



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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HEARING CLERK

Ref: 8ENF-W-SDW

MAR 10 2017

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Nathan L. Breinholt, Registered Agent
Big Cottonwood Pine Tree Water Company, Inc.
3463 Cottage Pines Cove
Cottonwood, Utah 84121

Re: Administrative Order Violation #2, Big Cottonwood Pine Tree Water Company Public Water System, PWS ID # UTAH18139, Docket No. SDWA-08-2013-0042

Dear Mr. Breinholt:

On September 4, 2013, the U.S. Environmental Protection Agency issued an Administrative Order (Order) ordering Big Cottonwood Pine Tree Water Company, Inc. (Respondent or Company), as owner and/or operator of the Big Cottonwood Pine Tree Public Water System (System). The Order required Respondent to comply with the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., and its implementing regulations, the National Primary Drinking Water Regulations, 40 C.F.R. part 141. The EPA issued an Addendum to the Order on November 11, 2016 (Addendum), incorporating Respondent's plan and schedule for completing a significant deficiency corrective action. The Addendum became an enforceable requirement of the Order.

Our records indicate that Respondent is again in violation of the Order. The Addendum, in addition to approving the schedule, included the following requirement:

Notify the EPA within 10 days of completion of each [schedule action item]. EPA is authorized to seek penalties if these deadlines are not met. If the Company has a reasonable basis to believe it may be unable to meet any deadline in the schedule, it shall notify the EPA well in advance of the scheduled deadline to request an extension. The EPA may, in its discretion, consider granting an extension.

Although the schedule deadline for submitting final design plans for developing a new spring to the Utah Department of Environmental Quality (DEQ) was November 30, 2016, the plans were not submitted until January 11, 2017. Further, the System did not notify the EPA in advance of the scheduled deadline to request an extension nor did they notify the EPA within 10 days of completion of this action item.

On January 25, 2017, Mark Chandler of CRS Engineers, an agent for Respondent, spoke with the EPA about a schedule extension to the March 15, 2017, construction start date because the ground is likely to

still be frozen. The EPA instructed Mark to immediately submit a new schedule to EPA. The EPA has not yet received a revised schedule. Respondent is therefore in continuing noncompliance until EPA receives a new schedule. EPA advised Mark that, while the EPA may approve an extension of interim schedule deadlines, the completion date must still be the summer of 2017.

Among other things, the Order included the following requirements (from paragraph 4 page 27 of the Order):

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. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to the EPA and the State.

Respondent failed to provide public notice within 30 days of learning of the July 6, 2015, failure to correct a significant deficiency violation. In addition to failing to provide initial public notice in August 2015, Respondent failed to repeat the public notice every three months (within the System's operational period of June through September) in June and September 2016. Respondent must complete public notice for the significant deficiency failure to correct violation on June 1, 2017, and every three months thereafter as long as the violation exists. Respondent must provide a certified copy of each public notice completion to the EPA and the DEQ within 10 days of its completion. A completed public notice template and instructions was again provided to Respondent via email on January 25, 2017.

The EPA is considering additional enforcement action as a result of Respondent's continuing non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$54,789 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions you may contact Kathelene Brainich at the above address (with the mailcode 8ENF-W-SDW), via email at brainich.kathelene@epa.gov, or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. If the System is represented by an attorney who has questions, please ask the attorney to direct any legal questions to Mia Bearley, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L), via email at hearley.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,

T. Cantor

Tiffany Cantor, Enforcement Unit Supervisor
Drinking Water Enforcement Program
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Mark Chandler, CRS Engineering (mark.chandler@crsengineers.com)
Nathan Lunstad, PE, UT DEQ (nlunstad@utah.gov)
Patti Fauver, UT DEQ Drinking Water Rule Section Manager
Melissa Haniewicz, EPA Regional Hearing Clerk