



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

APR 11 2018

2018 APR 11 AM 10:01
FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W-SDW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brush Creek, LLC
CT Corporation System, Registered Agent
1908 Thomes Avenue
Cheyenne, Wyoming 82001-3527

Re: Administrative Order issued to Brush Creek, LLC, PWS ID # WY5601644, Docket No.
Docket No. SDWA-08-2018-0011

Dear Sir/Madam:

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 Brush Creek, LLC (Company), as owner and/or operator of the Brush Creek Ranch Employee Housing Public Water System (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

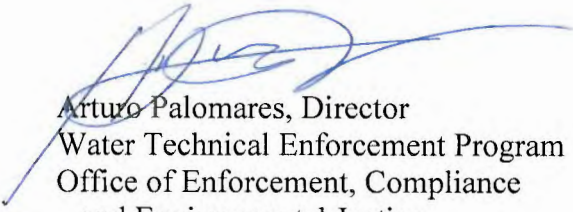
The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any pertinent information you believe the EPA may not have (any monitoring that may have been done but not submitted, etc.). If the EPA does not hear from you, the EPA will assume this information is correct.

If the Company complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a federal court injunction ordering compliance.

If you have any questions or to request an informal conference with the EPA, please contact Olive Hofstader at the above address (with the mailcode 8ENF-W-SDW), via email at hofstader.olive@epa.gov, or by phone at (800) 227-8917, extension 6467, or (303) 312-6467. Any questions from the Company's attorney should be directed to Mia Bearley, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L), 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,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Mr. Bruce White, Owner
Mr. Mike Williams, Executive Vice President
Mr. Chad Lybrook, Director of Operations
Mr. Kyle Wilson, Director of Engineering
Mr. Chris Branch, Maintenance Manager
Carbon County Commissioners (johnjohnson@carbonwy.com)
WY DEQ/DOH (via email)

Melissa Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2018 APR 11 AM 10:01

IN THE MATTER OF: _____)
)
Brush Creek, LLC,)
Brush Creek Ranch Employee Housing)
Public Water System)
)
Respondent. _____)

Docket No. ~~SDWA-08-2018-0011~~

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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 officials.
2. Brush Creek, LLC (Respondent) is a Wyoming corporation that owns and/or operates the Brush Creek Ranch Public Water System (System), which provides piped water to the public in Carbon County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via 13 wells. The water is disinfected with sodium hypochlorite. One section of the System is operated year round. Eight sections of the System are operated seasonally from June to September. The entire Ranch was activated as a public water system on May 10, 2016.
4. The System has approximately 30 service connections and regularly serves an average of approximately 365 individuals daily at least 60 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. The System is also a “transient, non-community water system” as defined in 40 C.F.R. § 141.2.
5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141. The Drinking Water Regulations are “applicable requirements” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The Drinking Water Regulations include 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 monitor the System’s water annually for nitrate. 40 C.F.R. § 141.23(d). Respondent failed to monitor the System’s water for nitrate at the Gun Club sampling point (SS02) during 2016, and, therefore, violated this requirement.
8. Respondent is required to monitor the System’s water monthly for total coliform bacteria. 40 C.F.R. § 141.854(b) and (i). Respondent failed to take the required number of total coliform samples of the System’s water in June, July, August and September 2016, and June, September, November and December 2017, and, January 2018, and therefore, violated this requirement.

9. If the System has more than one positive total coliform sample result within the same month or fails to take three total coliform repeat samples within 24 hours following a routine total coliform positive result, Respondent is required to conduct a Level 1 assessment and submit it to the EPA within 30 days of learning of the monitoring results or failure to monitor violation. The assessment shall determine the cause of the positive samples or monitoring violation and identify completed corrective actions of any deficiencies. 40 C.F.R. §§ 141.858-141.860. Respondent failed to conduct and submit a Level 1 assessment by July 28, 2017, after more than one positive total coliform sample result on June 20, 2017, and, therefore, violated these requirements. Respondent submitted a Level 1 assessment on August 17, 2017.

10. Respondent is required to notify the public of certain violations of the Drinking Water Regulations no later than 1 year after the System learns of the violation (Tier 3) and, within 10 days after completing public notice, provide a copy of the public notice to the EPA. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of the 2016 violations cited in paragraphs 7 and 8, above and/or 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 the Drinking Water Regulations no later than 30 days after the System learns of the violation (Tier 2) and, within 10 days after completing public notice, provide a copy of the public notice to the EPA. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of the 2017 violation cited in paragraph 9, above and/or failed to submit a copy to the EPA, and therefore violated this requirement.

12. Respondent is required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours (except where the Drinking Water Regulations specify a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 7 and 9, above, to the EPA and, therefore, violated this requirement.

13. Respondent is required to report any failure to comply with any coliform monitoring requirement to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.861(a)(4). Respondent failed to report the violations cited in paragraph 8, above, to EPA and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

14. Within 30 days after receipt of this Order, and as required by the Drinking Water Regulations thereafter, Respondent shall monitor the System's water for nitrate. 40 C.F.R. § 141.23. Respondent shall report analytical results to the EPA within the first 10 days following the month in which Respondent received sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of the nitrate monitoring requirements to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b).

15. Respondent shall monitor the System's water for total coliform monthly, and, if any sample is positive for total coliform, conduct repeat and additional routine monitoring, as required by 40 C.F.R. § 141.853-858. Respondent shall report analytical results to the EPA within the first 10 days following the month in which Respondent collects samples, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements in 40 C.F.R. part 141 to the EPA within 10 days after discovering the violation as required by 40 C.F.R. § 141.861(a)(4).

16. Following any future instances of the System (1) having more than one positive total coliform sample result (including routine and repeat) within the same month, or (2) failing to collect three repeat samples within 24 hours following a total coliform positive sample, Respondent shall conduct a Level 1 assessment in compliance with 40 C.F.R. §§ 141.858-141.860. Respondent shall report any future total coliform treatment technique violations to the EPA no later than the end of the next business day after learning of it. 40 C.F.R. § 141.861.

17. Within 30 days after receipt of this Order, Respondent shall notify the public of the 2016 monitoring violations (Tier 3) and the 2017 violation (Tier 2) cited in paragraphs 7 through 9, above. Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-and-instructions-reporting-forms#new>. The template to use for the Tier 3 notice is titled Revised Total Coliform Rule - Failure To Monitor - PN Template. The template to use for the Tier 2 notice is titled Revised Total Coliform Rule - Failure To Perform Level 1 Assessment - PN Template. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to the EPA. Thereafter, 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.

18. 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.

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 shall, no later than the date of such lease, sale, or other contract, provide a copy of this Order to the lessee, purchaser, or contractor. No later than 10 days thereafter, Respondent shall notify the EPA in writing of the lease, sale, or other contract, with such notification to include the name and contact information of the person who has leased, bought, or contracted to operate the System. Respondent shall remain obligated to comply with this Order even if Respondent leases the System to another person or entity or hires another person or entity to operate the System.

20. Respondent shall send all reporting and notifications required by this Order in writing to:

U.S. EPA Region 8 (8P-W-DW)
1595 Wynkoop
Denver, Colorado 80202-1129

Or, email: R8DWU@epa.gov

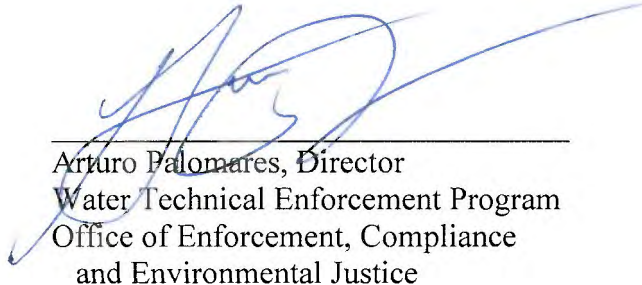
GENERAL PROVISIONS

21. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.
22. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$55,907 (as adjusted for inflation) per day of violation and/or a court injunction ordering compliance. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 83 Fed. Reg. at 1193 (January 10, 2018).
23. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

Issued: April 11, 2018.



James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice