



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

AUG 24 2007

Ref: 8MO

SENT VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Julia Doney, President
Fort Belknap Community Council
RRI, Box 66
Harlem, MT 59526

James Scott Snow, Manager
Prairie Mountain Utilities
RRI, Box 66
Harlem, MT 59526

Re: Emergency Administrative Order
Docket No. **SDWA-08-2007-0078**
Lodgepole Housing Public Water System
PWS ID #083090047

Dear President Doney and Mr. Snow:

Enclosed is an Emergency Administrative Order ("Order") issued to the Fort Belknap Indian Community (FBIC) and the Prairie Mountain Utilities (the Utility) under section 1431 of the Safe Drinking Water Act ("SDWA"), 40 U.S.C. § 300i. In its current state, the water supplied by the Lodgepole Housing Public Water System ("System") may present an imminent and substantial endangerment to the health of persons. The Order is based on the presence of fecal coliform bacteria in drinking water samples taken from the System on August 14 and 20, 2007.

Fecal coliform are bacteria whose presence indicate the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems. The Utility already has issued a boil order public notice and provided EPA with a copy.

The enclosed Order sets forth the actions that you must take to ensure that the people served by the water supply are provided with safe drinking water. You must immediately take the required actions. Penalties for failing to comply are set forth in the Order. The Order

requires that you perform the following activities: (1) within 24 hours, provide a written intent to EPA to comply with the EAO; (2) determine the cause of the fecal coliform bacteria; (3) disinfect and flush the System; (4) conduct increased monitoring for total coliform bacteria and free chlorine residual until notified by EPA that normal testing can resume; and (5) continue the boil order public notice in effect until further notice from EPA.

EPA is committed to working with you to ensure the safety of the Lodgepole Housing public water supply. If your staff has technical questions about the Order, please contact Barbara Burkland or Eric Finke at 406-457-5009 and -5026, respectively. If you have legal questions regarding the Order, please contact Amy Swanson at 303-312-6906..

I urge your prompt attention to this matter.

Sincerely,

John F. Wardell, Director
Montana Office

Enclosure

cc: Robert Fox, Chair
Water Board

Rob Adams
Indian Health Service



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

AUG 24 PM 4:03

L. A. P. ...
HEARING CLERK

IN THE MATTER OF)
)
The Fort Belknap Indian Community, Owner,)
and Prairie Mountain Utilities, Operator,)
Lodgepole Housing Public Water System)
Harlem, Montana 59526)
)
PWS ID# 083090047)
)
Respondents.)
)
Proceedings under section 1431)
of the Safe Drinking Water Act,)
42 U.S.C. § 300i)
)

Docket No. **SDWA-08-2007-0078**

EMERGENCY
ADMINISTRATIVE
ORDER

STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i, as properly delegated to the Supervisors in the Legal Enforcement Program, Office of Enforcement, Compliance and Environmental Justice, and the Montana Office, EPA Region 8.

JURISDICTION

1. EPA has jurisdiction to issue emergency orders pursuant to section 1431 of the Act, 42 U.S.C. § 300i.
2. EPA has primary enforcement responsibility for public water systems in Indian country, pursuant to the regulations for implementation and enforcement of the National Primary Drinking Water Regulations (NPDWRs) set forth at 40 C.F.R. § 141.2.

FINDINGS

1. The Fort Belknap Indian Community (FBIC) is a federally-recognized tribal government comprised of the Assiniboine and Gros Ventre Tribes, and is a "person" within the meaning of 40 C.F.R. § 141.2 for purposes of federal enforcement.
2. The Prairie Mountain Utilities (the Utility) is a tribal agency under the laws of the Fort Belknap Indian Community Business Council and is therefore a "person" within the meaning of 40 C.F.R. § 141.2 for purposes of federal enforcement.
3. Respondent FBIC owns the Lodgepole Housing Public Water System (System), located 0.5 miles southeast of Lodgepole, Montana, on the Fort Belknap Indian Reservation, that provides water for human consumption.
4. Respondent Utility operates the System.
5. The System serves approximately 70 residents annually through approximately 15 residential service connections.
6. The System is a "public water system" within the meaning of 40 C.F.R. § 141.2.
7. The System serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "community water system" within the meaning of 40 C.F.R. § 141.2.
8. Respondents FBIC and Utility own and/or operate the System and therefore are "suppliers of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondents therefore are required to comply

with the Act and its implementing regulations, 40 C.F.R. Part 141.

9. The System is supplied solely by groundwater from one community well.
10. EPA has determined that emergency conditions exist at the System that may present an imminent and substantial endangerment to public health. The current emergency conditions were initiated by a report of the presence of fecal coliform in a drinking water sample collected from the System on August 14, 2007, and in all four of the four repeat samples collected from the System on August 20, 2007. These samples constitute a violation of the acute Maximum Contaminant Level (MCL) for coliform bacteria as stated in 40 C.F.R. § 141.63.
11. The Utility responded by issuing a boil order public notice to the customers of the System on August 20, 2007, and by cooperating with EPA and its technical assistance provider.
12. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Act and the NPDWRs in Indian country.
13. Prior to issuing this Order, EPA consulted with the Respondents to confirm the information on which this Order is based and to ascertain the actions which the FBIC and the Utility are taking.

EMERGENCY ADMINISTRATIVE ORDER

1. Within 24 hours of receipt of this Order, Respondents shall notify EPA in writing of their intention to comply with the terms of this Order. The written response

shall include a general plan for compliance with each of the elements of this Order.

2. On August 20, 2007, Respondent Utility issued a boil order public notice in the affected area. Upon the effective date of this Order, Respondents shall continue the boil order public notice in effect until notified by EPA in writing that it can be lifted. This public notice shall be posted in conspicuous locations throughout the area served by the System and hand-delivered to persons served by the System, *including but not limited to the hospital and schools.*
3. If directed by EPA, or if otherwise necessary, Respondents shall provide an alternative potable water supply. The alternative water supply shall be from an EPA regulated drinking water supply that meets the NPDWRs or a licensed water distributor, and must be made available at no cost as needed for drinking and cooking until Respondents receive written notification from EPA that alternative water is no longer necessary. Respondents shall provide the alternative water at one or more locations that are accessible to all persons served by the water system. Respondents shall provide a sufficient quantity of water for reasonable domestic uses, at least two liters daily per person served by the water system.
4. Determine the cause of, and take the appropriate action(s) necessary to prevent the recurrence of, the presence of fecal coliform bacteria. Respondents shall inform EPA within one week of receipt of this Order of the scope, status and

findings of its investigation into the cause of the *fecal coliform* contamination.

EPA may at that time require additional action if it deems necessary.

5. Upon receipt of this Order, Respondents shall maintain a detectable disinfectant residual as measured at the far ends of the distribution system, including dead ends if any exist in the System. Respondents shall report *daily free chlorine* residual test results to EPA daily by telephone or email until notified in writing by EPA that such reports are no longer required.
6. Upon the effective date of this Order, and until notified in writing by EPA that *daily residual testing* may be discontinued, Respondents shall monitor the free chlorine disinfectant residual daily from at least two locations in the System. One of those locations must be a dead end, if any exist. The other location must be the location at which coliform samples are collected.
7. Upon the effective date of this Order, Respondents shall comply with the total coliform MCL set forth in 40 C.F.R. § 141.63.
8. On Monday, August 27, 2007, and as directed by EPA thereafter, and until receiving written notice from EPA to discontinue daily coliform sampling, Respondents shall collect DAILY special purpose total coliform samples from the distribution system to determine compliance with the MCL as set forth in 40 C.F.R. § 141.63. Respondents shall designate one sample each month as the monthly compliance sample. Respondents shall report *daily total coliform* sampling results to EPA by telefax immediately upon receiving the laboratory

results.

9. After Respondents receive written notification from EPA to discontinue daily total coliform sampling, Respondents shall conduct WEEKLY bacteriological sampling to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R. § 141.63. Unless a daily sample has already been designated as a monthly compliance sample, Respondents shall designate one weekly sample as a monthly compliance sample. Respondents shall report weekly total coliform sampling results to EPA by telefax immediately upon receiving the laboratory results.
10. Respondents shall continue weekly bacteriological monitoring until Respondents receive notification from EPA to discontinue weekly bacteriological sampling. Respondents shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.21 to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondents shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
11. Respondents shall collect all total coliform samples at sites which are representative of water throughout the distribution system according to the written sample site plan Respondents previously submitted to EPA pursuant to 40 C.F.R. § 141.21(a).
12. If any one of the designated compliance sample results are total coliform, e. coli

or fecal positive, Respondents shall conduct repeat sampling as required by 40 C.F.R. § 141.21(b), which requires public water systems that collect five or fewer total coliform samples to collect a minimum of four repeat samples within 24 hours of being notified of the total coliform, e, coli or fecal positive sample. Furthermore, Respondents shall comply with the requirements of 40 C.F.R. § 141.21(b)(5), which requires public water systems that collect five or fewer total coliform samples to collect a total of 5 routine total coliform samples the month following a total coliform, e-coli or fecal positive compliance sample result.

13. Upon the effective date of this Order, Respondents shall notify EPA of any future fecal coliform or E.coli positive samples by the end of the day when the System is notified of the test result.
14. All reports required to be submitted shall be sent to:

Barbara Burkland
EPA Montana Office
10 W. 15th St., Suite 3200
Helena, MT 59626
Telephone: 406-457-5009
Fax: 406-457-5055


GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order instituted under section 1431 of the Act, 42 U.S.C. § 300i, may subject the Respondent to a civil penalty not to exceed \$16,500 for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance.

Issued this 24th day of August, 2007.


John F. Wardell, Director
EPA Montana Office


David J. Janik, Acting Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice