

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:)
)
Ogden Driskill, Owner)
)
Respondent.)
)
Devils Tower KOA-Campstool)
Public Water System)
)
PWS ID #WY5600370)

Received by
Docket No. SDWA-08-2022-0006 EPA Region VIII
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. Ogden Driskill (Respondent) is an individual who owns and/or operates the Devils Tower KOA-Campstool Public Water System (System), which provides piped water to the public in Crook County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via one well. The water is untreated. The System is operated seasonally from April 1 to October 31.
4. The System has approximately 113 service connections and/or regularly serves an average of approximately 506 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/or failed to submit a signed copy of the completed checklist to the EPA prior to opening to the public in April 2020 and April 2021 and therefore, violated these requirements.

8. Respondent is required to monitor the System's water monthly for total coliform bacteria from April to October each year. 40 C.F.R. § 141.853-858. Respondent failed to monitor the System's water for total coliform bacteria during the months of September 2018 and August 2020 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 paragraph 7, above, are classified as violations requiring Tier 2 public notice within 30 calendar days, according to 40 C.F.R. § 141.203. The EPA's records reflect that the Respondent failed to notify the public of the violations cited in paragraph 7 and failed to submit a copy of the public notice and certification to the EPA 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 violations identified in paragraph 8, above, are classified as a violation 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 8 and failed to submit a copy of the public notice and certification 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 and 8, 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 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/rtrc_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. Respondent shall monitor the System's water monthly for total coliform bacteria from April through October 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.

15. 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 these violation. 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). The approved public notice can be found at https://www.epa.gov/sites/default/files/2018-12/documents/pn_rtrcr_ss.pdf

16. Within 30 calendar days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraph 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>.

17. 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).

18. 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.

19. If the population or number of connections served by the System at least 60 days of the year falls 25 individuals or 15 connections, Respondent must notify the EPA in writing within 10 calendar days by submitting a completed basic information form. The form is available at: <https://www.epa.gov/region8-waterops/epa-r8-drinking-water-system-basic-information-form>

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 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.

21. 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

22. This Order is binding on Respondent, and any person (*e.g.*, employee, contractor, or other agent) acting in concert with Respondent.
23. 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.
4. 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; 87 Fed. Reg. at 1679 (January 12, 2022).
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: January 20, 2022.

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