



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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

April 8, 2021

2:07 PM

Received by

EPA Region VIII

Hearing Clerk

April 8, 2021

Ref: 8ENF-W-SD

SENT VIA EMAIL  
DIGITAL READ RECEIPT REQUESTED

The Honorable W. Kennis Lutz, Mayor  
Town of Alpine  
kennislutz@gmail.com

Re: Administrative Order issued to the Town of Alpine regarding Town of Alpine Public Water System, PWS ID #WY5600156, Docket No. SDWA-08-2021-0017

Dear Mayor Lutz:

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 the Town of Alpine (Town), as owner and operator of the Town of Alpine Public Water System (System), has 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 the Town complies with the Order, the EPA may close the Order without further action. Please review the Order and within 10 business days provide the EPA with any pertinent information the Town believes the EPA may not have (*e.g.*, any monitoring that may have been done but not submitted, any updates to the number of service connections or individuals served). If the EPA does not hear from the Town, the EPA will assume this information is correct. Failure to comply with the Order 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.

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

The EPA acknowledges that the COVID-19 pandemic may be impacting your business. If the Town has specific COVID-19 issues that would affect the timeframes listed herein, please contact Steven Latino via email at [latino.steven@epa.gov](mailto:latino.steven@epa.gov) or by phone at (800) 227-8917, extension 6440, or (303) 312- 6440 within 10 business days of issuance of this Order. The EPA may, in its discretion, consider granting an extension.

If you have any questions or to discuss this Order with the EPA, please contact Steven Latino at the email and phone number provided above. Any questions from the Town'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.

We urge your prompt attention to this matter.

Sincerely,

**COLLEEN  
RATHBONE**

Digitally signed by  
COLLEEN RATHBONE  
Date: 2021.04.08 09:33:59  
-06'00'

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

Enclosures

cc: WY DEQ/DOH (via email)  
Lincoln County Commissioners ([rking@lcwy.org](mailto:rking@lcwy.org))  
Christine Wagner, Deputy Clerk/Planning & Zoning Commission Secretary  
Craig Leseberg, Operator  
Sharon Backus, Town Clerk  
Melissa Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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IN THE MATTER OF: )  
 )  
Town of Alpine )  
 )  
Respondent. )  
 )  
Town of Alpine Public Water System )  
PWS ID #WY5600156 )

Docket No. SDWA-08-2021-0017

EPA Region VIII  
Hearing Clerk

**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. The Town of Alpine, Wyoming (Respondent), is a municipality that owns and operates the Town of Alpine Public Water System (System), which provides piped water to the public in Lincoln County, Wyoming for human consumption.
3. The System is supplied by a groundwater source accessed via three wells. The water is treated with chlorine disinfection.
4. The System has approximately 449 service connections used by year-round residents and regularly serves an average of approximately 1100 year-round residents. Therefore, the System is a “public water system” and a “community water system” as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.
5. 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).

**VIOLATIONS**

6. 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 August 15, 2019, which detailed significant deficiencies. The EPA approved a corrective action schedule to complete corrective actions by January 7, 2020. The EPA’s record reflects that the Respondent failed to complete all corrective actions by January 7, 2020, and failed to notify the EPA of corrective action completion by February 7, 2020, and therefore violated this requirement.
7. Respondent is required to deliver a consumer notice of individual tap monitoring results for lead and copper to the persons served at each sampled site no later than 30 days after the System learns of the tap monitoring results, in accordance with 40 C.F.R. § 141.85(d). Within 90 calendar days following the end of each monitoring period, Respondent is required to submit to the EPA a sample copy of the

consumer notification along with a certification that the notification has been distributed, in accordance with 40 C.F.R. § 141.90(f)(3). The EPA's record reflects that Respondent failed to deliver a consumer notice to the persons served at each sampled site and failed to submit a copy of the consumer notice and certification to the EPA for the June 1 to September 30, 2019 and the June 1 to September 30, 2020 monitoring periods, and therefore violated this requirement. Respondent submitted the consumer notice for the June 1 to September 30, 2020 monitoring period on March 5, 2021.

8. 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 6, above, is classified as a Tier 2 violation, requiring 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 6 and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement.

9. Respondent is required to report any failure to comply with any 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 and 7, 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):

10. Within 30 calendar days of receipt of this Order, Respondent shall consult with the EPA regarding the 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:

- Tank ST02: The overflow on Tank ST02 - Upper Storage Tank #2 (250K) must be piped to an elevation between 12 and 24 inches above the ground surface and discharge over a drainage inlet structure, splash plate, or engineered rip-rap.
- Tank ST03: The overflow on Tank ST03 -Lower Storage Tank #3 must be piped to an elevation between 12 and 24 inches above the ground surface and discharge over a drainage inlet structure, splash plate, or engineered rip-rap.

11. Within 30 calendar days after receipt of this Order, and thereafter, no later than 30 days after the System learns of the tap monitoring results, Respondent shall deliver a consumer notice of individual tap monitoring results to the persons served at each sampled site, in accordance with 40 C.F.R. § 141.85(d). Within 45 days after receipt of this Order, and thereafter, within 90 calendar days following the end of each monitoring period, Respondent shall submit to the EPA a sample copy of the consumer notification along with a certification that the notification has been distributed, in accordance with 40 C.F.R. § 141.90(f)(3). Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8>.

12. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 6, 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>.

13. Respondent shall report any violation of Part 141 to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or Part 141, Respondent shall report within that different period.

14. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.

15. 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, 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 shall remain obligated to comply with this Order.

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

Email: [R8DWU@epa.gov](mailto:R8DWU@epa.gov), and [latino.steven@epa.gov](mailto:latino.steven@epa.gov)

### **GENERAL PROVISIONS**

17. This Order is binding on Respondent and any person (*e.g.*, employee, contractor, or other agent) acting in concert with Respondent.

18. 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.


19. Violation of any part of this Order, the Act, or Part 141 may subject Respondent 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 83821 (December 23, 2020).

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

Issued: April 8, 2021.

**COLLEEN  
RATHBONE**

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

 Digitally signed by COLLEEN  
RATHBONE  
Date: 2021.04.08 09:38:27 -06'00'