



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

March 8, 2021

Ref: 8ENF-W-SD

SENT VIA EMAIL
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March 8, 2021

9:46 AM

Received by

EPA Region VIII

Hearing Clerk

Mr. Casey Ericson, Director
Kennington Springs Pipeline, Inc.
Kennington Springs Pipeline Public Water System
bittercreekrd@yahoo.com

Re: Administrative Order issued to Kennington Springs Pipeline, Inc. regarding Kennington Springs Pipeline Public Water System, PWS ID # WY5601199, Docket No. SDWA-08-2021-0014

Dear Mr. Ericson:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency (EPA) 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 Kennington Springs Pipeline, Inc. (Company), as owner and/or operator of the Kennington Springs Pipeline Public Water System (System), has violated the EPA's drinking water regulations at 40 C.F.R. part 141 (Part 141). The EPA is issuing this Order because our previous compliance assurance efforts have not been effective in returning the System to compliance with Part 141 and because the Company has not provided the EPA information in response to the February 4, 2021, Notice of Potential Violation and Opportunity to Confer letter demonstrating the violations cited in the Order did not occur.

The Order is effective upon the date received. If the Company complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may trigger immediate action by the EPA, including a complaint seeking administrative penalties. The complaint may lead to assessment of civil penalties of up to \$59,017 (as adjusted for inflation) per day of violation, a federal court injunction ordering compliance, or both.

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 entities, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or Part 141. Also enclosed are several templates and fact sheets to assist you in addressing the outstanding violations.

Please be aware that you are required to submit to the EPA a plan and schedule for bringing the System into compliance with Part 141. The EPA's approval of the Company's 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 Company to contact any such governmental agency or agencies regarding any applicable approval requirements.

Please be aware that if the System has a significant deficiency violation while this Order is in effect, a plan and schedule for bringing the System into consistent compliance with Part 141 must be submitted to the EPA, as noted in the attached Order. The EPA's approval of the Company's 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 Company's to contact any such governmental agency or agencies regarding any applicable approval requirements.

The EPA acknowledges that the COVID-19 pandemic may be impacting your business. We will consider nationwide public health developments and your specific circumstances in determining an appropriate timeline for settlement in this case while still pursuing regulatory compliance with Part 141 as expeditiously as possible. Any questions from the System's attorney should be directed to Mia Bearley, Senior Assistant Regional Counsel, 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,

**COLLEEN
RATHBONE**

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COLLEEN RATHBONE
Date: 2021.03.08
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Colleen Rathbone, Chief
Water Enforcement Branch
Enforcement and Compliance Assurance Division

Enclosures

cc: Lincoln County Commissioners (rking@lcwy.org)
Jason Mavy, Operator (jason@starvalleywater.com)
Ernie Eaton, Alternate Operator (veratxrnie@yahoo.com)
Melissa Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

March 8, 2021
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Received by

IN THE MATTER OF:)
)
Kennington Springs Pipeline, Inc.)
)
Respondent.)
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Kennington Springs Pipeline)
Public Water System)
)
PWS ID #WY5601199)

Docket No. SDWA-08-2021-0014

EPA Region VIII
Hearing Clerk

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 official.
2. Kennington Springs Pipeline, Inc. (Respondent), is a Wyoming corporation that owns and/or operates the Kennington Springs Pipeline Public Water System (System), which provides piped water to the public in Lincoln County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via one spring. The water is treated by calcium tablets added at the spring collection box.
4. The System has approximately 21 service connections used by approximately 45 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. 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).
6. Part 141 includes monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

7. Respondent is required to complete corrective action of a significant deficiency or comply with an EPA-approved corrective action plan and schedule within 120 calendar days (or earlier if instructed by the EPA) of receiving written notification from the EPA of a significant deficiency. 40 C.F.R. § 141.404(a). Respondent is required to notify the EPA within 30 calendar days of completion of a significant deficiency corrective action. 40 C.F.R. § 141.405(a)(2). Respondent received a sanitary survey report from the EPA on December 22, 2017, which detailed significant deficiencies. The EPA approved a schedule for the System to complete the corrective actions by July 4, 2018; later extended to November 29, 2019. Respondent failed to complete all corrective actions by November 29, 2019, and failed to notify the EPA within 30 calendar days of completion of a significant deficiency corrective action and therefore, violated this requirement.

8. Respondent is required to certify to the EPA that an annual Consumer Confidence Report (CCR) has been distributed to the System's customers, and that the information is correct and consistent with compliance monitoring data previously submitted to the EPA. The certification is due within three months of distributing the CCR. 40 C.F.R. § 141.155. Respondent failed to provide CCR certification for the calendar year of 2017. The EPA received the 2017 CCR certification January 29, 2019. No further action is required.

9. Respondent is required to conduct triggered source monitoring within 24 hours of being notified that a regular, routine total coliform monitoring sample is positive for total coliform. 40 C.F.R. § 141.402(a). Respondent must sample each groundwater source, and have it analyzed for a fecal indicator (e.g., *E. coli*). Respondent monitored the System's source for a fecal indicator within 24 hours after being notified of the total coliform positive sample collected on July 3, 2017, but failed to comply with a coliform monitoring requirement to report the monitoring violation to the EPA within 10 days after the system discovered the violation. 40 C.F.R. § 141.861(a)(4). The triggered sample result was reported to the EPA on September 17, 2017, more than 10 days after the requirement. No further action is required.

10. 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 violation identified in paragraph 6 above, is classified as Tier 2 violation, requiring public notice within 30 calendar days, according to 40 C.F.R. § 141.203. Respondent failed to notify the public of the violations cited in paragraph 6 and failed to submit a copy to the EPA and therefore, violated this requirement.

11. 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 violation identified in paragraph 8, above, is classified as Tier 3 violation, requiring public notice within 1 year, according to 40 C.F.R. § 141.204. Respondent failed to notify the public of the violation cited in paragraph 8 and failed to submit a copy to the EPA and therefore, violated this requirement.

12. Respondent is required to report any failure to comply with Part 141 to the EPA within 48 hours (except where Part 141 specifies a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violation cited in paragraph 6, 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):

13. Within **30** calendar days of receipt of this Order, Respondent shall consult with the EPA regarding action to correct any open significant deficiencies and shall submit a proposed schedule and plan to the EPA for completion of all corrective actions. The EPA will review the proposed schedule and

the approved schedule (Schedule) shall be incorporated into this Order with each milestone to be an enforceable requirement upon written approval by the EPA. Within 10 calendar days after completing all tasks included in the Schedule, Respondent shall notify the EPA of the project's completion. Respondent shall provide sufficient evidence of the project's completion to the EPA including photographs of the corrective actions. Thereafter, if the EPA identifies any significant deficiency at the System, Respondent shall complete corrective action for each significant deficiency and provide notification to the EPA within 30 calendar days of completion, as required by 40 C.F.R. §§ 141.403(a) and 141.405(a)(2).

Corrective Action:

- The collection box at Gravity Tank ST01 must have a vent that is separate from the overflow.
14. Respondent shall certify to the EPA that the CCR for calendar year 2017 has been distributed to the System's customers, and that the information is correct and consistent with compliance monitoring data previously submitted to the EPA. Thereafter, Respondent shall provide CCR certifications as required by 40 C.F.R. § 141.155.
15. Within 24 hours of being notified that a routine total coliform monitoring result is positive, Respondent shall conduct source water monitoring as required by 40 C.F.R. § 141.402. If the sample is negative, Respondent shall report that result to the EPA no later than 10 calendar days after the end of the month in which the sample is taken. If a sample is *E. coli* positive, Respondent shall notify the EPA immediately for appropriate assistance 40 C.F.R. § 141.403(a)(4). Respondent shall comply with the treatment technique requirements, according to 40 C.F.R. § 141.403(a), and provide appropriate public notification pursuant to 40 C.F.R. § 141.402(g) within 24 hours as required by 40 C.F.R. § 141.202(b)(1). Thereafter, Respondent shall comply with all source water monitoring and related requirements in 40 C.F.R. § 141.402. When reporting any triggered source water sample result, Respondent shall specify that it is a triggered source water sample. Respondent 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).
16. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violations cited in paragraph 6, above, persists, Respondent shall notify the public of this violation. 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>. 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). The public water system must include with this certification a representative copy of the type of notice distributed, published, posted, and made available to the persons served by the system and to the media.
17. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.

18. For any future violation of Part 141 for which this Order does not specify a reporting period, Respondent 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, Respondent shall report the violation to the EPA within that different period.

19. If the population or number of connections served by the falls below 25 individuals or 15 connections, Respondent 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>.

20. 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 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, Respondent shall remain obligated to comply with this Order.

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

Email: R8DWU@epa.gov and carballal-broome.christina@epa.gov

GENERAL PROVISIONS

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

23. 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.

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

25. 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: March 8, 2021.

**COLLEEN
RATHBONE**

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

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