

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

3/2/2023

8:30am

IN THE MATTER OF:)
)
Town of Pine Bluffs)
Respondent.)
Pine Bluffs Public Water System)
PWS ID #WY5600040)

Docket No.

ADMINISTRATIVE ORDER

SDWA-08-2023-0005

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. The Town of Pine Bluffs, Wyoming, (Respondent) is a municipality that owns and/or operates the Pine Bluffs Public Water System (System), which provides piped water to the public in Laramie County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via five wells. The water is treated by sodium hypochlorite.
4. The System has approximately 551 service connections used by year-round residents and regularly serves an average of approximately 1,186 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 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.
7. The lead action level is exceeded at a system, pursuant to 40 C.F.R. § 141.80(c)(1), if the 90th percentile lead level, computed according to 40 C.F.R. § 141.80(c)(3), is greater than 0.015 mg/L. During the June 1 to September 30, 2021, monitoring period, the System’s 90th percentile lead level was calculated at 0.027 mg/L, which exceeds the 0.015 mg/L lead action level. As such, the System has exceeded the regulatory lead action level.

VIOLATIONS

8. Water systems that exceed the lead action level shall complete public education requirements no later than 60 days after the end of the monitoring period during which the lead action level was exceeded, in accordance with 40 C.F.R. § 141.85(a) and (b) and quarterly thereafter until the action level is no longer exceeded. All public education materials must meet the content requirements in §141.85(a) and the delivery requirements in § 141.85(b). Within 10 days after the end of each period in which the System is required to perform public education, Respondent must provide to EPA written documentation

that the System has delivered the public education materials meeting the content requirements in § 141.85(a) and the delivery requirements in § 141.85(b), as well as a list of all recipients of the materials. 40 C.F.R. § 141.90(f)(1). Respondent failed to complete all public education requirements following a lead action level exceedance no later than 60 days after the end of the June 1 to September 30, 2021, monitoring period during which the lead action level was exceeded, or by November 30, 2021, and quarterly thereafter, and therefore, violated this requirement.

9. Water systems that exceed the lead action level shall monitor water quality parameters at the tap in accordance with 40 C.F.R. § 141.87. Respondent is therefore required to monitor for water quality parameters at two tap locations, collecting two samples at each location representative of water quality throughout the distribution system. 40 C.F.R. § 141.87(a)(1) and (2). Respondent collected two samples at one tap but failed to collect the two samples from the second tap and therefore failed to collect the required water quality parameter samples at two tap locations by November 30, 2021, for the June 1 to September 2021, monitoring period, and therefore, violated this requirement.

10. Water systems that exceed the lead action level shall monitor water quality parameters at the entry point to the distribution system (EPTDS) in accordance with 40 C.F.R. § 141.87. Respondent is therefore required to monitor for water quality parameters at each EPTDS, collecting two samples at each site within 6 months of the beginning of the monitoring period in which the System exceeds the lead action level. 40 C.F.R. § 141.87(a) and (b). Respondent failed to collect the required water quality parameter samples at each EPTDS by November 30, 2021, for the June 1 to September 2021, monitoring period, and therefore, violated this requirement. (Note: Respondent did collect the required water quality parameter samples at each EPTDS on April 25, and April 26, 2022.)

11. Small and medium water systems that exceed the lead action level shall recommend to the EPA installation of one or more corrosion control treatments (CCT) no later than 6 months after the end of the monitoring period during which the action level was exceeded (see section 141.81(e) for deadlines related to corrosion control steps). 40 C.F.R. § 141.82(a) and (c)(1). Respondent failed to provide the EPA with a CCT recommendation by March 31, 2022, for the June 1 to September 30, 2021, monitoring period and, therefore, violated this requirement.

12. Water systems supplied by groundwater that exceed the lead action level shall collect a minimum of one lead and copper source water sample at each EPTDS, which is representative of each well after treatment, no later than 6 months after the end of the monitoring period during which the lead action level was exceeded. 40 C.F.R. § 141.88(a) and (b). Respondent failed to collect the required lead and copper source sample at each EPTDS no later than 6 months after the end of the monitoring period during which the lead action level was exceeded, or by March 31, 2022, for the June 1 to September 30, 2021, monitoring period, and therefore, violated this requirement.

13. Water systems that exceed the lead action level shall submit a source water treatment recommendation to the EPA no later than 6 months after the end of the monitoring period during which the lead action level was exceeded, in accordance with 40 C.F.R. § 141.83(a) and (b). Respondent failed to provide the EPA with a source water treatment recommendation no later than 6 months after the end

of the monitoring period during the which the lead action level was exceeded, or by March 31, 2022, for the June 1 to September 30, 2021, monitoring period, and, therefore, violated this requirement.

14. As a result of the lead action level exceedance on August 17, 2021, Respondent is required to monitor the System's tap water for lead and copper during consecutive six-month monitoring periods at 20 locations in accordance with the tiering criteria. 40 C.F.R. § 141.86(a) and (d). On May 11, 2022, the EPA provided instructions to update the System's Tap Sample Site Plan due to the lack of enough accepted locations. On October 18, 2022, the EPA provided the sample invalidation form and follow up instructions to be completed by November 7, 2022. 40 C.F.R. § 141.86(f). Respondent failed to respond to the EPA by November 7, 2022, invalidating 11 samples required for meeting the minimum monitoring requirements and consequently failing to monitor the System's water for lead and copper during January 1 and June 30, 2022, and therefore, violated this requirement.

15. Respondent is required to deliver a consumer notice of individual tap monitoring results for lead and copper to the persons served at each sampled site no later than 30 days after the System learns of the tap monitoring results, in accordance with 40 C.F.R. § 141.85(d). Within 90 calendar days following the end of each monitoring period, Respondent is required to submit to the EPA a sample copy of the consumer notification along with a certification that the notification has been distributed, in accordance with 40 C.F.R. § 141.90(f)(3). The EPA's record reflects that Respondent failed to submit a copy of the consumer notice and certification to the EPA within 90 calendar days following the ends of the June 1 to September 30, 2021, monitoring period, or by December 29, 2021, and the January 1 to June 30, 2022, monitoring period, or by September 28, 2022, and therefore violated this requirement. (A copy of the consumer notice and certification for the June 1 to September 30, 2021, monitoring period, dated September 27, 2021, was submitted to the EPA on April 29, 2022).

16. Respondent is required to monitor the System's water for radionuclides once each quarter. 40 C.F.R. § 141.26(a). Respondent failed to monitor the System's water for radionuclides during the second quarter of 2022 (April 1 and June 30, 2022) and therefore, violated this requirement. (Samples for radionuclides were collected during the third quarter on August 25, 2022, and the fourth quarter on December 19, 2022).

17. Respondent was required to monitor the System's water for inorganic chemicals (IOCs), synthetic organic contaminants (SOCs), and volatile organic chemicals (VOCs) at the TP01/SP07 sampling point, which is representative of each well after treatment at least once in every three-year compliance period, between January 1, 2017, and December 31, 2019. 40 C.F.R. § 141.24(h). Respondent failed to monitor the System's water for IOCs, SOCs and VOCs during the January 1, 2017, through December 31, 2019, monitoring period, and therefore, violated this requirement. (Respondent did collect IOCs and VOCs on June 12, 2020, and SOCs on July 7 and 14, 2020).

18. On April 1, 2022, the System added two new wells, WL10 and WL11. Respondent was then required to monitor each quarter the System's water for asbestos, IOCs, SOCs, and VOCs, at the TP01/SP07 sampling point, which is representative of each well after treatment to determine the new water quality blend. 40 C.F.R. §§ 141.24(h)(4) and (h)(20). Respondent failed to monitor for asbestos, IOCs, and SOCs, during the second quarter of 2022 (April 1 through June 30, 2022) and failed to

monitor for VOCs during fourth quarter 2022 (October 1 through December 31, 2022), and therefore, violated this requirement. In a letter dated October 25, 2022, EPA reduced IOC monitoring to triennial beginning on January 1, 2023.

19. Respondent is required to monitor the System's water quarterly for nitrate at the TP01/SP07 sampling point 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 the second quarter of 2022 and therefore, violated this requirement. (A nitrate sample was collected during the third quarter, on July 27, 2022).

20. During 2020 and 2021, Respondent was required to monitor for disinfection byproducts by taking a set of Total Trihalomethanes (TTHM) and Haloacetic Acids (HAA5) samples in the System's distribution system every 90 days, in February, May, August and November, according to the approved Stage 2 Monitoring Plan. 40 C.F.R. §§ 141.621 & 141.622(a)(1). Respondent failed to monitor the System's water for TTHM and HAA5 during February 2020 and therefore, violated this requirement.

21. 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 May 2019 and therefore, violated this requirement.

22. 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). Respondent received a sanitary survey report from the EPA on October 16, 2018, which detailed two significant deficiencies. The EPA approved a schedule for the System to complete the corrective actions by April 17, 2019. Respondent failed to complete all corrective actions by April 17, 2019, and failed to notify the EPA within 30 calendar days of completion of a significant deficiency corrective action and therefore, violated this requirement. Respondent completed the corrective actions of the significant deficiencies on June 1, 2020. No further action is required.

23. For each calendar year, Respondent is required, no later than July 1st of the following year, to prepare and distribute a Consumer Confidence Report (CCR) to the EPA and the System's customers. Within three months thereafter, or by October 1st, Respondent is required to certify to the EPA that it has distributed the CCR to the System's customers. 40 C.F.R. §§ 141.151-141.155. Respondent failed to prepare and distribute annual CCRs for calendar years 2018 and 2020 to the System's customers and to the EPA by July 1st of the following year. Respondent failed to provide the EPA CCR certifications for calendar years 2018 and 2020. Therefore, Respondent violated these requirements. (The 2018 CCR was provided to the EPA on September 6, 2019, and the 2020 CCR was provided to the EPA on September 29, 2022, but the EPA has not been provided the 2018 and 2020 CCR certifications).

24. 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 8, 9, 10, 11, 12, 13, and 21, above, are classified as violations requiring Tier 2 public notice within 30 calendar days, according to 40 C.F.R. § 141.203, and quarterly thereafter until the violation is resolved. The EPA's records reflect that the Respondent failed to notify the public of the violations cited in paragraphs 8, 9, 10, 11, 12, 13, and 21, above, according to 40 C.F.R. §§ 141.31(d) and 141.201-141.211 and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement.

25. 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 15, 16, 17, 18, 19, and 20, 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 the Respondent failed to notify the public of the violation cited in paragraph 16, 19, and 20 and failed to submit a copy of the public notice and certification to the EPA and therefore, violated this requirement. The deadline for public notice of the violations cited in paragraphs 15, 17 and 18, above, has not yet passed.

26. 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 paragraphs 8 through 19 and 21 through 24, above, to the EPA and therefore, violated this requirement.

27. 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 listed in paragraph 20, 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):

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

29. Within 30 days after receipt of the Order, and quarterly thereafter until there is no longer a lead action level exceedance, Respondent shall complete the public education materials required following a lead action level exceedance and submit materials to the EPA for approval prior to distribution, according to 40 C.F.R. § 141.85(a). Instructions on how to complete the public education requirements, a template with the required information, and a certification form are available at <https://www.epa.gov/region8-waterops/lead-and-copper-rule-public-education-materials-community-water-systems>. Following approval of public education materials by the EPA, and no later than 60 days after the receipt of this Order, Respondent shall deliver public education materials according to 40 C.F.R. § 141.85(b). Within 10 days after the distribution of public education materials, Respondent shall provide to EPA written documentation that the System has delivered the public education materials

meeting the content requirements in § 141.85(a) and the delivery requirements in § 141.85(b), as well as a list of all recipients of the materials. 40 C.F.R. § 141.90(f)(1).

30. Within 30 days of receipt of the Order, Respondent shall collect two water quality parameter samples from the second tap location. This sample site must be representative of water quality throughout the distribution system. This sample site must be sampled twice but should not be sampled on the same day. Respondent shall report water quality parameter results from the second tap location to the EPA within 10 days after receipt of results. Thereafter, during each monitoring period in which the System exceeds the lead or copper action level, Respondent is required to monitor for water quality parameters at two tap locations, collecting two samples at each location representative of water quality throughout the distribution system. 40 C.F.R. § 141.87(a)(1)(i) and (a)(2)(i). Respondent shall report water quality parameter results to the EPA within 10 days following the end of each applicable tap sampling monitoring period. 40 C.F.R. § 141.90(a). Water quality parameters sampled shall include the following, according to 40 C.F.R. § 141.87(b)(1):

- a. pH;
- b. water temperature;
- c. calcium;
- d. alkalinity;
- e. total dissolved solids (conductivity);
- f. orthophosphate (only if phosphate-based corrosion inhibitor is used); and
- g. silica (only if silicate-based corrosion inhibitor is used).

31. In the future, during each monitoring period in which the System exceeds the lead or copper action level, Respondent shall collect water quality parameter samples at each EPTDS. Each site must be sampled twice but should not be sampled on the same day. 40 C.F.R. § 141.87(a)(1)(ii) and (a)(2)(ii). Respondent shall report water quality parameter results to the EPA within 10 days following the end of each applicable monitoring period for water quality parameters. 40 C.F.R. § 141.90(a). Water quality parameters sampled shall include the following, according to 40 C.F.R. § 141.87(b)(1):

- a. pH;
- b. water temperature;
- c. calcium;
- d. alkalinity;
- e. total dissolved solids (conductivity);
- f. orthophosphate (only if phosphate-based corrosion inhibitor is used); and
- g. silica (only if silicate-based corrosion inhibitor is used).

32. Within 60 days of receipt of the Order, Respondent shall recommend installation of one or more of the following CCTs to the EPA which Respondent believes constitutes optimal corrosion control, according to 40 C.F.R. § 141.82(a) and (c)(1):

- a. alkalinity and pH adjustment;
- b. calcium hardness adjustment; and/or
- c. phosphate-based or silicate-based corrosion inhibitor.

Respondent may use the Optimal CCT Recommendation form attached to this Order.

33. Within 30 days of receipt of the Order, Respondent shall collect a minimum of one lead and one copper source water sample at each EPTDS which is representative of each well after treatment. 40 C.F.R. § 141.88(a) and (b). Respondent shall report source water sampling results to the EPA within 10 days following the end of each source water monitoring period. 40 C.F.R. § 141.90(b).
34. Within 60 days of receipt of the Order, Respondent shall provide the EPA with a source water treatment recommendation. Respondent may use the Source Water Treatment Recommendation form enclosed with this Order. 40 C.F.R. § 141.83(a) and (b)
35. Respondent shall monitor the System's water for lead and copper between January 1 and June 30, 2023, and every six months thereafter until otherwise directed by the EPA, according to the tiering criteria set forth in 40 C.F.R. § 141.86(a). Within the first 10 calendar days following the end of each monitoring period, Respondent shall report analytical results to the EPA, as required by 40 C.F.R. § 141.90.
36. In the future, no later than 30 days after the System learns of individual tap monitoring results, Respondent shall deliver a consumer notice of the tap monitoring results to the persons served at each sampled site, in accordance with 40 C.F.R. § 141.85(d). Within 90 calendar days following the end of each monitoring period, Respondent shall submit to the EPA a sample copy of the consumer notification along with a certification that the notification has been distributed, in accordance with 40 C.F.R. § 141.90(f)(3). Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#lcr>.
37. Respondent shall monitor the System's water for radionuclides in accordance with 40 C.F.R. § 141.26(a). Respondent is next required to sample for radionuclides during the first quarter (between January 1 and March 31, 2023), and second quarter (between April 1 and June 30, 2023). 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).
38. Respondent is required to monitor at the entry point to the distribution system two more quarters for SOCs (including PCBs) and two more quarters for VOCs to complete initial monitoring requirements, as required by Part 141. Respondent is next required to sample for SOCs during the first quarter (between January 1 and March 31, 2023), and second quarter (between April 1 and June 30, 2023). Respondent is next required to sample for VOCs during the first quarter (between January 1 and March 31, 2023), and fourth quarter (between October 1 and December 31, 2023). 40 C.F.R. §§ 141.23(a) and (c), 141.24(f)(4) and 141.24(h)(4)(ii). 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).
39. Respondent shall monitor the System's water quarterly for nitrate, in accordance with 40 C.F.R. § 141.23(d)(2), until notified by the EPA in writing of a different monitoring schedule. 40 C.F.R. § 141.23(d)(2). 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).

40. Respondent shall monitor the System's water annually for TTHM and HAA5 at the specific location during the month identified in the System's monitoring plan, as required by 40 C.F.R. §§141.620-141.622. Respondent shall submit the sampling results to the EPA within 10 calendar days following the end of the monitoring period, as specified by 40 C.F.R. § 141.629.
41. Within 10 calendar days after completing a corrective action of a significant deficiency, Respondent shall notify the EPA of the project's completion. Respondent shall provide sufficient evidence 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).
42. Within 30 calendar days after receipt of this Order, Respondent shall certify to the EPA that the CCRs for calendar years 2018 and 2020 have been distributed to the System's customers, and that the information is correct and consistent with compliance monitoring data previously submitted to the EPA. Thereafter, for each calendar year, Respondent shall prepare and distribute a CCR by July 1st of the following year and provide a certification to the EPA within three months, as required by 40 C.F.R. §§ 141.151- 155.
43. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violations cited in paragraphs 8, 9, 10, 11, 12, and 13, above, persist, Respondent shall notify the public of these violations. 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). Template and instructions are enclosed with this Order.
44. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 15, 16, 17, 18, 19 and 20, 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 enclosed and also are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#pn>.
45. 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.
46. 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.

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

Email: R8DWU@epa.gov, and Carballal-Broome.Christina@epa.gov

GENERAL PROVISIONS

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

49. 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.

50. Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil administrative penalty of up to \$67,544 (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; 87 Fed. Reg. at 989 (January 6, 2023).

51. 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: March 2, 2023.

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