



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129
Phone 800-227-8917
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2013 MAR 29 AM 10:06

MAR 29 2013

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W

CERTIFIED MAIL RETURN

RECEIPT REQUESTED # 7009 3410 0000 2592 8420

Honorable Katherine Staman
Mayor, Town of Baggs
P.O. Box 300
Baggs, WY 82321

Re: Amended Administrative Order
Docket No. SDWA-08-2011-0063
PWS ID #WY5600058

Dear Mayor Staman:

On August 29, 2011, the United States Environmental Protection Agency (EPA) issued an Administrative Order (Order) to the Town of Baggs (Town). The Order directed the Town, among other things, to submit a compliance plan and schedule for achieving compliance with the Maximum Contaminant Level (MCL) for Total Trihalomethane (TTHM) as described in 40 C.F.R. §§ 141.64 and 141.133(b) and for maintaining compliance with the turbidity requirements of 40 C.F.R. § 141.551. By letter dated April 24, 2012, the EPA approved the Town's compliance schedule. The deadlines in that schedule thereby became enforceable parts of the Order.

To reflect subsequent developments, the EPA is now issuing the enclosed Amended Administrative Order (Amended Order). The following is a summary of the changes reflected in the Amended Order and the reasons for these changes.

- MCL for Haloacetic Acids (HAA5). During the third quarter of 2011, the Town violated the MCL for HAA5. HAA5, like TTHM, is a disinfection byproduct. The Amended Order cites this violation in paragraph 7 and has added a deadline for meeting the HAA5 MCL to paragraph 11.
- MCL for TTHM. During the third quarter of 2011, the Town also violated the MCL for TTHM. A reference to this has been added to paragraph 6.
- Revision to Compliance Schedule. As required by the compliance schedule that the EPA approved on April 24, 2012, the Town has conducted a pilot study that included total organic carbon and disinfection byproduct sampling and has discussed the results with the EPA and the Wyoming Department of Environmental Quality (DEQ). As you are aware, in these discussions the EPA and DEQ representatives stated that the results of the pilot study cast doubt on whether the plan the Town has been pursuing will result in consistent compliance with the MCL for TTHM. In view of this concern, the EPA has eliminated the requirements for the Town (1) to complete its proposed new pretreatment system by December 31, 2012, or by any subsequent date, and (2) to finish construction or rehabilitation of storage tank(s) by June 30, 2013. Eliminating the steps mentioned above and the milestones that the Town already has met means

date, and (2) to finish construction or rehabilitation of storage tank(s) by June 30, 2013. Eliminating the steps mentioned above and the milestones that the Town already has met means that the Amended Order has only a final compliance date, with no interim deadlines. In view of the difficulties that the Town has experienced in implementing the compliance plan, as described in the December 12, 2012, letter from Christopher Lidstone to Kathelene Brainich of our office, the final compliance date has been extended to October 1, 2013. The final compliance date is indicated in paragraph 11 of the Amended Order.


- New Method for Determining Compliance with MCLs. Paragraph 11 of the Amended Order indicates that effective October 1, 2013, the method for determining compliance with the MCLs for TTHM and HAA5 will change. Before this date, the running annual average is to be computed according to 40 C.F.R. § 141.133(b), and on and after this date, it is to be computed as described in 40 C.F.R. § 141.620.

Please also note that the EPA expects the final MCL compliance deadline of October 1, 2013, to be met. While not creating any right to an extension, the EPA in its discretion may consider granting an extension to this deadline under limited circumstances. If unexpected events occur that are beyond the Town's control and that may require the Town to request an extension of this deadline, the Town is responsible for notifying the EPA well in advance of the deadline date. The EPA will not consider extending the deadline without a clear justification for its need. The Town must provide the following information in writing for any request for an extension: a description of the work that has been completed and the additional work that may not be completed by the deadline date, the unexpected events that have occurred or may occur and how the Town has attempted to foresee and use its best efforts to overcome these obstacles, and proposed new deadline date with justification for the length of the proposed extension.

If the Town is unable to achieve compliance with the MCLs for TTHM and/or HAA5, the EPA may order further steps and/or seek penalties for noncompliance. The Town also remains subject to the other requirements of the National Primary Drinking Water Regulations at 40 C.F.R. part 141.

Please contact Kathelene Brainich, Environmental Specialist, at (303) 312-6481, or 1-800-227-8917, extension 312-6481, if you have any questions concerning this Amended Order. If the Town is represented by an attorney who has questions, please ask the attorney to call Peggy Livingston, EPA Enforcement Attorney, at (303) 312-6858, or the above 800 number, extension 312-6858.

Sincerely,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Compliance, Enforcement,
and Environmental Justice

Enclosure

cc: Christopher D. Lidstone, Lidstone and Associates, Inc.
Michelle Christopher, Utility Director, Town of Baggs
WY DEQ and DOH (via email)
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2013 MAR 29 AM 10: 07

IN THE MATTER OF)
)
Town of Baggs, Wyoming)
)
Respondent.)
_____)

AMENDED
ADMINISTRATIVE ORDER

FILED
EPA REGION VIII
HEARING CLERK

Docket No. SDWA-08-2011-0063

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3, as properly delegated to the undersigned officials.

2. The Town of Baggs (Respondent) is a municipality that owns and/or operates the Town of Baggs Water System (System), which provides piped water to the public in Carbon County, Wyoming, for human consumption.

3. The System is supplied by the Little Snake River, a surface water source, and has implemented treatment by alternative (membrane) filtration and disinfection since June 2007. (Prior to then, the System used conventional filtration and disinfection.)

4. The System has approximately 288 service connections and 490 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 subject to the Act and the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141. The Drinking Water Regulations are "applicable requirements" as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. The maximum contaminant level (MCL) for total trihalomethane (TTHM) is 0.080 milligrams per liter (mg/l), based on a running annual average (RAA) of quarterly averages. 40 C.F.R. § 141.64; 40 C.F.R. § 141.133(b) prior to October 1, 2013, and 40 C.F.R. § 141.620 after September 30, 2013. The RAA of quarterly averages of TTHM samples from the System as of ends of the 2nd (April - June) and 4th (October - December) quarters of 2010 and the 1st (January - March), 2nd, and 3rd (July-September) quarters of 2011 exceeded 0.080 mg/l. Therefore, Respondent violated the TTHM MCL.

7. The MCL for haloacetic acids (HAA5) is 0.060 mg/l, based on an RAA of quarterly averages. 40 C.F.R. §§ 141.64 and 141.133(b). The RAA of quarterly averages of HAA5 samples from the System as of the end of the 3rd quarter of 2011 exceeded 0.060 mg/l. Therefore, Respondent violated the HAA5 MCL.

8. Respondent is required to monitor the System's filtered water for turbidity by monitoring representative samples of the filtered water at least every four hours that the System serves water to the public. 40 C.F.R. § 141.74(c)(1). The monthly combined filter effluent turbidity level of 0.3 Nephelometric Turbidity Units (NTU) for alternative (membrane) filtration must be met in at least 95 percent of the turbidity measurements taken each month. 40 C.F.R. § 141.551(a). Turbidity monitoring results from the System's filtered water met the 0.3 NTU limit only 88 percent of the time during April of 2010 and, therefore, Respondent violated this requirement.

9. Respondent is required to comply with the maximum combined filter effluent turbidity limit of one (1) NTU, and may at no time exceed the limit during any month. 40 C.F.R. § 141.551(b). Turbidity monitoring samples from the System's filtered water were measured at 2.9 NTU on April 19, 2010, and 2.2 NTU on April 20, 2010, and, therefore, Respondent violated this requirement.

10. Respondent is required to notify the public of each violation of the TTHM MCL within 30 days of learning of the violation. 40 C.F.R. §§ 141.201 and 141.203. For the TTHM MCL violations cited in paragraph 6, above, Respondent failed to notify the public of the 2nd quarter of 2010 violation until September 2, 2010, of the 4th quarter of 2010 violation until March 31, 2011, and of the 1st and 2nd quarters of 2011 violations until October 4, 2011. Therefore, Respondent violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions no later than the date upon which Respondent receives this Amended Order (unless a different deadline is specified below):

11. No later than October 1, 2013, Respondent shall comply with the MCLs for TTHM and HAA5, as specified in 40 C.F.R. § 141.64, with the method of computing RAAs to be determined according to 40 C.F.R. § 141.133(b) prior to October 1, 2013, and 40 C.F.R. § 141.620 after September 30, 2013.

12. Respondent shall provide the EPA with quarterly reports on the progress made to achieve compliance with the TTHM and HAA5 MCLs. Each quarterly report is due by the 10th day of the month following the relevant calendar quarter.

13. Respondent shall comply with the monthly combined filter effluent turbidity limit of 0.3 NTU in at least 95 percent of the turbidity measurements taken each month. 40 C.F.R. § 141.551(a). Respondent shall report any violation of the monthly combined filter effluent turbidity limit to the EPA by the 10th day of the following month. 40 C.F.R. § 141.570(a)(2).

14. Respondent shall comply with the maximum turbidity limit of one (1) NTU. 40 C.F.R. § 141.551(b). Respondent shall report any violation of the single combined filter effluent turbidity limit to EPA no later than the end of the next business day. 40 C.F.R. §§ 141.203(b)(3) and 141.202(a)(6).

15. Following any future violation of the Drinking Water Regulations, Respondent shall comply with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to the EPA.

16. If Respondent fails to achieve permanent compliance with the TTHM and HAA5 MCLs and the turbidity requirements cited in this Amended Order, the EPA may order further steps and/or seek penalties for noncompliance.

17. All reporting required by this Amended Order shall be directed to:

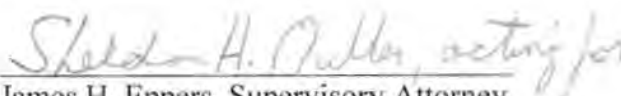
U.S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129


GENERAL PROVISIONS

18. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or Drinking Water Regulations. Issuance of this Amended Order is not an election by the EPA to forgo any civil or criminal action.

19. Violation of any part of this Amended Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

Issued this 29th day of March, 2013.


James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice


Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice