

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF:)
Broken Wheel Ranch Improvement & Service District,)
Respondent.)
Broken Wheel Ranch Association Public Water System)
PWS ID #WY5601625)

Docket No. SDWA-08-2021-0035

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. Broken Wheel Ranch Improvement & Service District is a public body created by or pursuant to Wyoming law that owns and/or operates the Broken Wheel Ranch Association 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 one well. The water is untreated.
4. The System has approximately 20 service connections and/or regularly serves an average of approximately 27 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.
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. 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 10, 2015, and a revised report dated February 2, 2017, which detailed significant deficiencies. The EPA’s record reflects that the Respondent failed to complete all corrective actions by the required completion date of December 31, 2018, and failed to notify the EPA of corrective action completion by December 31, 2018, and therefore, violated this requirement.

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 7, above, requires a Tier 2 public notice every three months as long as the violation persists, according to 40 C.F.R. § 141.203. While the District has provided Tier 2 public notices every three months beginning March 13, 2020, the EPA's records reflect that the Respondent failed to provide Tier 2 public notice of the violation cited in paragraph 7 during 2019, and therefore, violated this requirement. The violation identified in paragraph 7, above, also requires a Tier 1 public notice to all residences of the distribution system that are served by a normal distribution pressure less than 20 psi, to boil the water until the low pressure issue is permanently resolved. The Tier 1 public notice must be issued within 24 hours of receipt of the Order and monthly thereafter as long as the situation persists, according to 40 C.F.R. § 141.202. The EPA's records reflect that Respondent has failed to provide a Tier 1 public notice to residences served by a normal distribution pressure less than 20 psi as required and failed to submit a copy of the Tier 1 public notice and certification to the EPA and therefore, violated this requirement.

9. 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 paragraph 7 and 8 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. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.

11. Within 30 calendar days of receipt of this Order, Respondent shall consult with the EPA regarding action to correct the significant deficiency and shall submit a proposed schedule and plan to the EPA for completion of all corrective actions. While Respondent submitted a plan on July 22, 2021, the plan submitted is incomplete and requires more detail and dates. 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 Action:

- Low pressure or loss of pressure (less than 20 psi). It was reported that the normal distribution pressure between the storage tanks and the first service connection was 10 psi.

12. Within 30 calendar days after receipt of the EPA's approval of the Schedule, Respondent must begin providing the EPA with quarterly reports on the progress made toward bringing the System into compliance through completing corrective action of significant deficiencies. Each quarterly report is due by the 10th calendar day of the month following the relevant quarter.

13. The System must achieve compliance by completing all corrective actions by the final compliance deadline specified in the Schedule. If Respondent's plan fails to achieve permanent compliance, the EPA may order further steps, seek penalties for noncompliance, or both.

14. Within 24 hours after receipt of this Order, and monthly thereafter, Respondent shall notify all residences of the distribution system that are served by a normal distribution pressure less than 20 psi to boil the water until the low-pressure issue is permanently resolved. 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/drinking-water-e-coli-contamination-boil-water-advisory-systems-wyoming-and-tribal>.

15. Respondent shall notify the public of the failure to take corrective action violation cited in paragraph 7 every three months as long as the violation persists. 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/ground-water-rule-failure-take-corrective-action-public-notification-template>.

16. 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.

17. If the population or number of connections served by the System, at least 60 days of the year, falls below 25 individuals or 15 connections, 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-and-instructions-reporting-forms#new>.

18. 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.

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

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

GENERAL PROVISIONS

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

21. 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.

22. 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).

23. 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: July 27, 2021.

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