



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

February 26, 2021

February 26, 2021

10:35 AM

Received by

EPA Region VIII

Hearing Clerk

Ref: 8ENF-W-SD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
and via email

Mr. Harry Wolff
Harry Wolff Living Trust
10698 WY-59, Gillette,
Wyoming 82718

Re: Administrative Order issued to Harry Wolff and the Harry Wolff Living Trust regarding Roberto's Café Public Water System, PWS ID # WY5601135, Docket No. SDWA-08-2021-0013

Dear Mr. Wolff:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency 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 you, individually, and the Harry Wolff Living Trust, as owners and/or operators of the Roberto's Café Public Water System (System), have 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.

The Order is effective upon the date received. If you comply with the Order, the EPA may close the Order without further action. Failure to comply with the Order, however, 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.

EPA acknowledges that the COVID-19 pandemic may be impacting your business. If you have specific COVID-19 issues that would affect the timeframes listed herein, please contact Nathan Hicks. We will consider nationwide public health developments and your specific circumstances in determining an appropriate timeline for responding to this Administrative Order, while still pursuing regulatory compliance with the Safe Drinking Water Act as expeditiously as possible.

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 your schedule does not substitute for any other approval that may be required by any other governmental entity for modifying the System. The EPA encourages you to contact any such governmental agency or agencies regarding any applicable approval requirements.

If you have any questions or to request an informal conference with the EPA, please contact Nathan Hicks via email at hicks.nathaniel@epa.gov, or by phone at (800) 227-8917, extension 6546, or (303) 312-6546. Any questions from your 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
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Colleen Rathbone, Chief
Water Enforcement Branch
Enforcement and Compliance Assurance Division

Enclosures

cc: WY DEQ/DOH (via email)
Campbell County Commissioners (RRB01@ccgov.net; MAC01@ccgov.net)
Melissa Haniewicz, EPA Regional Hearing Clerk
Duaine Faucett, Contract Operator, (duaine@waterguywyoming.com)

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Hearing Clerk

IN THE MATTER OF:)
)
Harry Wolff Living Trust, Property Owner)
Harry Wolff, Operator)
)
Respondents.)
)
Roberto's Café Public Water System)
PWS ID #WY5601135)

Docket No. SDWA-08-2021-0013

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. Harry Wolff, individually, and the Harry Wolff Living Trust (Respondents) own and/or operate the Roberto's Café Public Water System (System), which provides piped water to the public in Campbell County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via one well. The water is treated with a media filter to remove iron and then a cartridge filter to remove turbidity.
4. The System regularly serves an average of approximately 90 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.
5. Respondents are 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).

VIOLATIONS

6. Respondents are 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). Respondents are 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). Respondents received a sanitary survey report from the EPA on July 2, 2019, which detailed significant deficiencies. The EPA approved a schedule for the System to complete the corrective actions by February 7, 2020. Respondents failed to complete all corrective actions and/or failed to notify the EPA within 30 calendar days of completion of a significant deficiency corrective action and therefore, violated this requirement.

7. Respondents are 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 Tier 2 violations, requiring public notice within 30 calendar days, according to 40 C.F.R. § 141.203. Respondents failed to notify the public of the violations cited in paragraph 6 and/or failed to submit a copy to the EPA and therefore, violated this requirement.

8. Respondents are 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). Respondents failed to report the violations cited in paragraph 6, above, to the EPA and therefore, violated this requirement.

ORDER

Respondents are ordered to perform the following actions upon receipt of this Order (unless a different deadline is specified below):

9. Respondents are ordered to comply with all provisions of the Act and Part 141, including but not limited to, each requirement cited above.

10. Within 30 calendar days of receipt of this Order, Respondents shall consult with the EPA regarding the actions to correct significant deficiencies and shall submit a proposed schedule (Schedule) and plan to the EPA for completion of all corrective actions. The 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, Respondents shall notify the EPA of the project's completion. Respondents 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, Respondents shall complete corrective actions 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 Actions:

- The well casing must be adequately protected to prevent damage due to vehicle operations.

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

12. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violations cited in paragraph 6, above, persist, Respondents shall notify the public of these violations. 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, Respondents 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, Respondents shall submit a copy of the notice and certification to the EPA. 40 C.F.R. § 141.31(d).

13. If Respondents (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, Respondents 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, Respondents shall remain obligated to comply with this Order.

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

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

GENERAL PROVISIONS

15. This Order shall be binding on Respondents, and any person (*e.g.*, employee, contractor, or other agent) acting in concert with Respondents.

16. 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.

17. Violation of any part of this Order, the Act, or Part 141 may subject Respondents 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 1754 (January 13, 2020).

18. Respondents may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: February 26, 2021.

**COLLEEN
RATHBONE**

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

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