

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF:)
)
Stone Creek Homeowners Association)
and Scott Prusia)
)
Respondents)
)
Stone Creek Homeowners Association)
Public Water System)
PWS ID #WY5601586)

Docket No. **SDWA-08-2020-0034**

Received by
EPA Region VIII
Hearing Clerk

AMENDED
ADMINISTRATIVE ORDER

1. This Amended Administrative Order (Amended 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). This Amended Order supersedes and replaces in its entirety the Administrative Order issued by EPA on July 22, 2020, EPA Docket No. SDWA-08-2020-0034. The undersigned officials have been properly delegated this authority.
2. Scott Prusia and the Stone Creek Homeowners Association (Respondents) are an individual and an association, respectively, that own and/or operate the Stone Creek Homeowners Association Public Water System (System), which provides piped water to the public in Goshen County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via 3 wells. The water is untreated.
4. The System has approximately 38 service connections used by year-round residents and/or regularly serves an average of approximately 91 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. Respondents are “persons” as defined in section 1401(12) of the Act, 42 U.S.C § 300f(12) and are 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).

VIOLATIONS

6. Respondents are required to take a confirmation sample within 24 hours of notification of nitrate analytical results that indicate the System’s water exceeds the maximum contaminant level (MCL) of 10 mg/L. 40 C.F.R. 141.62 and 141.23(f)(2). Systems unable to comply with the 24-hour sampling requirement must immediately notify the consumers served by the System and take a confirmation sample within two weeks of analytical result notification. 40 C.F.R. 141.23(f)(2). Respondent failed to take a confirmation sample within 24 hours of being notified that the System’s August 31, 2021, nitrate sample result of 12.1 mg/L exceeded the MCL and therefore, violated this requirement.

7. The maximum contaminant level (MCL) for nitrate is 10 milligrams per liter (mg/L), with compliance to be based on the average of an initial and a confirmation sample. 40 C.F.R. §§ 141.23(f)(2), (f)(3) and 141.62(b). The initial sample, taken at SP01 on July 6, 2020, was 10.6 mg/L, and the confirmation sample, taken at the same location on July 16, 2020, was 10.4 mg/L. The average of the initial sample and the confirmation sample is 10.5 mg/L, and therefore, Respondents violated the nitrate MCL.

ORDER

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

8. Within 24 hours of notification of nitrate analytical results that indicate the System's water exceeds the maximum contaminant level (MCL) of 10 mg/L. 40 C.F.R. 141.62 and 141.23(f)(2). Respondents shall collect a nitrate confirmation sample from the System's water. 40 C.F.R. § 141.23(f)(2). Thereafter, Respondents shall comply with all nitrate monitoring requirements at 40 C.F.R. § 141.23. Respondents 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).

9. Within 30 calendar days after receipt of this Order, and as required by Part 141 thereafter, Respondents shall monitor the System's water quarterly for nitrate, in accordance with 40 C.F.R. §§ 141.23(a) and (d). Respondents 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).

10. Within 24 hours after receipt of this Order, Respondents shall notify the public of the violation cited in paragraph 7, above. 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>. Within 10 calendar days after providing public notice, Respondents shall submit a copy of the certification and notice to the EPA. Thereafter, following any future violation of Part 141, Respondents shall comply with any applicable public notice provisions of 40 C.F.R. Part 141, Subpart Q.

11. Respondents shall notify the public quarterly beginning on October 1, 2020 by completing a public notice (PN) until the nitrate MCL violation is resolved. Respondents shall submit a copy of the completed PN and appropriate certification 10 calendar days after the PN was provided. 40 C.F.R. §§ 141.31(d) and 141.201(c)(3).

12. Respondents shall submit to the EPA a proposed schedule (Schedule) and plan to bring the System into compliance with the nitrate 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 Schedule shall include a project start date, interim milestone deadlines, and a final compliance deadline (which shall be within six months of the project start date). Respondents shall not begin construction or modifications to the System before the EPA has approved Respondents' Schedule. EPA records indicate that the System has submitted an approved plan and schedule. **If any substantial changes to the plan and schedule need to be made, you are required to have those changes approved by EPA.**

- a. Each milestone in the Schedule shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.
- b. Within 90 calendar days after receipt of the EPA's approval of the Schedule, Respondents shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with the nitrate MCL. Each quarterly report is due by the 10th calendar day of the month following the relevant calendar quarters (e.g., April 10 for the first calendar quarter).
- c. Within 10 calendar days after completing all tasks included in the Schedule, Respondents shall notify the EPA of the project's completion.

13. The System shall achieve compliance with the nitrate MCL by the final compliance deadline specified in the EPA-approved Schedule. If the Respondents' plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

14. Respondents shall monitor the System's water for nitrate quarterly, in accordance with 40 C.F.R. § 141.23(d)(2). Respondents 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. For any future violation of Part 141 for which this Order does not specify a reporting period, Respondents shall 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, Respondents shall report the violation to the EPA within that different period.

16. If the population or number of connections served by the System falls below 25 individuals or 15 service connections, Respondents shall 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-and-instructions-reporting-forms#new>.

17. If Respondents (a) lease or sell the System to another person or entity, or (b) contract with or hire any other person or entity to operate the System, Respondents shall, 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, Respondents shall remain obligated to comply with this Order.

18. Respondents shall send all reporting and notifications required by this Order to the EPA at:

Email: R8DWU@epa.gov, and
Hicks.nathaniel@epa.gov

GENERAL PROVISIONS

19. This Order shall be binding on Respondents, and any person (e.g., employee, contractor, or other agent) acting in concert with Respondents.

20. 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.
21. Violation of any part of this Order, the Act, or Part 141 may subject Respondents to a civil penalty of up to \$59,017 (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 (December, 2020).
22. Respondents may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: November 12, 2021.

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