

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 2012 JUN 29 AM 11:19
REGION 8

FILED
REGION 8
HEARING CLERK

IN THE MATTER OF)
)
Northern Cheyenne Utilities Commission,)
)
Ashland Water System)
PWS ID#083090061 and)
)
Birney Water System)
PWS ID# 083090062)
)
)
Respondent.)
)
)
Proceeding under section 1431(a) of the)
Safe Drinking Water Act, 42 U.S.C. § 300i(a))
)

EMERGENCY
ADMINISTRATIVE
ORDER

Docket No. SDWA-08-2012-0031

AUTHORITY AND FINDINGS

1. This Emergency Administrative Order (Order) is issued by the Environmental Protection Agency (EPA) pursuant to the authority of section 1431(a) of the Public Health Service Act (also known as the Safe Drinking Water Act or Act). 42 U.S.C. § 300i(a). The undersigned officials have been properly delegated this authority.
2. Failure to comply with this Order may result in civil penalties of up to \$16,500 per day. 42 U.S.C. § 300i(b) and 40 C.F.R. part 19.
3. The EPA may issue such Orders when certain conditions exist which may present an imminent and substantial endangerment to human health, and other state or local authorities have not acted to protect human health. 42 U.S.C. § 300i(a).
4. The EPA has primary enforcement responsibility for the Act's public water supply protection program on the Northern Cheyenne Indian Reservation (the Reservation). No other governmental authority has applied for and been approved to administer the program on the Reservation.
5. Northern Cheyenne Utilities Commission (Respondent) is a tribal agency organized under the laws of the Northern Cheyenne Tribal Government and is therefore a "person" as that term is defined in the Act. 42 U.S.C. § 300f(12).
6. Respondent operates the Birney Water System (Birney System), located on the Reservation, approximately 25 miles southeast of Lame Deer, Montana, that provides water for human consumption. The Respondent also operates the Ashland Water System (Ashland

System), approximately 20 miles east of Lame Deer, Montana, that provides water for human consumption.

7. Systems that have at least 15 service connections or regularly serve at least 25 people per day at least 60 days per year or at least 25 year-round residents are subject to the requirements of the Act and its implementing regulations, 40 C.F.R. part 141 (also known as the drinking water regulations).

8. The Birney System serves approximately 116 residents annually through 25 residential service connections. The Ashland System serves approximately 203 residents annually through 38 service connections. The Birney and Ashland Systems (hereafter referred to collectively as "the Systems") are therefore "public water systems" as defined in the Act.

9. The EPA has determined that conditions exist at the Systems that may present an imminent and substantial endangerment to human health. The current emergency conditions were initiated on June 27, 2012 when both Systems lost the ability to pump water to their tanks. Both communities were evacuated and electrical service to the Systems was lost due to a wildfire. Water in the tanks and pipes has become stagnant and lost the chlorine residual which normally protects against bacteria due to the electrical service being suspended. A loss of pressure is suspected based on these circumstances. Loss of pressure may cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Back siphonage is also a condition resulting from low or no pressure. In addition, the pump house and/or distribution system in Ashland may have been damaged by the fire. Such system failures carry a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

10. Prior to issuing this Order, the EPA consulted with the Utility Manager and attempted to reach local tribal governmental authorities to confirm the facts and the potential endangerment, and has determined that this Order is necessary to protect human health.

ORDER

INTENT TO COMPLY

11. Within 24 hours of receipt of this Order, Respondent shall notify the EPA in writing of its intent to comply with the terms of this Order. Email is acceptable.

BOIL ORDER AND PUBLIC NOTICE

12. Within 24 hours of the evacuations being lifted, Respondent shall notify the public of the situation described in this Order by delivering a boil water advisory to all customers, posting it in conspicuous locations in each community, and announcing it on local radio. Directions on the required content and distribution of the public notice and advisory are included in Attachment A of this Order. Respondent shall submit a copy of the notices to EPA within 24 hours of their distribution. Respondent shall continue the public notice as set forth in

Attachment A until EPA provides written notification to discontinue.

ALTERNATE WATER SUPPLY

13. Using the public notice required in paragraph 12 above, Respondent shall notify the public that an alternative potable water supply is available. The alternative water supply must be either 1) provided by a licensed water distributor, 2) purchased bottled water, or 3) provided by another public water system that meets the requirements of the drinking water regulations and shall be made available at no cost to all users of the Systems as needed for drinking and cooking until Respondent receives written notification from the EPA that alternative water is no longer necessary. Respondent shall provide at least two liters of potable water daily per person at a central location that is accessible to all persons served by the Systems.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

14. Respondent shall flush and disinfect the Systems, including disinfection of the Systems' distribution systems, within 48 hours of the evacuations being lifted.

15. Once the Systems have been flushed and disinfected, Respondent shall collect consecutive daily (1 sample per day) special purpose total coliform samples from each distribution system.

16. After Respondent receives written notification from the EPA that Respondent may discontinue daily total coliform sampling based on the EPA's determination that a sufficient number of daily total coliform sample results from each System have been negative, Respondent shall collect weekly special purpose bacteriological samples (1 sample per week from each System).

17. Respondent shall monitor the chlorine residual at the same time and location as the Systems' special purpose total coliform samples (as required in paragraphs 16 and 17 above). Respondent shall maintain a detectable disinfectant residual as measured at the far end of each distribution system.

18. After Respondent receives written notification from the EPA that Respondent may discontinue weekly total coliform sampling based on the EPA's determination that a sufficient number of weekly total coliform sample results from the Systems have been negative, Respondent shall resume monthly total coliform sampling to determine compliance with the total coliform MCL. 40 C.F.R. §§ 141.21 and 141.63.

19. Respondent shall collect all total coliform sampling at sites which are representative of water throughout the distribution systems. Additionally, Respondent shall report all coliform and chlorine residual sampling results to the EPA by telephone or fax within 24 hours of receiving the results.

20. For the total coliform sampling in paragraph 15 above, Respondent shall, before

having these samples analyzed, designate one sample from each System as the monthly compliance sample to determine compliance with the MCL for total coliform. 40 C.F.R. §§ 141.21 and 141.63.

21. If any one of the designated compliance sample results are total coliform-positive, Respondent shall conduct repeat sampling as required by 40 C.F.R. § 141.21(b) by collecting a minimum of four repeat samples within 24 hours of being notified of the total coliform-positive sample. Furthermore, Respondent shall comply with the requirements of 40 C.F.R. § 141.21(b)(5) by collecting a total of 5 routine total coliform samples the month following a total coliform-positive compliance sample result.

22. EPA may require Respondent to increase and/or decrease total coliform sampling or chlorine residual sampling at any time while the Order is in effect.

PREVENTIVE MEASURES

23. Within 7 days of the evacuations being lifted, Respondent shall investigate and report in writing to the EPA, the extent of fire damage to either System.

REPORTING

24. Respondent shall notify the EPA when power service to the communities is restored and evacuations are lifted.

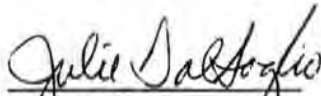
25. All contact with EPA on this matter shall be to:

Barbara Burkland
U.S. Environmental Protection Agency
10 West 15th Street
Helena, MT 59626
Phone: (406) 457-5009 or 1-866-457-2690
Fax: (406) 457-5055
E-mail: burkland.barbara@epa.gov

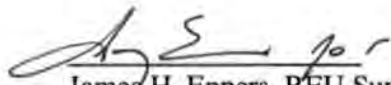
Emergency Administrative Order
Northern Cheyenne Utility Commission
Ashland and Birney PWSs
Page 5 of 5

26. This Order does not affect any legal requirement or EPA's legal enforcement options in this matter.

Issued and effective this 29th day of June, 2012.



Julie DalSoglio, Director
EPA Region 8 Montana Office



James H. Eppers, REU Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice