

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

7:46 AM

IN THE MATTER OF:)		
)	Docket No. SDWA-08-2022-0001	Received by
Little Bear Inn LLC.)		EPA Region VIII
)	ADMINISTRATIVE ORDER	Hearing Clerk
Respondent.)		
)		
Little Bear Inn)		
<u>PWS ID #WY5600740</u>)		

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. Little Bear Inn LLC. (Respondent) is a corporation that owns and/or operates the Little Bear Inn Public Water System (System), which provides piped water to the public in Laramie County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via one well. The water is treated with sodium hypochlorite being added directly into the well once a month.
4. The System has approximately one service connection and regularly serves an average of approximately 112 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.
4. 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).
5. Part 141 includes monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

6. Respondent is required to monitor for nitrite during one quarter at every entry point to the distribution System which is representative of each well after treatment. 40 C.F.R. § 141.23(e). Respondent failed to monitor the System’s water for nitrate during the first and second quarters 2021, and therefore, violated this requirement.
7. Respondent is required to monitor the System’s water annually for nitrate at every entry point to the distribution System which is representative of each well after treatment. 40 C.F.R. §§ 141.23(a) and (d). Respondent failed to monitor the System’s water for nitrate during 2019 and therefore, violated this requirement.

8. Respondent is required to monitor the System's water monthly for total coliform bacteria. 40 C.F.R. §§ 141.853-858. Respondent failed to monitor the System's water for total coliform bacteria during May and December 2020, and therefore, violated this requirement.

9. Respondent is 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). 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 September 5, 2019, which detailed significant deficiencies. The EPA approved a corrective action schedule to complete corrective actions by April 24, 2021. The EPA's record reflects that the Respondent failed to complete all corrective actions and failed to notify the EPA of corrective action completion by April 24, 2021.

10. 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 10, 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 10 and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement.

11. 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 6, 7, 8, and 9, above, are classified as violations requiring Tier 3 within 1 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, and 9 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 paragraphs 6, and 7 has not yet passed. EPA records indicate that the System submitted the public notice and certification solely for the December 2020's total coliform bacteria failure to monitor violation noted in paragraph 9, above.

12. 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 6, 7, 8, and 9, 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):

13. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.
14. Within 30 calendar days of receipt of this Order, and thereafter as directed by the EPA, Respondent shall monitor the System's water for nitrite, as required by 40 C.F.R. § 141.23(e). 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).
15. Within 30 calendar days after receipt of this Order, and as required by Part 141 thereafter, Respondent shall monitor the System's water annually for nitrate, in accordance with 40 C.F.R. §§ 141.23(a) and (d). 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).
16. 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).
17. Within 30 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. 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 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 System needs an Emergency Response Plan (ERP) that details emergency operation procedures for possible foreseeable emergencies such as power outage, loss of water, equipment failure, development of unsafe conditions and other emergency conditions.

18. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 10, 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>.

19. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 8, and 9, 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>. EPA records indicate that the System submitted the public notice and certification for the December 2020's failure to monitor violation noted in paragraph 9, above.

20. 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.

21. 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.

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

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

GENERAL PROVISIONS

23. This Order is binding on Respondent, its successors and assigns if a corporation their assigns and heirs if an individual, and any person (e.g., employee, contractor, or other agent) acting in concert with Respondent.

24. 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.

25. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil administrative 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 83821 (December 23, 2020).

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

John O'Grady
Little Bear Inn
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Issued November 10, 2021.

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