

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8



IN THE MATTER OF:)
) Docket No. SDWA-08-2024-0002
Town of Wheatland)
) **ADMINISTRATIVE ORDER**
Respondent.)
)
Wheatland Public Water System)
PWS ID #WY5600187)

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. Town of Wheatland, Wyoming (Respondent) is a municipality that owns and operates the Wheatland Public Water System (System), which provides piped water to the public in Platte County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via eight wells. The water is treated via settling basins and is disinfected.
4. The System has approximately 2,008 service connections used by year-round residents and regularly serves an average of approximately 3,659 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. Within 120 days of receiving written notification from the EPA of a significant deficiency, Respondent is required either to complete corrective action for that significant deficiency within 120 calendar days (or earlier if instructed by the EPA) or to be in compliance with an EPA-approved corrective action plan and schedule. 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). The EPA sent the Respondent a sanitary survey report dated February 21, 2020, which detailed significant deficiencies. The EPA approved a corrective action schedule for Respondent to complete corrective actions for two deficiencies by December 15, 2021 and for a third deficiency by September 27, 2022. The EPA’s record reflects that Respondent failed to complete the corrective actions for the first two significant deficiencies by December 15, 2021 and for the third by September 27, 2022, and that Respondent failed to notify the EPA regarding any corrective actions by January 14, 2022, and October 27, 2022, respectively and therefore violated these requirements.

8. 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 December 2021 and therefore violated this requirement. (Note: Respondent did collect the required total coliform samples on January 25, 2022.)
9. In 2021, 2022, and 2023, Respondent was required to monitor the System's water for lead and copper by collecting at least 40 samples during each six-month monitoring period beginning on January 1 and July 1 of each year. 40 C.F.R. §§ 141.86(c) and (d).
10. For the six-month lead and copper monitoring period from July 1 through December 31, 2021, Respondent failed to collect the required number of samples of the System's water from locations in accordance with the site selection criteria set forth in 40 C.F.R. § 141.86(a). On February 9, 2022, in accordance with 40 C.F.R. § 141.86(f), the EPA notified Respondent that six lead and copper samples had been taken from sites that did not meet the site selection criteria and therefore were invalidated, meaning the Respondent would be required to take replacement samples within 20 days. Respondent was therefore required to take replacement samples, according to 40 C.F.R. § 141.86(f)(4). Respondent failed to collect replacements for invalidated samples by March 1, 2022, and therefore violated this requirement.
11. For the six-month lead and copper monitoring period from January 1 through June 30, 2022, Respondent failed to collect the required number of samples of the System's water and therefore violated 40 C.F.R. § 141.86(c) and (d). (Note: Respondent did collect the required number of lead and copper samples during the July 1 through December 31, 2022, and the January 1 through June 30, 2023, monitoring periods.)
12. Respondent is required to deliver a consumer notice of individual tap monitoring results for lead and copper to the persons served at each sampled site no later than 30 days after the System learns of the tap monitoring results, in accordance with 40 C.F.R. § 141.85(d). Within 90 calendar days following the end of each monitoring period, Respondent is required to submit to the EPA a sample copy of the consumer notification along with a certification that the notification has been distributed, in accordance with 40 C.F.R. § 141.90(f)(3). The EPA's record reflects that Respondent failed to deliver a consumer notice to the persons served at each sampled site and failed to submit a copy of the consumer notice and certification to the EPA for the samples collected during the January 1 through June 30, 2022, monitoring period by the required deadlines and therefore violated this requirement. (Note: Respondent did submit a copy of the consumer notice and certification to the EPA on August 11, 2023.)
13. Respondent is required to monitor the System's water for synthetic organic contaminants (SOCs) at every entry point to the distribution System which is representative of each well after treatment. Respondent is required to collect a minimum of two quarterly samples in one year every three-year compliance period. 40 C.F.R. § 141.24(h)(4)(ii). Respondent failed to monitor the System's water for SOCs for the second quarterly sample at the North Settling Basin sampling station/sampling point SS01/SP03 between January 1, 2020, and December 31, 2022, and therefore violated this requirement. (Note: Respondent did collect one quarterly SOC sample on November 16, 2022, at the SS01/SP03 sample site).

14. 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 7, above, is classified as a violation 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 the violation cited in paragraph 7 and failed to submit a copy of the public notice and certification to the EPA and therefore violated this requirement.

15. 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 paragraphs 8, 9, 10, 11, and 13, above, are classified as violations requiring Tier 3 public notice within one year, according to 40 C.F.R. § 141.204. The EPA's records reflect that the Respondent failed to notify the public of the violations cited in paragraphs 8 through 11 and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement. The deadline for public notice of the violations cited in paragraph 13 has not yet passed.

16. 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 violations cited in paragraphs 7 and 10 through 13, above, to the EPA and therefore violated this requirement.

17. 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 8, 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):

18. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.

19. Within 10 calendar days of receipt of this Order, Respondent shall consult with the EPA regarding action to correct significant deficiencies and shall submit a proposed schedule and plan to the EPA for completion of all corrective actions specified below. The plan shall include proposed modifications to the System and estimated costs of modifications. The EPA will review the proposed schedule and any 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 within 120 days (unless EPA approves a different deadline in writing) 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 Actions:

- Provide the following documentation in order to verify the integrity of the North Storage Tank (ST01) air vent and hatch:
 - A completed copy of the Unknown Integrity Checklist.
 - A copy of an inspection report for ST01, including a description of the condition of each specified tank component and photographs.
 - The date that any corrective actions needed to address deficiencies with the tank components will be completed. The EPA will review the inspection report and may require additional corrective actions.
- Configure the overflow pipes of the North and South Storage Tanks (ST01 and ST03) so that they terminate at an elevation between 12 and 24 inches above the ground surface and discharge over a drainage inlet structure, splash plate, or engineered riprap.
- Other than openings afforded by the 24-mesh screens on the vent and overflow, seal all openings in the Black Mountain Storage tank (ST02) to prevent contamination from entering the tank.

20. 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 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).

21. Respondent shall monitor the System's water for lead and copper between June 1 and September 30, 2024, and annually thereafter, collecting 20 samples during each sampling event, unless directed otherwise by the EPA. 40 C.F.R. §§ 141.86(c) and (d). Within 10 calendar days following the end of each monitoring period, Respondent shall report analytical results to the EPA, as required by 40 C.F.R. § 141.9.

22. Within 30 calendar days after receipt of this Order, and thereafter, no later than 30 days after the Respondent learns of the tap monitoring results, Respondent shall deliver a consumer notice of individual tap monitoring results to the persons served at each sampled site, in accordance with 40 C.F.R. § 141.85(d). Within 45 days after receipt of this Order, and thereafter, within 90 calendar days following the end of each monitoring period, Respondent shall submit to the EPA a sample copy of the consumer notification along with a certification that the notification has been distributed, in accordance with 40 C.F.R. § 141.90(f)(3). Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8>.

23. Within 30 calendar days after receipt of this Order, and as required by Part 141 thereafter, Respondent shall monitor the System's water for SOCs in accordance with 40 C.F.R. § 141.24(h)(4).

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).

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

25. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 7, above, persists, Respondent shall notify the public of this violation. 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>.

26. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 8, 9, 10, 11, and 13, 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>.

27. 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.

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

Email: R8DWU@epa.gov, and
Brookins.Rachel@epa.gov

GENERAL PROVISIONS

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

30. 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.

31. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$67,544 (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; 88 Fed. Reg. at 989 (January 6, 2023).

32. 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: October 3, 2023.

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