

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2018 JUL -3 PM 4: 30

IN THE MATTER OF)
)
City of Cody)
PWS ID 5600207)
)
Respondent.)
_____)

FILED
EPA REGION VIII
HEARING CLERK

EMERGENCY ADMINISTRATIVE ORDER

Docket No: SDWA-08-2018-0021

AUTHORITY

1. This Emergency Administrative Order (Order) is issued by the Environmental Protection Agency (EPA) pursuant to the authority of section 1431(a) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i(a). The undersigned officials have been properly delegated this authority.
2. The EPA may issue an order under section 1431(a) of the Act, 42 U.S.C. § 300i(a), when a contaminant that is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and appropriate state and local authorities have not acted to protect the health of such persons.

FINDINGS

3. The City of Cody (Respondent) is a municipality that owns and/or operates the City of Cody Public Water System (System), which provides piped water to the public in Park County, Wyoming, for human consumption.
4. Respondent is a “person” as that term is defined in the Act. 42 U.S.C. § 300f(12).
5. The System purchases treated surface water from the Shoshone Municipal Pipeline. The purchased water enters the Cody distribution system with residual chloramine disinfection. No booster disinfection is conducted.
6. The System has 4,600 service connections and regularly serves 9,535 individuals year-round.
7. The System is a “public water system” as defined in 40 C.F.R. § 141.2 and section 1401(4) of the Act, 42 U.S.C. § 300f(4), and, therefore, is subject to the requirements of the Act and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. part 141.
8. Prior to issuing this Order, the EPA consulted with the System to confirm the facts stated in this Order and with state and local authorities to confirm that because they are unable to act to protect the health of persons in this instance, they have not done so.
9. The EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to the health of humans, based on the facts indicated in

paragraph 10, below. The EPA has determined that this Order is necessary to protect public health.

10. On July 3, 2018, the EPA was notified that multiple ground squirrel carcasses were found in the Main Tank (2 million gallons, ST01) during a scheduled tank cleaning and inspection in September 2017. The squirrels were immediately removed, but the tank was not drained and cleaned. The most likely pathway for the squirrels to enter the tank was identified as the overflow pipe. This pipe was located at ground level until March 2017 at which time it was modified to raise the outflow to 12-24 inches above ground.

ORDER

INTENT TO COMPLY

11. Within 24 hours of receipt of this Order, Respondent shall notify the EPA in writing of its intention to comply with the terms of this Order. Notification by e-mail to the address specified below is acceptable.

REQUIREMENTS

12. The EPA may require Respondent to provide an alternative source of drinking water to all customers if contamination is identified in the Main Tank.

13. The EPA will require public notice of the contamination found in the Main Tank. The required language to be included in the public notice will be determined based on the findings of the inspection of the Main Tank.

14. The EPA may require Respondent to increase total coliform and chlorine residual sampling at any time while this Order is in effect.

COMPLIANCE MEASURES

15. Within seven days of the effective date of this Order, Respondent shall have the Main Tank inspection scheduled with a third-party company with expertise in the field.

16. Respondent shall remove vegetation and soil around the Main Tank to expose the roof-wall seam prior to the scheduled inspection.

17. If the Main Tank inspection indicates that animals have re-entered the Main Tank, Respondent shall submit a plan and schedule to the EPA within 15 days for professional repair of the Main Tank. The proposed schedule shall include specific milestone dates and a final deadline (to be within 30 days of Respondent's receipt of this Order) for taking actions to ensure that

animals do not enter the System in the future. The schedule must be approved by the EPA before construction or modifications may commence. The EPA's approval of Respondent's schedule does not substitute for any State of Wyoming approval of plans and specifications (engineering plans) that may also be required before modifications can be made to the System.

18. If the Main Tank inspection indicates that animals have re-entered the Main Tank, Respondent shall drain, clean and disinfect the Main Tank after repairs required in paragraph 17 have been completed.

19. The plan and schedule required by paragraph 17, above, will be incorporated into this Order as enforceable requirements upon written approval by the EPA. The EPA may incorporate the above required plans into a new administrative order. If implementation of the plan fails to achieve permanent compliance and/or to alleviate the imminent and substantial endangerment, the EPA may order further steps and/or seek penalties as appropriate.

NOTIFY EPA OF SITUATIONS WITH POTENTIAL ADVERSE EFFECTS ON PUBLIC HEALTH

20. Respondent shall initiate consultation with the EPA as soon as practicable (in no event later than 24 hours) after learning of any violation or situation with the potential to have serious adverse effects on human health as a result of short-term exposure to contaminants, as required by 40 C.F.R. § 141.202(b)(2). The Respondent must comply with this regulatory provision in any future event that may pose a threat to public health.

REPORTING

21. Respondent shall give daily updates to the EPA on progress of inspecting and investigating the Main Tank. Daily updates must be submitted to the EPA until the EPA notifies the Respondent that reports may be discontinued. These reports may be submitted via phone or e-mail.

22. Any notices or reports required by this Order to be submitted to the EPA shall be submitted to:

Olive Hofstader
via e-mail: hofstader.olive@epa.gov
Telephone (800) 227-8917, ext. 6467, or (303) 312-6467

23. This Order does not relieve Respondent from the obligation to comply with any applicable federal, state, or local law.

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24. Failure to comply with this Order may result in civil penalties of up to \$23,374 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 83 Fed. Reg. 1190, 1193 (January 10, 2018).

25. This Order constitutes final agency action. Respondent may seek federal judicial review of this Order under section 1431 of the SDWA, 42 U.S.C. § 300(i), pursuant to section 1448(a) of the SDWA, 42 U.S.C. 300j-7(a).

26. This Order is and effective this 3rd day of July, 2018.

T. Cantor



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



Amy Swanson, Supervisory Attorney
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