

August 25, 2020
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Received by

EPA Region VIII

IN THE MATTER OF:)
)
Wyoming Department of State Parks and)
Cultural Resources)
)
Respondent.)
)
South Pass City Historical Site Public Water)
System)
)
PWS ID #WY5601137)

Docket No. SDWA-08-2020-0044

Hearing Clerk

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. Wyoming Department of State Parks and Cultural Resources (Respondent) is a public body created by or pursuant to Wyoming law that owns and operates the South Pass City Historical Site Public Water System (System), which provides piped water to the public in Fremont County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via one well. The water is treated by filtration. The System is operated seasonally from May to September.
4. The System has approximately 12 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 complete seasonal start-up procedures as required by 40 C.F.R. §§ 141.854-861. Prior to opening to the public each year, Respondent must send to the EPA a signed certification of its completed start-up procedures using the EPA’s approved checklist (see link in paragraph 13, below). Respondent failed to complete seasonal start-up procedures and submit a signed copy of the completed checklist to the EPA prior to opening to the public in May of 2019, and therefore, violated these requirements. Respondent completed seasonal start-up procedures on July 22, 2020.

8. Respondent is required to develop a written total coliform sample siting plan (SSP) that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system by March 30, 2016, and submit it to the EPA for review. 40 C.F.R. § 141.853(a)(1). An email from the EPA on August 1, 2019, deemed the SSP incomplete requiring a revision to the submitted Sample Plan Chart as part of the SSP. Respondent failed to submit a complete SSP by March 30, 2016, to the EPA and therefore, violated this requirement.

9. Respondent is required to monitor the System's water monthly for total coliform bacteria from May to September each year. 40 C.F.R. § 141.853-858. Respondent failed to monitor the System's water for total coliform bacteria during May 2020, and therefore, violated this requirement.

10. 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, is classified as a Tier 2 violation, requiring public notice within 30 calendar days, according to 40 C.F.R. § 141.203. Respondent failed to notify the public of the violation cited in paragraph 7 and failed to submit a copy to the EPA and therefore, violated this requirement.

11. Respondent is required to report any failure to comply with any National Primary Drinking Water Regulations Part 141 to the EPA within 48 hours (except where Part 141 specify a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 7 and 8, above, to the EPA and therefore, violated this requirement.

12. 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/s listed in paragraph 9, 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):

13. Respondent shall complete seasonal start-up procedures as required by 40 C.F.R. §§ 141.854-861. The EPA approved start-up procedures checklist can be found at https://www.epa.gov/sites/production/files/2014-12/documents/rtrcr_seasonal_startup_checklist.pdf. Prior to opening to the public each year, Respondent shall send to the EPA a signed copy of the completed start-up procedures checklist.

14. Within 30 calendar days of receipt of this Order, Respondent shall develop a revised written total coliform sample siting plan and submit it to the EPA for review. The plan must identify sampling sites (both routine and repeat) and a sample collection schedule that is representative of water throughout the distribution system, as required by 40 C.F.R. § 141.853(a)(1). A template can be found at <https://www.epa.gov/region8-waterops/revised-total-coliform-rule-sample-siting-plan>.

15. Respondent shall monitor the System's water monthly for total coliform bacteria from May through September each year. 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.

16. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 7, above, persists, Respondent shall notify the public of this violation. 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).

17. Respondent shall report any violation of Part 141 to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or Part 141, Respondent shall report within that different period.

18. Respondent shall report any violation of total coliform monitoring requirements to the EPA within 10 calendar days after discovering the violation and notify the public in accordance with subpart Q of this part, as required by 40 C.F.R. § 141.861(a)(4).

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

20. 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.

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

Email: R8DWU@epa.gov, and latino.steven@epa.gov

GENERAL PROVISIONS


22. 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.

23. 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).

24. 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: August 25, 2020.

**COLLEEN
RATHBONE**

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RATHBONE
Date: 2020.08.25 09:24:27
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Colleen Rathbone, Chief
Water Enforcement Branch
Enforcement and Compliance Assurance Division