

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

February 4, 2022

8:51 AM

IN THE MATTER OF: )  
 )  
John Malgaard )  
 )  
Respondent. )  
 )  
Wagon Box Inn )  
PWS ID #WY5601103 )

Docket No. SDWA-08-2022-0008

**ADMINISTRATIVE ORDER**

Received by  
EPA Region VIII  
Hearing Clerk

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. John Malgaard (Respondent) is an individual who owns and operates the Wagon Box Inn Public Water System (System), which provides piped water to the public in Sheridan 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 7 service connections and regularly serves an average of approximately 103 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 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 October, November, and December 2020; and February, March, May, June, July, August, September, October, November, and December 2021, and therefore, violated this requirement.
8. Respondent is required to monitor the System’s water annually for nitrate at every entry point to the distribution System which is representative of each well after treatment. 40 C.F.R. §§ 141.23(a) and (d). Respondent failed to monitor the System’s water for nitrate during 2019 and therefore, violated this requirement.

9. 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 violations identified in paragraphs 7 and 8, above, are classified as violations requiring Tier 3 public notice within 1 year, according to 40 C.F.R. § 141.204. The EPA's records reflect that Respondent failed to notify the public of the 2019 and 2020 violations cited in paragraphs 7, and 8, and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement. The public notice deadline for the 2021 violations cited in paragraph 7 has not yet passed.

10. 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 8, above, to the EPA and therefore, violated this requirement.

11. 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 violations listed in paragraph 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):

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

13. 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).

14. Respondent shall monitor the System's water 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).

15. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7 and 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>. The public notice deadlines for the 2021 violations cited in paragraph 7 have not yet passed.

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 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.

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

Email: [R8DWU@epa.gov](mailto:R8DWU@epa.gov), and  
[Hicks.nathaniel@epa.gov](mailto:Hicks.nathaniel@epa.gov)

### **GENERAL PROVISIONS**

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

20. 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.

21. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil administrative penalty of up to \$62,689 (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 (January 2022).

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22. 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: February 4, 2022.

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