respondent shall submit to the EPA a proposed schedule and plan to bring the System into compliance with the arsenic MCL as identified in 40 C.F.R. § 141.62(b). The plan shall include proposed modifications to the System and estimated costs of such modifications. The proposed schedule shall include a project start date, interim milestone deadlines, project completion deadline, and a final deadline for compliance with the RAA. 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 90 calendar days after receipt of the EPA's approval of the Schedule, Respondent shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with the arsenic MCL. Each quarterly report is due by the 10th day of the month following the relevant calendar quarters (e.g., January 10 for the first calendar quarter). Within 10 calendar days after completing all tasks included in the Schedule, Respondent shall notify the EPA of the project's completion. The System shall achieve compliance with the arsenic MCL by the final compliance deadline specified in the EPA-approved Schedule. If the Respondent's plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance. Respondent shall continue to notify the public quarterly by completing a public notice until the arsenic MCL violation is resolved.

14. 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.
15. If the population or number of connections served by the System 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/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#chg>.
16. 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.
17. Respondent must send all reporting and notifications required by this Order to the EPA at:  
Email: [R8DWU@epa.gov](mailto:R8DWU@epa.gov), and [carballal-broome.christina@epa.gov](mailto:carballal-broome.christina@epa.gov)

### **GENERAL PROVISIONS**

18. This Order is binding on Respondent, and its successors, assigns and any person (e.g., employee, contractor, or other agent) acting in concert with Respondent.
19. 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.
20. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$71,545 (as adjusted for inflation) per day of violation, a court injunction ordering compliance, or both. 42 U.S.C. § 300g-3(b); 40 C.F.R. part 19; 90 Fed. Reg. at 1375 (January 8, 2025).

Administrative Order  
Lower Valley Energy, Inc.  
Lower Valley Energy Water System, ECN: 600.0260.2025\_LVE  
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Issued: March 10, 2025.

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