



**REGION 8**

DENVER, CO 80202

**FILED**

**Jul 16, 2024**

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**U.S. EPA REGION 8  
HEARING CLERK**

July 16, 2024

Ref: 8ECA-W-S

SENT VIA EMAIL

DIGITAL DELIVERY RECEIPT REQUESTED

Ms. Marcy Cobell  
Heart Butte School Public Water System  
[marcyc@heartbutte.k12.mt.us](mailto:marcyc@heartbutte.k12.mt.us)

Subj: Second Violation of Heart Butte School Administrative Order, Docket No. SDWA-08-2018-0025, Heart Butte School Public Water System, PWS ID # 083090009

Dear Ms. Cobell:

The purpose of this letter is to notify Heart Butte School “Respondent” that civil penalties and/or a federal court injunction may be ordered against Respondent for violations of the Safe Drinking Water Act, 42 U.S.C. section 300f, *et seq.* (Act) at the Heart Butte School Public Water System (System). Specifically, on July 18, 2018, the EPA issued the above-referenced Administrative Order (Order), followed by four Addendums to the Order dated November 27, 2018; May 28, 2020; December 17, 2020; and December 30, 2022. These filings directed Respondent to comply with the National Primary Drinking Water Regulations (Part 141) as issued by the EPA under the Act. Our records indicate that the Respondent is in violation of the Order.

The Order, along with the December 30, 2022, Addendum (Addendum #4) incorporated therein, included the following requirements. Respondent has not properly completed these requirements and, therefore, the following comprise outstanding violations:

**Violation: Failure to meet Surface Water Treatment Rule (SWTR) Filtration and Disinfection Requirements**

Summarized from the third and fourth “Milestones” from Addendum #4, as well as paragraph 18 of the Order, Respondent failed to meet the following requirements:

- Failure to meet the deadlines of July 31, 2023, for the Project completion including Water Main and Connection to Heart Butte Water Public Water System (083090005) and abandonment of Heart Butte School’s Wells (WL02 and WL03) as a Drinking Water Supply.
- Failure to provide the EPA with a plan and schedule that brings Respondent into compliance with 40 C.F.R. part 141, Subparts H and T, and resolves the System’s filtration and disinfection violations.
  - **Action Required:** Respondent must provide an updated plan and schedule regarding how to resolve the System’s filtration and disinfection violations within **30 days of receipt of this letter**. Disconnection of the Heart Butte School’s Wells (WL02 and WL03) must be completed by **September 30, 2024**.

**Violation: Failure to Monitor for Total Coliform Bacteria and Chlorine Residual**

Summarized from paragraphs 7, 9, and 16, and 22 of the Order: Respondent is required to monitor the System's water monthly for total coliform bacteria. 40 C.F.R. §§ 141.853-858. Additionally, Respondent is required to monitor the residual disinfectant level in the System’s distribution system at the same time and place as total coliforms are to be sampled as an interim disinfection requirement until filtration is installed or another EPA agreed upon corrective action has been met, as outlined in the July 28, 2016, letter from EPA to the System. 40 C.F.R. § 141.72. Respondent is required to report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.861(a)(4).

- Failure to monitor monthly for total coliform bacteria and for the residual disinfectant level in the System’s distribution system (chlorine residual) and report those violations within 10 days after discovering the violation.
- Failure to collect total coliform bacteria and chlorine residual during the months of October 2023, November 2023, and March 2024, and did not report these violations.
  - **Action Required:** The EPA has received May 2024 and June 2024 total coliform and chlorine residual results. Respondent must continue to monitor

monthly the chlorine residual level in the System's water in the distribution system at the same time and place it monitors for total coliform samples and report measured value on each total coliform sample chain of custody sent to the laboratory.

**Violation: Failure to Monitor for Total Trihalomethanes (TTHM) and Haloacetic Acids (HAA5s) during 2018, 2019, 2022, and 2023.**

Summarized from paragraphs, 10, 25, and 29 of the Order: Respondent is required to collect a set of TTHM and HAA5 samples triennially and to submit monitoring results to the EPA within 10 days after the end of each monitoring period. 40 C.F.R. §§ 141.623(a)(b) and 141.629.

- Failure to collect TTHM and HAA5 samples annually.
- Failure to collect TTHM and HAA5 samples during the 2018, 2019, 2022 and 2023 and to report that violation.
  - **Action Required:** This violation must be corrected by collecting TTHM and HAA5 samples during the month of **August 2024** and Respondent must report results to the EPA by September 10, 2024.

**Violation: Failure to Monitor for Sodium**

Summarized from paragraphs, 11, 26, and 29 of the Order: Respondent is required to monitor the System's water for inorganic contaminants (IOCs) including sodium during each three-year compliance period, in accordance with 40 C.F.R. § 141.23(a) and (c). Respondent shall report monitoring results to the EPA within the first 10 days following either (1) the month in which the result is received or (2) the end of the required monitoring period as stipulated by the EPA, whichever is shortest. 40 C.F.R. § 141.31(a).

- Failure to timely monitor for sodium as part of the IOCs group, as required in 40 C.F.R. § 141.23.
- Failure to monitor for sodium during the 2020 and 2022 monitoring period and failure to report that violation.
  - **Action Required:** This violation must be corrected by **September 1, 2024**, by collecting a sodium sample at the treatment house sample point TP01/SP01.

**Violation: Failure to Provide Public Notices (PNs)**

Summarized from paragraph 30 of the Order: Respondent shall notify the public quarterly of the failure to provide filtration violation as long as the violation is not corrected. Within 10 days after providing each public notice, Respondent shall submit a copy of the notice to the EPA with a signature certifying notification completion. 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.

- Failure to notify the public quarterly of Respondent’s failure to meet the treatment technique requirements of the Surface Water Treatment Rule (SWTR).
- Respondent has only provided three quarterly PNs since October 1, 2018, including one on June 27, 2024.
  - **Action Required:** Respondent must continue to provide the EPA with updated SWTR public notices every quarter. Notify the public, quarterly, of all the missed PNs for failure to provide filtration violation. The template for SWTR public notice is enclosed with this letter.
- Failure to notify the public of Respondent’s Total Coliform and Chlorine Residual monitoring violations.
- Respondent did not notify the public about its total coliform and chlorine residual monitoring violations for failure to sample in October 2023, November 2023, and March 2024. On June 27, 2024, EPA received a copy of the public notice for those failure to monitor violations for total coliform.
  - **Action Required:** This violation has been corrected. Respondent must provide the EPA with a copy of the Revised Total Coliform Rule (RTCR) violation PN, enclosed with this letter, along with Respondent’s signature certifying that it has issued the PN to the public to address any future RTCR violations.
- Failure to notify the public of Respondent’s TTHM and HAA5 monitoring violations.
- Respondent did not notify the public about Respondent’s 2018, and 2019 TTHM and HAA5 monitoring violations. EPA received a quarterly progress report on June 17, 2024.
  - **Action Required:** This violation must be corrected within 30 days of receiving this letter. Specifically, Respondent must provide the EPA with a copy of the TTHM and HAA5 violation PN, along with Respondent’s

signature certifying that it has issued the PN to the public. The appropriate public notice template is enclosed with this letter.

### **Violation: Failure to Provide Quarterly Progress Reports**

Summarized from paragraph 20 of the Order, as well as from Addendum #4: Respondent shall provide the EPA with quarterly progress reports on the progress made toward bringing the System back into compliance with 40 C.F.R. part 141, subparts H and T, by the 10<sup>th</sup> of the month following the end of the relevant quarter.

- Failure to provide quarterly progress reports by the 10<sup>th</sup> day of the month following the end of the relevant quarter. EPA received a quarterly progress report on June 17, 2024.
  - **Action Required:** Respondent must continue providing the EPA with quarterly progress reports until the System has met SWTR filtration and disinfection requirements as provided in 40 C.F.R. part 141, subparts H and T.

Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$69,733 (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 89309 (December 27, 2023).

The EPA may choose not to file a complaint seeking civil penalties if the following criteria are met by Respondent: correction of all violations identified herein, including completion of the required monitoring, reporting and corrective actions, by the deadlines provided above for each violation; provision to the EPA of notices of completed corrective actions; and adherence to all other requirements of the Order with no additional violations being incurred.

If you have any questions or to request an informal conference with the EPA, please contact Christina Carballal via email at [carballal@epa.gov](mailto:carballal@epa.gov), or by phone at (800) 227-8917, extension 6046, or (303) 312-6046. Any questions from the School's attorney should be directed to Mia Bearley, Senior Assistant Regional Counsel, via email at [bearley.mia@epa.gov](mailto:bearley.mia@epa.gov) or by phone at (800) 227-8917, extension 6554, or (303) 312-6554.

*Subj: Second Violation of Heart Butte School Administrative Order, Docket No. SDWA-08-2018-0025, Heart Butte School Public Water System, PWS ID #083090009*

We urge your prompt attention to this matter.

Sincerely,

Tiffany Cantor, Acting Manager  
Water Enforcement Branch  
Enforcement and Compliance Assurance Division

ENCLOSURES

Administrative Order  
First Addendum  
Second Addendum  
Third Addendum  
Forth Addendum  
Public Notices Templates

cc:

EPA Regional Hearing Clerk ([r8\\_hearing-clerk@epa.gov](mailto:r8_hearing-clerk@epa.gov))  
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