



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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<http://www.epa.gov/region08>

MAY 25 2011

Ref: ENF – L

**SENT ELECTRONICALLY, VIA FAX, AND CERTIFIED MAIL,
RETURN RECEIPT REQUESTED**

The Honorable Cedrick Black Eagle, Chairman
Crow Indian Tribe
P.O. Box 400
Crow Agency, MT 59022

Vianna Stewart, Superintendent
BIA Crow Agency
U.S. Department of Interior
P.O. Box 69
Crow Agency, MT 59022

Re: Emergency Administrative Order
Docket No. **SDWA-08-2011-0045**
Crow Agency Public Water System
PWS ID 083090011

Dear Chairman Black Eagle and Superintendent Stewart:

Enclosed is an Emergency Administrative Order (Order) issued to the Bureau of Indian Affairs Crow Agency (BIA) and the Crow Indian Tribe (Tribe) under section 1431 of the Safe Drinking Water Act (SDWA), 40 U.S.C. § 300i, in response to recent flooding of the Little Bighorn River threatening the Crow Agency Public Water System (system). The Order is being issued jointly to the Tribe and BIA because of your respective status as owner/operator of the Crow Agency water treatment plants 1 and 2, and shared ownership of the distribution system and storage tanks. We appreciate the prompt reporting of the emergency and all the hard work underway to continue to provide the community of Crow Agency with safe water despite the extreme weather conditions. This Order is intended to prevent contamination of the water supply due to a loss of water or pressure situation given the instability of the system's source water, intakes, and water treatment plants caused by the flood.

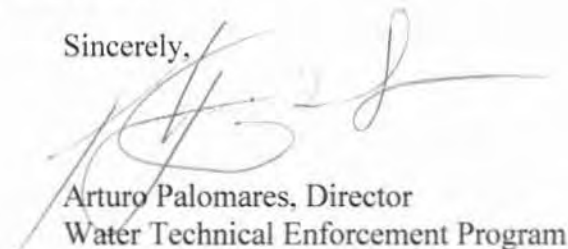
In its current state, the water supplied by the system may present an imminent and substantial endangerment to the health of persons. The Order is based on a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure may carry with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

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. The Order requires that Respondents BIA and the Tribe conduct the following activities: (1) within 24 hours, provide a written intent to EPA to comply with the EAO; (2) notify the public of the problem and provide a boil water advisory to the affected population; (3) provide alternative water to the affected population; and (4) evaluate whether any of the water treatment components have been impacted by the flood water and repair or replace such components. You are further required to drain, clean, and disinfect clearwells; re-calibrate all monitoring equipment; and flush the entire distribution system. The Order also requires that you monitor the system's water daily for total coliform bacteria, chlorine residual, and tap pressure.

EPA is committed to working with you to ensure the safety of Crow Agency's public water supply. Barbara Burkland and Jennifer Wintersteen of the EPA Montana Office presently are on-site to assess the situation and offer technical and compliance assistance. EPA also is sending a contractor from the Midwest Assistance Program to assist. Please let me know if there is additional assistance we can provide. If your staff has questions specific to the Order, the most knowledgeable people regarding these issues are Barbara Burkland, Environmental Scientist, who can be reached at (406) 457-5009, or Amy Swanson, Enforcement Attorney, who can be reached at (800) 227-8917 ext 6906.

We urge your prompt attention to this matter.

Sincerely,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Leroy Cummins, Facility Manager, BIA Crow Agency
Darrell Bright Wings, Tribal Operator, TP02
Heather LaTray, IHS
Bruce Ward, BIA Great Plains Region
Chris Dillon, Acting Manager Apsalooke Water and Wastewater Authority
Jim Real Bird, Apsalooke Water and Wastewater Board
John Doyle, Apsalooke Water and Wastewater Board
Larry Kindness, Apsalooke Water and Wastewater Board
Tina Artemis, EPA 8 Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 MAY 25 PM 1:56

FILED
EPA REGION VIII
RECORDING CLERK

IN THE MATTER OF)
)
U.S. Department of Interior,)
Bureau of Indian Affairs, Crow Agency,)
Treatment Plant 1 (TP01))
)
and)
)
Crow Indian Tribe,)
Treatment Plant 2 (TP02))
)
Respondents.)
)
Crow Agency Public Water System)
PWS ID 083090011)

**EMERGENCY
ADMINISTRATIVE
ORDER**

Docket No. **SDWA-08-2011-0045**

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. EPA has primary enforcement responsibility for the Act's public water supply protection program on the Crow Indian Reservation (the Reservation). No other governmental authority has applied for and been approved to administer the program on the Reservation.

3. 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. 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.

5. Respondent Bureau of Indian Affairs Crow Agency (BIA Crow Agency) is a Bureau of the United States Department of Interior and a "person" as that term is defined in the Act. 42 U.S.C. § 300f(12).

6. Respondent BIA owns and/or operates the Crow Agency Treatment Plant 1 (TP01) and jointly owns and/or operates with the Crow Indian Tribe a common distribution system comprising the Crow Agency Public Water System (the system) which provides piped water to the community of Crow Agency, Montana, within the exterior boundaries of the Crow Indian Reservation, for human consumption.

7. Respondent Crow Indian Tribe is a federally recognized Indian Tribe and therefore a "municipality" and therefore "a person" within the meanings of §§ 1401(10) and (12) of the Act, 42 U.S.C. §§ 300f(10) and (12).

8. Respondent Crow Tribe owns and/or operates the Crow Agency Treatment Plant 2 (TP02) and jointly owns and/or operates with BIA the system referenced in paragraph 6 above which provides piped water to the community of Crow Agency, Montana, for human consumption.

9. The system is supplied by surface water from the Little Bighorn River which is treated by the two conventional filtration plants, TP01 and TP02.

10. The system has approximately 430 service connections used by year-round residents and/or regularly serves an average of approximately 1,600 year-round residents. Therefore the system is a "public water system" and a "community water system" within the meaning of § 1401 of the Act, 42 U.S.C. § 300f, and 40 C.F.R. § 141.2, and subject to the requirements of the Act and its implementing regulations set forth in 40 C.F.R. part 141.

11. EPA has determined that conditions exist at the system that may present an imminent and substantial endangerment to human health caused by flooding of the Little Bighorn River. The flooding, which began May 20, 2011, has rendered unstable the system's source water, intakes and water treatment plants. In addition, the community of Crow Agency and surrounding areas currently are underwater. On May 20, 2011, TP01 was shut down due to contamination concerns with the source water. (TP02 has been out of use for approximately the past six months.) On May 23, 2011, flood water entered both TP01 and TP02 to a depth of 15 inches. By the evening of May 23 through May 24, 2011, Crow Agency experienced low water in storage and loss of system pressure due to lack of water production from TP01. TP01 and TP02 subsequently were pumped free of standing water, cleaned, and TP01 was restarted. By the evening of May 24, 2011, approximately 7 feet of water had been produced and stored in the tanks, guaranteeing at least two days of water for the community of Crow Agency. However, TP01 has a plugged intake that cannot be cleaned until the river level drops and mechanical issues preclude restarting TP02. Given continuing rain events at and around Crow Agency and the rising river, additional shutdown of TP01 is likely. 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. Such system failures carry a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

12. Prior to issuing this Order, EPA consulted with the BIA and Tribal governmental authorities to confirm the facts and the potential endangerment, and has determined that this Order is necessary to protect human health. EPA representatives Barbara Burkland and Jennifer Wintersteen arrived on site on Tuesday, May 24, 2011, to assess the situation and render assistance.

ORDER

INTENT TO COMPLY

13. Within 24 hours of receipt of this Order, Respondents shall notify EPA in writing of their respective intent to comply with the terms of this Order.

BOIL ORDER AND PUBLIC NOTICE

14. Respondents shall continue to notify the public of the problem described in this Order in the affected area and distribute a boil water advisory until notified otherwise by EPA in writing. Respondents must perform public notice and other notice requirements as directed by EPA.

ALTERNATE WATER SUPPLY

15. Using the public notice required in paragraph 14 above, Respondents shall notify the public in the affected area that an alternative potable water supply is available. The alternative water supply must be: 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 system as needed for drinking and cooking until Respondents receive written notification from EPA that alternative water is no longer necessary. Respondents 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 system experiencing restricted use and/or low pressure.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

16. After standing water has been removed from TP01 and TP02, damage assessment completed, and all electrical and mechanical equipment within each plant is operational, Respondents shall evaluate whether any of the water treatment components have been impacted by flood water (including flocc basins, clarifiers, filters, clearwells), and shall notify EPA by fax or email regarding additional repairs or replacements that are needed. Repairs or replacement shall be made as needed to restore the components to the operational, pre-flood conditions.

17. At TP01 and TP02, Respondents BIA and Tribe respectively must drain, clean and disinfect impacted clearwells. Disinfection will be by chlorinating and maintaining a free chlorine residual of 10 mg/L for 24 hours. Respondents shall then flush the clearwells to waste.

18. Respondents shall verify operational status of and re-calibrate all monitoring and recording equipment at TP01 and TP02.

19. When it is safe to restart the plants, Respondents shall notify EPA and begin treatment operations by filter to waste to ensure a filtrate turbidity limit of 0.3 NTU or less can be obtained.

20. When the required turbidity level can be maintained, Respondents may begin sending water to refill the disinfected clearwell. When the free chlorine residual leaving the clearwell is at least 0.2 mg/L, Respondents may send the water to the distribution system.

21. Respondents shall flush the entire distribution system with chlorinated water (this should be 1 – 1.5 mg/L but less than 4 mg/L) until tanks are filled and the system can maintain normal operational pressure.

22. Once the system has been flushed and disinfected, Respondents shall monitor on consecutive days the system's water for total coliform bacteria (taking one sample (marked "special not for compliance") per day in different areas of town), recording chlorine residual and tap pressure (psig) with each sample collected, until notified otherwise by EPA. If applicable, one sample per month should be marked "for compliance" as the system's routine monthly total coliform sample.

23. Respondents shall monitor the chlorine residual and tap pressure (psig) at the same time and location as the system's special purpose total coliform samples (as required in paragraph 22 above). Respondent shall maintain a detectable disinfectant residual as measured at the far end of the distribution system, and use tap pressures to determine whether adequate (at least 20-25 psig) pressure is being maintained. Chlorine residual and tap pressure shall be reported along with analytical results for total coliform.

24. After Respondents collect a sufficient number of consecutive daily total coliform samples that are negative and receive written notification from EPA to discontinue daily total coliform sampling, Respondents shall collect weekly special purpose bacteriological samples.

25. After Respondents collect a sufficient number of weekly total coliform samples that are negative and receive written notification from EPA to discontinue weekly total coliform sampling, Respondents shall thereafter resume monthly total coliform sampling to determine compliance with the total coliform MCL. 40 C.F.R. §§ 141.21 and 141.63.

26. Respondents shall report analytical results to EPA within 24 hours of receiving results from the lab via fax or email.

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

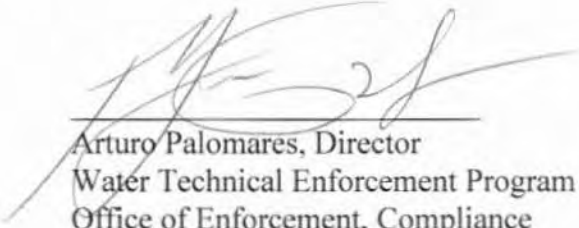
Barbara Burkland
US Environmental Protection Agency
10 West 15th St.
Helena, MT 59626
Phone: 457-5009 or 1-866-457-2690
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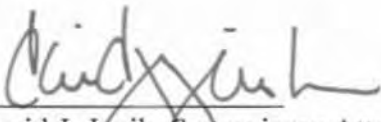
GENERAL PROVISIONS

28. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

29. Violation of any part of this Order or the drinking water regulations may subject Respondent Tribe to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19. Violation of any part of this Order may subject Respondent BIA to a civil penalty of up to \$32,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300j-6.

Issued: May 25, 2011.


Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice


David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice