

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

April 8, 2020
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Received by

EPA Region VIII

Hearing Clerk

IN THE MATTER OF:)
)
Anita Swope,)
)
Respondent.)
)
Hot Springs Court Public Water System)
PWS ID #083090312)

Docket No. SDWA-08-2020-0023

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. Anita Swope is an individual who owns and/or operates the Hot Springs Court Public Water System (System), which provides piped water to the public at Hot Springs Court, Hot Springs, Montana, for human consumption.

3. The System is supplied by a groundwater source accessed via one well. The water is untreated. The System was activated as a public water system on October 22, 2018.

4. The System has approximately 17 service connections used by year-round residents and regularly serves an average of approximately 50 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. For purposes of federal enforcement, 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, beginning in 2019.

VIOLATIONS

7. Respondent is required to conduct initial monitoring of 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 January 1 and June 30, 2019, and between July 1 and December 31, 2019.

8. Respondent is required to conduct initial monitoring of the System’s water for inorganic contaminants (IOCs) and asbestos each quarter until the EPA determines otherwise in writing. 40 C.F.R. § 141.23(a)-(c). Respondent failed to monitor the System’s water for IOCs and asbestos during the 1st quarter (January 1, 2019 and March 31, 2019), 2nd quarter (April 1, 2019 and June 30, 2019), 3rd quarter (July 1, 2019 and September 30, 2019) and 4th quarter (October 1, 2019 and December 31, 2019) and therefore, violated this requirement.

9. Respondent is required to conduct initial monitoring of the System's water during four consecutive quarters for volatile organic chemicals (VOCs) and synthetic organic chemicals (SOCs). 40 C.F.R. §§ 141.24(f)(4), (f)(22) and (h)(4). Respondent failed to monitor the System's water for VOCs and SOCs during the 1st quarter (January 1, 2019 and March 31, 2019), 2nd quarter (April 1, 2019 and June 30, 2019), 3rd quarter (July 1, 2019 and September 30, 2019) and 4th quarter (October 1, 2019 and December 31, 2019) and therefore, violated this requirement.
10. Respondent is required to conduct initial monitoring of the System's water during four consecutive quarters for radionuclides. 40 C.F.R. § 141.26(a). Respondent failed to monitor the System's water for radionuclides during the 1st quarter (January 1, 2019 and March 31, 2019), 2nd quarter (April 1, 2019 and June 30, 2019), 3rd quarter (July 1, 2019 and September 30, 2019) and 4th quarter (October 1, 2019 and December 31, 2019) and therefore, violated this requirement.
11. 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 February 2019 and therefore, violated this requirement.
12. Respondent is required to monitor the System's water the first quarter of operation for nitrate and nitrite at the entry point to the distribution System which is representative of the well. 40 C.F.R. §§ 141.23(a) and (d). Respondent failed to monitor the System's water for nitrate during the 1st quarter (January 1, 2019 and March 31, 2019), and therefore, violated this requirement. Respondent did monitor during the 2nd quarter on May 28, 2019.
13. 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). Respondent received a sanitary survey report from the EPA on November 29, 2018, which detailed 11 significant deficiencies. The EPA approved a schedule for the System to complete the corrective actions within 6 months from the sanitary survey report receipt date, or by June 8, 2019. Respondent completed corrective actions for eight significant deficiencies but failed to complete corrective actions for three significant deficiencies by June 8, 2019, and therefore, violated this requirement.
14. 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 13, above, is classified as a Tier 2 violation, requiring public notice within 30 calendar days, according to 40 C.F.R. § 141.203, and every three months for as long as the violation persists. Respondent failed to notify the public of the violation cited in paragraph 12 and/or failed to submit a copy to the EPA and therefore, violated this requirement.
15. 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, 9, 10, 12, and 13, above, to the EPA and therefore, violated this requirement.

16. Respondent is required to report any violation of total coliform monitoring requirements to the EPA within 10 calendar days after discovering the violation. 40 C.F.R. § 141.861(a)(4). Respondent failed to report the violation listed in paragraph 11, 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):

17. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited in this Order.

18. Respondent shall monitor the System's water for lead and copper, first by June 30, 2020, and again between July 1, 2020 and December 31, 2020, and thereafter as directed by the EPA, according to the System's LCR Tap Sample Site Plan, as required by 40 C.F.R. § 141.86(a)-(d). 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. 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. 40 C.F.R. 141.90(f)(3).

19. Within 30 calendar days after receipt of this Order, and during each of the following quarters until the EPA determines otherwise, in writing, Respondent shall monitor the System's water for IOCs and asbestos as required by 40 C.F.R. §§ 141.23(a)-(c). 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).

20. Within 30 calendar days after receipt of this Order, Respondent shall monitor the System's water for VOCs and SOCs, and during each of the following three consecutive quarters, and thereafter in compliance with 40 C.F.R. § 141.24. 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).

21. Within 30 calendar days after receipt of this Order, Respondent shall monitor the System's water for radionuclides, and during each of the following three consecutive quarters, and thereafter in compliance in accordance with 40 C.F.R. § 141.26(a). 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).

22. 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).

23. 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).

24. Within 120 days of receipt of this Order, Respondent shall complete corrective actions of the following three significant deficiencies and notify the EPA within 30 days after their completion. Respondent shall provide sufficient evidence 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).

- No certified operator. Community water systems must have a certified operator. To address this deficiency, submit an EPA-approved certified operator certificate or other documentation.
- Well not adequately protected from vehicle damage. The wellhead for Well WL01 must be adequately protected to prevent damage due to vehicle operations.
- No emergency response plan. The Emergency Response Plan (ERP) must detail emergency operations procedures for possible foreseeable emergencies such as power outage, loss of water, equipment failure, development of unsafe condition, and other emergency conditions.

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

26. Within 30 days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 13, above, persists, Respondent shall notify the public of the Tier 2 violation. A template 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, 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).

27. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the Tier 3 violations cited in paragraphs 7, 8, 9, 10, 11, and 12, above. 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, 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).

28. If the population or number of connections served by the falls below 25 individuals or 15 connections, Respondent shall 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-and-instructions-reporting-forms#new>.

29. 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.

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

Email: R8DWU@epa.gov, and
minter.jill@epa.gov

GENERAL PROVISIONS

31. This Order shall be binding on Respondent, her assigns and heirs, and any person (*e.g.*, employee, contractor, or other agent) acting in concert with Respondent.

32. 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.

33. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$58,328 (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).

34. 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 6, 2020 .

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