

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF	)	
	)	Docket No. SDWA-08-2023-0017
Brush Creek LLC,	)	
Respondent.	)	<b>EMERGENCY</b>
	)	<b>ADMINISTRATIVE ORDER</b>
Brush Creek Ranch	)	
<u>Public Water System (WY5601644)</u>	)	

**AUTHORITY**

1. This Emergency Administrative Order (Order) is issued by the U.S. Environmental Protection Agency (EPA) pursuant to the authority of section 1431(a) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i(a). The undersigned official has been properly delegated this authority.
2. The EPA may issue an order under section 1431(a) of the Act, 42 U.S.C. § 300i(a), when a contaminant that is present in or is likely to enter a public water system or an underground source of drinking water may present an imminent and substantial endangerment to the health of persons, and appropriate state and local authorities have not acted to protect the health of such persons.

**FINDINGS**

3. Brush Creek LLC (Respondent) is a limited liability company formed in Illinois 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.
4. Respondent is a “person” as that term is defined in the Act. 42 U.S.C. § 300f(12).
5. The System is supplied by a groundwater source accessed via 12 wells that serve ten different distribution systems. One of these ten distribution systems includes a sampling location at issue for this Order: Employee Housing (DIST). DIST is supplied by a groundwater source accessed via two wells (WL01 and WL02). The water from WL01 and WL02 is filtered and treated with chlorine. DIST is operated year-round.
6. The System has 50 service connections and regularly serves approximately 717 individuals daily for at least 60 days out of the year.
7. The System is a “public water system” as defined in 40 C.F.R. § 141.2 and section 1401(4) of the Act, 42 U.S.C. § 300f(4), and, therefore, is subject to the requirements of the Act and the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Part 141).

8. Prior to issuing this Order, the EPA consulted with the System to confirm the facts stated in this Order and with state and local authorities to ascertain they have not acted to protect the health of persons in this instance.

9. The EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to the health of humans, based on the facts indicated in paragraph 11, below. The EPA has determined that this Order is necessary to protect public health.

10. *E. coli* are bacteria whose presence indicates that the water may have been contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

11. On June 9, 2023, the EPA was notified that a routine total coliform sample collected from DIST of the System on June 7, 2023, was analyzed as positive for total coliform. On June 13, 2023, the EPA was notified that one repeat total coliform sample tested positive for *E. coli*, two repeat total coliform samples tested positive for total coliform and negative for *E. coli*, and an alleged triggered source sample that was rejected by EPA because it had a chlorine residual, also tested positive for total coliform and negative for *E. coli*. All of the repeat and triggered total coliform samples were collected on June 12, 2023.

12. In addition, a violation of the maximum contaminant level (MCL) for *E. coli* occurs if a system has any combination of a total coliform positive and *E. coli* positive routine and repeat samples or an *E. coli* positive routine and no repeat samples. These circumstances have occurred at the System, as set forth in paragraph 11, above, and, therefore, Respondent has violated the *E. coli* MCL. 40 C.F.R. § 141.860.

13. On June 13, 2023, the EPA provided Respondent with a boil water advisory public notice (public notice) template, and Respondent used this public notice to notify persons served by DIST of the System of the contamination on June 13, 2023.

## **ORDER**

### **INTENT TO COMPLY**

14. Within 24 hours of receipt of this Order, Respondent shall notify the EPA in writing of their intent to comply with this Order. Notification by e-mail to the EPA point of contact identified below is acceptable.

### **BOIL WATER ADVISORY PUBLIC NOTICE**

15. The public notice referenced in paragraph 13, above, shall remain in place until the EPA provides written notification to Respondent that the boil water advisory is no longer needed.

16. Respondent must carry out the public notice and other notice requirements as required by 40 C.F.R. part 141, subpart Q.

### **ALTERNATE WATER SUPPLY**

17. Using the public notice referenced in paragraph 13, above, Respondent shall, no later than 24 hours after receipt of this Order, notify the public that an alternative potable water supply is available at no cost to all users of DIST of the System as needed for drinking, cooking, maintaining oral hygiene, hand washing, and dish washing. Respondent shall provide at least two liters of potable water daily per person at a central location that is accessible to all persons served by DIST of the System. The alternate water supply shall be made available until the Respondent receives written notification from the EPA that it is no longer necessary to supply alternative potable water.

18. No later than five days after the effective date of this Order (see paragraph 36, below), Respondent shall provide the EPA with a copy of their public notice to the public indicating that an alternate water supply is available.

### **CORRECTIVE MEASURES**

19. Within 30 days after the effective date of this Order, Respondent shall provide the EPA with a plan and schedule that outlines corrective actions taken and/or to be taken to prevent future *E. coli* contamination at DIST of the System. The plan shall identify the cause of the contamination referenced in this Order, if possible, and include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project. The proposed schedule shall include specific milestone dates and a final completion date. The schedule must be approved by the EPA before construction or modifications may commence.

20. The approved schedule will be incorporated into this Order as an enforceable requirement upon written approval by the EPA. If implementation of the plan fails to correct and/or prevent *E. coli* contamination, the EPA may order further steps.

21. Respondent shall notify the EPA in writing within 24 hours after completing any corrective action.

## **DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS**

22. Within 24 hours after providing the notification required by paragraph 21, above, Respondent shall disinfect and flush DIST of the System after receiving written approval by EPA unless EPA indicates other required monitoring is needed prior to disinfecting and flushing.
23. After disinfecting and flushing DIST of the System, Respondent must take the following action beginning on the first date when chlorine levels returned to normal: collect consecutive daily (one sample per day) “special” purpose total coliform samples (defined in 40 C.F.R. § 141.853(b)) from DIST of the System until notified in writing by the EPA that consecutive daily sampling may be discontinued. These daily samples should be labeled as “special” samples, not for use for compliance. Respondent shall ensure that each sample is analyzed for total coliform and E. coli and shall email each result to the EPA immediately upon receipt of the analysis from the laboratory (*i.e.*, as soon as practicable, and in no event more than 24 hours after). Along with the total coliform sample collection, Respondent shall measure the chlorine residual indicating free or total, and provide these measurements along with the total coliform analysis from the laboratory.
24. After Respondent receives written notification from the EPA that they may discontinue consecutive daily “special” total coliform sampling, Respondent shall collect weekly (one sample per week) “special” total coliform samples from DIST of the System’s water.
25. After Respondent receives written notification from the EPA that it may discontinue weekly “special” total coliform sampling, Respondent shall thereafter resume monthly routine total coliform sampling as required by 40 C.F.R. § 141.854 to determine compliance.
26. Respondent shall collect all routine total coliform samples at sites that are representative of water throughout the System according to the Sample Siting Plan submitted to the EPA by Respondent per 40 C.F.R. § 141.853(a). Additionally, Respondent shall report all sampling results to the EPA by email immediately upon receiving the results (*i.e.*, as soon as practicable, and in no event more than 24 hours after).
27. Respondent shall remain obligated to comply with the requirements in 40 C.F.R. §§ 141.402 (to collect an additional source water sample) and 141.858 (to collect three repeat samples within 24 hours of being notified of a routine total coliform positive sample result). If a future repeat sample is positive for total coliform, Respondent shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.
28. The EPA may require Respondent to increase sampling at any time while this Order is in effect.

## REPORTING

29. Respondent must give daily updates, which may be submitted via e-mail, to the EPA to include the progress of corrective actions, providing an alternative water source, disinfecting and flushing DIST of the System, and monitoring for total coliform and chlorine residual. Updates must be submitted to the EPA daily until the EPA provides written notification to the Respondent that reports may be submitted less frequently or discontinued.

30. Any notices, reports, or updates required by this Order to be submitted to the EPA shall be submitted to:

Chris Brown  
via e-mail: brown.christopher.t@epa.gov  
Telephone (800) 227-8917, ext. 6669, or (303) 312-6669

31. This Order does not relieve Respondent from the obligation to comply with any applicable federal, or local law.

32. Failure to comply with this Order may result in civil penalties of up to \$28,239 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 88 Fed. Reg. at 989 (January 6, 2023).

33. This Order constitutes final agency action. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. 300j-7(a).

34. The EPA may modify this Order. The EPA will communicate any modification(s) to Respondent in writing and each modification shall be incorporated into this Order.

35. The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from the EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Order have been satisfactorily completed.

36. Issued and effective this 14th day of June, 2023.

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