

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF:)	
)	Docket No. SDWA-08-2023-0020
Valley View School District No. 35,)	
)	ADMINISTRATIVE ORDER
Respondent.)	
)	
Valley View Elementary School)	
<u>PWS ID #083090311</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. Valley View School District No. 35 (Respondent) is a public body that owns and/or operates the Valley View Elementary School Public Water System (System), which provides piped water to the public within the exterior boundaries of the Flathead Reservation for human consumption.
3. The System is supplied by a groundwater source accessed via a well (WL01). The water is treated by a spin-down filter (sand separator) and two cartridge filters. The System is operated year-round.
4. The System has one service connection and regularly serves an average of approximately 42 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 regularly serves at least 25 of the same persons over six months per year and, as such, is also a “non-transient, non-community” water system as defined in 40 C.F.R. § 141.2.
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).
6. Part 141 includes monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

7. If the System has more than one positive total coliform sample result within the same month or fails to take three total coliform repeat samples within 24 hours following a routine total coliform positive result, Respondent is required to conduct a Level 1 assessment and submit it to the EPA within 30 calendar days of learning of the monitoring results. 40 C.F.R. § 141.859. Respondent failed to conduct a Level 1 assessment following multiple positive total coliform sample results in the month of September 2022 and therefore, violated this requirement.
8. Respondent is required to monitor the System’s tap water for lead and copper during two consecutive six-month monitoring periods. 40 C.F.R. § 141.86(d). Respondent failed to monitor the

System's water for lead and copper during the July 1 to December 31, 2022 period and therefore, violated this requirement.

9. 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 within required time frames for the January 1 to June 30, 2022 monitoring period and therefore violated this requirement. Respondent subsequently delivered a consumer notice to the persons served at each sample site for the January 1 to June 30, 2022 monitoring period on November 7, 2022 and submitted a copy of the consumer notice and certification to the EPA on November 8, 2022.

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 7, above, is classified as a violation requiring Tier 2 public notice within 30 calendar days, and the System must repeat the notice every three months as long as the violation persists, according to 40 C.F.R. § 141.203. The EPA's records reflect that the Respondent notified the public of the violation cited in paragraph 7 and submitted a copy of the public notice and certification to the EPA within 30 days of the violation. However, Respondent failed to repeat the notice every three months as long as the violation persists and failed to submit a copy of the repeat 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 violation identified in paragraphs 8, above, is classified as a violation requiring Tier 3 public notice within 1 year, according to 40 C.F.R. § 141.204. The deadline for public notice of the violation cited in paragraph 8 has not yet passed.

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 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 15 calendar days of receipt of this Order, Respondent shall conduct a Level 1 assessment and submit the attached Revised Total Coliform Rule Level 1 assessment form to the EPA. The assessment shall determine the cause of the total coliform positive samples, identify corrective actions for all sanitary defects, and include a proposed schedule (Schedule) and plan for completion of all corrective actions after consulting with the EPA. 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, Respondent shall notify the EPA of the project's completion. Respondent shall provide sufficient evidence to the EPA, including photographs of the corrective actions. 40 C.F.R. § 141.859.

Following any future instances of the System (1) having two or more total coliform-positive sample results (including routine and repeat samples) within the same month, (2) failing to collect three repeat samples within 24 hours following a total coliform-positive sample, (3) having an *E. coli* MCL violation, or (4) triggering a second Level 1 assessment within a rolling 12-month period, Respondent shall conduct the appropriate level of assessment in compliance with 40 C.F.R. § 141.859.

15. Respondent shall monitor the System's water for lead and copper between July 1st and December 31st, 2023, and as directed by the EPA, according to the tiering criteria, as required by 40 C.F.R. § 141.86. Within the first 10 calendar days following the end of each monitoring period, Respondent shall report analytical results to the EPA, as required by 40 C.F.R. § 141.90.

16. Within 30 days of receiving 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 90 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>.

17. The System must achieve compliance with the treatment technique by the final compliance deadline specified in the Schedule cited in paragraph 14 above. If Respondent's plan fails to achieve permanent compliance, the EPA may order further steps, seek penalties for noncompliance, or both.

18. 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.

19. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 7, above, persists, Respondent shall notify the public of the 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>.

20. By December 31, 2023, Respondent shall notify the public of the violation cited in paragraph 8, 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>.

21. If the population or number of connections served by the System *for at least 60 days of the year* falls below 25 individuals, Respondent must notify the EPA in writing within 10 calendar days by submitting a completed basic information form. The form is available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#new>.

22. 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.

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

Email: R8DWU@epa.gov, and
brown.christopher.t@epa.gov

GENERAL PROVISIONS

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

25. 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.

26. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$67,544 (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 989 (January 6, 2023).

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

Valley View School District No. 35
Valley View Elementary School Water System, ECN: 600.0183.2023_VVSchool
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Issued: July 24, 2023

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