



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Phone 800-227-8917
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JUL 18 2018

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EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W-SDW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mike Tatsey, Superintendent
Heart Butte School District
P.O. Box 259
#1 New School Road
Heart Butte, Montana 59448

Re: Administrative Order regarding Heart Butte School Public Water System,
PWS ID #083090009, Docket No. **SDWA-08-2018-0025**

Dear Mr. Tatsey:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that the Heart Butte School District (District), as owner and/or operator of the Heart Butte School Public Water System (System), has violated the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141.

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any pertinent information the District believes the EPA may not have (e.g., any monitoring that may have been done but not submitted, any updates to the number of service connections and/or individuals served, etc.). If the EPA does not hear from the District, the EPA will assume this information is correct.

If the District complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil administrative penalties and/or a federal court injunction ordering compliance.

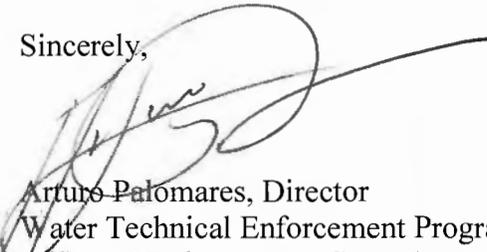
The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the Drinking Water Regulations.

Please be aware that the District is required to submit to the EPA a plan and schedule for bringing the System into compliance with the Drinking Water Regulations. The EPA's approval of the District's plan and schedule does not substitute for any other approval that may be required by any other governmental entity for modifying the System. The EPA encourages the District to contact any such governmental agency or agencies regarding any applicable approval requirements.

If you have any questions or to request an informal conference with the EPA, please contact Kathelene Brainich via email at brainich.kathelene@epa.gov, or by phone at (800) 227-8917, extension 6481, or (303) 312-6481. Any questions from the District's attorney should be directed to Mia Bearley, Enforcement Attorney, who may be reached via email at bearley.mia@epa.gov or by phone at (800) 227-8917, extension 6554, or (303) 312-6554.

We urge your prompt attention to this matter.

Sincerely,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Chairman Harry Barnes, Blackfeet Tribe (hbarnes@blackfeetnation.com)
Mr. Gerald Wagner, Environmental Director, Blackfeet Utilities (gwagner@3rivers.net)
Ms. Melissa Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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EPA REGION VIII

IN THE MATTER OF:)
)
Heart Butte School District,)
(PWS ID #083090009))
)
Respondent.)

Docket No. SDWA-08-2018-0025

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 officials.

2. Heart Butte School District (Respondent) is a district and a municipality that owns and/or operates the Heart Butte School District Public Water System (System), which provides piped water to the public in Pondera County, Montana, for human consumption.

3. The System is supplied by a groundwater source that is accessed via two wells, both of which have been determined to be under the influence of surface water. The water is treated by sodium hypochlorite chlorination.

4. The System has approximately 16 service connections used by year-round residents and/or regularly serves an average of approximately 21 year-round residents. The System also serves approximately 200 students through 2 additional service connections. 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. The Drinking Water Regulations include monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

6. Respondent was required to comply with filtration and disinfection requirements by February 1, 2018, as notified by an EPA letter dated July 28, 2016, that the System’s sources were determined to be under the influence of surface water. 40 C.F.R. part 141, subparts H and T. Respondent has not done so and, therefore, has violated these requirements.

7. Respondent is required to monitor the residual disinfectant level in the System’s distribution system at the same time and place as total coliforms are to be sampled as an interim disinfection requirement until filtration is installed, as outlined in the July 28, 2016, letter from the EPA to the System. 40 C.F.R. § 141.72. Respondent failed to monitor the System’s water for residual disinfectant in February and March 2018, March and May 2017, and November and December 2016 and, therefore, violated this requirement.

8. Respondent is required to maintain a chlorine residual of at least 0.2 mg/L throughout the distribution system as an interim disinfection requirement until filtration is installed, as outlined in the July 28, 2016, letter from the EPA to the System. 40 C.F.R. § 141.72. Respondent reported a chlorine residual lower than the required 0.2 mg/L in January, April, and June 2018 and, therefore, violated this requirement.

9. 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 February and March 2018 and, therefore, violated this requirement.

10. Respondent is required to collect a set of total trihalomethanes (TTHM) and haloacetic acid (HAA5) samples triennially and to submit monitoring results to the EPA within 10 days after the end of each monitoring period. 40 C.F.R. §§ 141.623(a)(b) and 141.629. Respondent failed to monitor the System's water for TTHM and HAA5 during the 2015-2017 monitoring period and, therefore, violated this requirement. Triennial reduced monitoring is revoked due to Respondent's failure to monitor and annual monitoring is now required starting in 2018. 40 C.F.R. § 141.621.

11. Respondent is required to monitor the System's water for inorganic contaminants (IOCs) during each 3-year compliance period. 40 C.F.R. § 141.23(a) and (c). Respondent failed to monitor the System's water for IOCs during the 2014-2016 compliance period and, therefore, violated this requirement. Respondent belatedly monitored on August 21, 2017.

12. Respondent is required to monitor the System's water for synthetic organic contaminants (SOCs) during each three-year compliance period. 40 C.F.R. § 141.24(h). Respondent failed to monitor the System's water for SOCs during the 2014-2016 compliance period and, therefore, violated this requirement. Respondent belatedly monitored on August 21, 2017.

13. Respondent is required to monitor the System's water for volatile organic contaminants (VOCs) during each 3-year compliance period. 40 C.F.R. § 141.24(f)(6). Respondent failed to monitor the System's water for VOCs during the 2014-2016 compliance period and, therefore, violated this requirement. Respondent belatedly monitored on August 21, 2017.

14. Respondent is required to notify the public of certain violations of the Drinking Water Regulations and repeat the notice quarterly for as long as the violation exists. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of the violations cited in paragraphs 6 and 8, above, within 30 days of the violation and failed to repeat the notice quarterly and, therefore, violated this requirement.

15. Respondent is required to prepare and deliver an annual Consumer Confidence Report (CCR) to the System's customers and the EPA by July 1st of each year and to certify to the EPA that it has done so. 40 C.F.R. §§ 141.151-141.155. Among other things, the CCR must include information on drinking water violations that occurred during the year covered by the report.

40 C.F.R. § 141.153. Respondent failed to include the 2016 violations listed in paragraphs 6, 7, 11, 12, and 13, above, in the CCR for 2016 and, therefore, violated this requirement.

16. Respondent is required to report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.861(a)(4). Respondent failed to report the violations listed in paragraph 9, above, to the EPA and, therefore, violated this requirement.

17. Respondent is required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours, except where the Drinking Water Regulations specify a different time period. 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 6-8, and 10-15, above, to the EPA and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

18. Within 90 days after receipt of this Order, Respondent shall provide the EPA with a plan and schedule for Respondent to come into compliance with 40 C.F.R. part 141, subparts H and T, either by meeting the filtration and disinfection requirements that apply or by switching permanently to an alternate source of water that is not subject to these requirements. The plan shall include proposed modifications to the System, estimated costs of modifications, and a schedule for completion of the project and compliance with 40 C.F.R. part 141, subparts H and T. The proposed schedule shall include specific milestone dates and a final compliance date (to be within 12 months from the date of the EPA's approval of the schedule). The schedule must be approved by the EPA before construction or modifications can begin. The EPA's approval of Respondent's schedule does not substitute for any approval of plans and specifications that may also be required before modifications may be made to the System.

19. The schedule required by paragraph 18, above, will be incorporated into this Order as an enforceable requirement upon written approval by the EPA.

20. Within 180 days after receipt of the EPA's approval of the schedule required by paragraph 18 above, Respondent shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with 40 C.F.R. part 141, subparts H and T. Each quarterly report is due by the 10th day of the month following the end of the relevant quarter.

21. Respondent must achieve and maintain compliance with 40 C.F.R. part 141, subparts H and T, by the final date specified in the approved schedule, or no later than 12 months after receipt of the EPA's approval of the schedule required by paragraph 18, above. Respondent must meet that deadline even if the does not achieve compliance. If implementation of the plan fails to

achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

22. Respondent shall monitor the residual disinfectant level in the System's water in the distribution system at the same time and place it collects total coliform samples and report the measured value on each total coliform sample chain of custody sent to the laboratory, as required by EPA's July 28, 2016, letter to the System and 40 C.F.R. §141.72.

23. Respondent shall implement a course of action to ensure that a minimum chlorine residual of 0.2 mg/L is maintained throughout the distribution system. Respondent shall maintain a chlorine residual of at least 0.2 mg/L throughout the distribution system as required by EPA's July 28, 2016, letter to the System and 40 C.F.R. §141.72.

24. 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 total coliform analytical results to the EPA within the first ten days following the end of the System's required monitoring period. See, 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.861(a)(4).

25. During the month of August 2018, and thereafter as directed by the EPA, Respondent shall monitor the System's water for TTHM and HAA5 in accordance with the System's TTHM and HAA5 monitoring plan at the S2-KITCHEN location, as required by 40 C.F.R. §§ 141.621-623. Respondent shall submit the sampling results to the EPA within 10 days following the end of the monitoring period, as specified by 40 C.F.R. § 141.629.

26. Respondent shall monitor the System's water for IOCs as required by 40 C.F.R. § 141.23(a) and (c). Respondent is next required to sample for IOCs during the triennial period of 2020-2022.

27. Respondent shall monitor the System's water for SOCs as required by 40 C.F.R. § 141.24(h). Respondent is next required to sample for SOCs during the triennial period of 2020-2022.

28. Respondent shall monitor the System's water for VOCs as required by 40 C.F.R. § 141.24(f). Respondent is next required to sample for VOCs during the triennial period of 2020-2022.

29. Unless a different reporting requirement is specified by the Drinking Water Regulations or this Order, Respondent shall report monitoring results to the EPA within the first 10 days

following either (1) the month in which the result is received or (2) the end of the required monitoring period as stipulated by the EPA, whichever is shortest. 40 C.F.R. § 141.31(a).

30. By October 1, 2018, and quarterly thereafter as long as the violation exists, Respondent shall notify the public of the failure to provide filtration violation cited in paragraph 6, above. Templates and instructions are available at: [https:// www.epa.gov/region8-waterops/reporting-forms-and-instructions-reporting-forms% 23 new#pn](https://www.epa.gov/region8-waterops/reporting-forms-and-instructions-reporting-forms%20new#pn). Within 10 days after providing each public notice, Respondent shall submit a copy of the notice to the EPA with a signature certifying notification completion. Thereafter, following any future violation of the Drinking Water Regulations, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q.

31. Respondent shall prepare and distribute annual CCRs that include all information required by 40 C.F.R. §§ 141.153 and 154 (including violations, if any) and provide certifications as required by 40 C.F.R. §§ 141.151-141.155.

32. Respondent shall report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours, except where the Drinking Water Regulations specify a different time period, as required by 40 C.F.R. § 141.31(b).

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

34. If Respondent contracts with or hires any other person or entity to operate the System, Respondent shall, no later than the date of such hire or contract, provide a copy of this Order to the employee or contractor and notify the EPA in writing of the employee or contracted parties name and contact information. Respondent shall remain obligated to comply with this Order even if Respondent hires another person or entity to operate the System.

35. Respondent shall send all reporting and notifications required by this Order to the EPA via email at:

R8DWU@epa.gov and brainich.kathelene@epa.gov

GENERAL PROVISIONS

36. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

37. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$55,907 (as adjusted for inflation) per day of violation

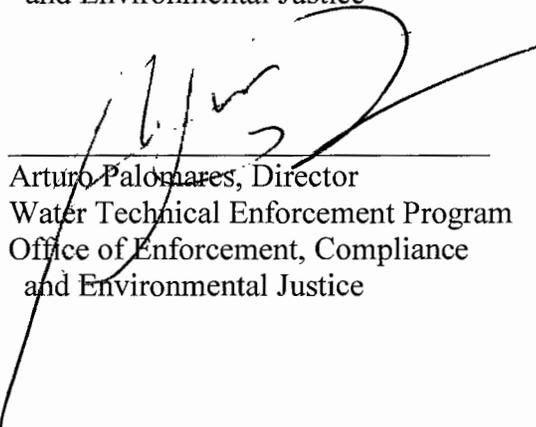
and/or a court injunction ordering compliance. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 83 Fed. Reg. at 1193 (January 10, 2018).

38. 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: July 18, 2018.



Amy Swanson, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice