



REGION 8
DENVER, CO 80202



March 19, 2024

Ref: 8ENF-W-SD

SENT VIA EMAIL
DIGITAL DELIVERY RECEIPT REQUESTED

Cottonwood Homeowners Association
c/o Gary Gerhard, President
Cottonwood Acres Public Water System
gag777758@gmail.com

Subj: Administrative Order Addendum, Cottonwood Homeowners Association regarding Cottonwood Acres Public Water System, PWS ID 5601233, Docket # **SDWA-08-2024-0008**

Dear Mr. Gerhard:

This is an Addendum to the Administrative Order (Order) issued to Cottonwood Homeowners Association and Gary Gerhard (Respondents) on December 7, 2023, concerning the public water system referenced above (the System). The purpose of this letter is to approve the following schedule for the Respondents to take steps to come into consistent compliance with the nitrate maximum contaminant level (MCL). As provided in paragraph 11.a of the Order, each milestone and deadline specified below is an enforceable provision of the Order.

| <u>Milestone</u> | <u>Deadline</u> | <u>Projected Cost</u> |
|---|-------------------|-----------------------|
| Submit AVI Project Cost (Itemized by Phase 1 Task) to the EPA | April 25, 2024 | -- |
| Form Improvement & Service District * | October 31, 2024 | TBD |
| Conduct any necessary election for forming Improvement & Service District* | November 6, 2024 | TBD |
| Complete Capacity Assessment to Demonstrate Capacity Development and submit to the appropriate state agency. Provide EPA with a copy of the submission. | December 31, 2024 | TBD |

| | | |
|--|---|-----|
| Complete Facility Mapping (water service lines, valves, shut-offs, and buried cables. Include septic tanks/leach fields in mapping if possible. Provide a copy of the completed facility mapping to EPA. | October 31, 2024 | TBD |
| Complete Needs Survey and Application for Intended Use Plan 2026 Funding Priority List and submit to the appropriate state agency. Provide EPA with a copy of the submission. | January 2, 2025 | TBD |
| Submit State Revolving Loan Application to the appropriate state agency.* Provide EPA with a copy of the submission. | 120 days prior to the first State Land and Investment Board meeting (estimated June 5, 2025) for the 2026 funding period | TBD |
| Submit an updated schedule to the EPA for completion of final design, permitting, construction, and construction completion for incorporation as a future addendum to the Order. | Within 30 days after State Revolving Loan Application approval | TBD |
| If water from SP02 is used for drinking water, notify the EPA. | Within 24 hours of beginning to supply water from SP02 for human consumption (which includes drinking, bathing, showering, cooking, dishwashing, or maintaining oral hygiene) | N/A |

“TBD” indicates to be determined in AVI Project Cost milestone.

*If this milestone fails to be accomplished/approved, the Respondents must submit a revised schedule and plan to the EPA within 30 days after the missed milestone. Failure to meet any milestone in this schedule is, nonetheless, a violation of the Order.

Please note that the last milestone in this schedule is for the Respondents to submit an updated schedule. The updated schedule will need to set a deadline for achieving the consistent compliance with the maximum contaminant level (MCL) for nitrate. Because the last milestone in the schedule set forth above will occur after December 7, 2024, the EPA no longer expects the final MCL compliance deadline to be December 7, 2024 (i.e., one year after issuance of the Order, as provided in paragraph 11 of the Order), but the final compliance date under the future schedule will need to be as early as possible.

The nitrate MCL violation that prompted the Order was from wells associated with SP02 that are not currently supplying water to the System. The System is currently being

supplied with water from wells associated with SP01; nitrate levels in water from SP01 are below the nitrate MCL. The EPA's approval of this schedule is conditioned on the EPA's understanding that the Respondents will not allow water from SP02 to be supplied to the System for human consumption during any quarter in which water from SP02 exceeds the nitrate MCL. If the System does supply water from SP02 for human consumption during any quarter in which the water from SP02 exceeds the nitrate MCL, the EPA's approval of the schedule outlined above will be rescinded, unless Respondents, within 24 hours of learning of the exceedance, provide notice of and make available an alternate source of drinking water to any interested residents at no cost during the period when water from SP02 exceeds the nitrate MCL and is being supplied for human consumption. If EPA's approval of the schedule is rescinded, Respondents must (1) submit a new schedule and plan within 30 days after the date of EPA's rescission and (2) achieve compliance with the nitrate MCL within one year after the date of EPA's rescission.

Within 10 calendar days of completing all steps included in the above schedule, the Respondents are required to notify the EPA. The EPA is authorized to seek penalties if these deadlines are not met. If Respondents have a reasonable basis to believe they may be unable to meet any deadline in the schedule, they must notify the EPA well in advance of the relevant deadline. The EPA may, in its discretion, consider granting an extension.

As a reminder, per paragraph 11.b of the Order, within 90 calendar days after receipt of this letter, Respondents will be required to begin providing the EPA with quarterly reports on their progress in meeting the deadlines in the schedule.

If you have any questions or to request an informal conference with the EPA, please contact Chris Brown via email at brown.christopher.t@epa.gov, or by phone at (800) 227-8917, extension 6669, or (303) 312-6669. Any questions from an attorney for either or both Respondents should be directed to Peggy Livingston, Senior Assistant Regional Counsel, via email at livingston.peggy@epa.gov or by phone at (800) 227-8917, extension 6858, or (303) 312-6858.

Sincerely,

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

cc: WY DEQ/DOH (via email)
Goshen County Commissioners (crupp@goshencounty.org)
EPA Regional Hearing Clerk (r8_hearing_clerk@epa.gov)
John Kinberg, Chief Operator
Tom Feeser, Contract Operator
Dennis Lewis, WY DEQ District Engineer (dennis.lewis@wyo.gov)

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