

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

11:51 AM

IN THE MATTER OF:)
)
Lava Mountain Lodge, LLC)
)
Respondent.)
)
Lava Mountain Lodge Public Water System)
PWS ID #WY5600407)

Docket No. SDWA-08-2022-0003

ADMINISTRATIVE ORDER

Received by
EPA Region VIII
Hearing Clerk

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. Lava Mountain Lodge, LLC. (Respondent) is a corporation that owns and/or operates the Lava Mountain Lodge Public Water System (System), which provides piped water to the public in Fremont County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via 1 well. The water is untreated.
4. The System has approximately 26 service connections and regularly serves an average of approximately 50 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 does not regularly serve at least 25 of the same persons over six months per year and, as such, is also a “transient, non-community water system” as defined in 40 C.F.R. § 141.2.
4. 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).
5. Part 141 includes monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

6. Respondent is required to complete seasonal start-up procedures as required by 40 C.F.R. §§ 141.854-861. Prior to opening to the public each season, Respondent must send to the EPA a signed certification of its completed start-up procedures using the EPA’s approved checklist (see link in paragraph 12, below). Respondent failed to complete seasonal start-up procedures and failed to submit a signed copy of the completed checklist to the EPA prior to opening to the public in the summer of 2019, the winter of 2020, and the summer 2021 and therefore, violated these requirements.
7. Respondent is required to monitor the System’s water monthly for total coliform bacteria from June to September and December to March each year. 40 C.F.R. § 141.853-858. Respondent failed to monitor the System’s water for total coliform bacteria during December 2020, and February, June, August, and September 2021 and therefore, violated this requirement.

8. Respondent is required to notify the public of certain violations of Part 141 and, within 10 calendar days after completing public notice, provide a copy of the public notice and certification to the EPA. 40 C.F.R. §§ 141.31(d) and 141.201-141.211. The violations identified in paragraph 6, above, are classified as violations requiring Tier 2 public notice within 30 calendar days, according to 40 C.F.R. § 141.203. The EPA's records reflect that the Respondent failed to notify the public of all the violations cited in paragraph 6 and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement. EPA records indicate that the System submitted a public notice and certification for the 2019 violation listed in paragraph 6, above.

9. Respondent is required to notify the public of certain violations of Part 141 and, within 10 calendar days after completing public notice, provide a copy of the public notice and certification to the EPA. 40 C.F.R. §§ 141.31(d) and 141.201-141.211. The violations identified in paragraph 7, above, are classified as violations requiring Tier 3 public notice within 1 year, according to 40 C.F.R. § 141.204. The EPA's records reflect the deadline for public notice of the violations cited in paragraph 7 have not yet passed.

10. Respondent is required to report any violation of seasonal start-up procedures to the EPA no later than the end of the next business day after discovering the violation. 40 C.F.R. § 141.861(a)(2). Respondent failed to report the violations listed in paragraph 6, above, to the EPA and therefore, violated this requirement.

11. Respondent is required to report any violation of total coliform monitoring requirements to the EPA within 10 calendar days after discovering the violation. 40 C.F.R. § 141.861(a)(4). Respondent failed to report the violations listed in paragraph 7, 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. Respondent shall complete seasonal start-up procedures as required by 40 C.F.R. §§ 141.854-861. The EPA approved start-up procedures checklist can be found at https://www.epa.gov/sites/production/files/2014-12/documents/rtrc_seasonal_startup_checklist.pdf. Prior to opening to the public in June and December of each year, Respondent shall send to the EPA a signed copy of the completed start-up procedures checklist.

14. Respondent shall monitor the System's water monthly for total coliform bacteria from June through September and from December through March each year. 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.

15. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violations cited in paragraph 6, above, persist, Respondent shall notify the public of these violations. Thereafter, following any future violation of Part 141, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 calendar days after providing public notice, Respondent shall submit a copy of the notice and certification to the EPA. 40 C.F.R. § 141.31(d). 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>.

16. Respondent shall notify the public of the violations cited in paragraph 7, above. Thereafter, following any future violation of Part 141, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 calendar days after providing public notice, Respondent shall submit a copy of the notice and certification to the EPA. 40 C.F.R. § 141.31(d). 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>.

17. Respondent shall report any violation of seasonal start-up procedures to the EPA no later than the end of the next business day after discovering the violation and notify the public in accordance with subpart Q of this part, as required by 40 C.F.R. § 141.861(a)(2).

18. Respondent shall report any violation of total coliform monitoring requirements to the EPA within 10 calendar days after discovering the violation and notify the public in accordance with subpart Q of this part, as required by 40 C.F.R. § 141.861(a)(4).

19. 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.

20. Respondent must send all reporting and notifications required by this Order to the EPA at:

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

GENERAL PROVISIONS

21. This Order is binding on Respondent, its successors, assigns, and any person (*e.g.*, employee, contractor, or other agent) acting in concert with Respondent.

22. 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.

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Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil administrative 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 83821 (December 23, 2020).

23. 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: December 9, 2021.

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