



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

OCT 06 2009

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Julia doney, President
Fort Belknap Indian Community
R.R. 1, Box 66
Harlem, MT 59526

Margaret Nicholson, Director
Prairie Mountain Utilities
RR 1, Box 91
Fort Belknap Agency, MT 59526

RE: Emergency Administrative
Order under Section 1431 SDWA
Docket No. **SDWA-08-2010-0002**
Hays White Cow Water System
PWS ID 083090044

Dear President doney and Ms. Nicholson:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i. On October 3, 2009 EPA was notified that the Hays White Cow water system (the system) obtained total coliform and *E. coli* positive samples from monitoring conducted on September 28 and October 2, 2009, at the system. This situation may pose an imminent and substantial health endangerment to persons served by the system.

Pursuant to its authority set forth at section 1431 of the Act, 42 U.S.C. § 300i, EPA is authorized to take whatever actions necessary to protect human health. EPA has primary enforcement responsibility under the Act on the Fort Belknap Reservation. The enclosed Order and the requirements set forth therein are necessary to ensure adequate protection of public health.

The enclosed Order sets forth the compliance actions that must be taken to ensure that the people served by the water system are provided with safe drinking water. The Order requires, in part, that the system: issue a Boil Order and public notice until notified by EPA to discontinue; take additional total coliform bacteria samples; provide an alternate source of water; and, submit a plan for long-term compliance. The penalties for failing to comply are set forth in the Order.

If you have any questions or wish to discuss this Order, please contact Barbara Burkland at (406)457-5009 extension. If you are represented by an attorney, please ask your attorney to call Peggy Livingston at (303)312-6858.

Sincerely,



Julie Dalsoglio,

Acting Director

EPA Region 8 Montana Office

for Julie Dalsoglio

Enclosures

Emergency Administrative Order

Public Notice & Boil Order Template

cc: Scott Snow, Head Operator, Prairie Mountain Utilities
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF

2009 OCT -6 PM 3:18

Ft Belknap Indian Community,
Owner and
Prairie Mountain Utilities,
Operator,
Hays White Cow Public Water System

Respondents.

EMERGENCY ADMINISTRATIVE

ORDER

Docket No. SDWA-08-2010-0002

EPA REGION VIII
HEARING CLERK

AUTHORITY AND FINDINGS

1. This Emergency Administrative Order (Order) is issued by the Environmental Protection Agency 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. § 3001(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 Fort Belknap Indian Reservation (the Reservation). No other governmental authority has applied for and been approved to administer the program on the Reservation.

3. Failure to comply with this Order may result in civil penalties of up to \$16,500 per day. 42 U.S.C. § 3001(b) and 40 C.F.R. part 19.

4. 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. § 3001(a).

5. Respondent Prairie Mountain Utilities (the Utility) is a Tribal agency under the laws of the Fort Belknap Indian Community Council. Respondent Fort Belknap Indian Community (FBIC) is a federally recognized tribal government/tribal agency consisting of the Assiniboine and Gros Ventre Tribes. The Utility and FBIC, collectively referenced as Respondents, are each a "person" as defined in 40 C.F.R. § 141.2 for purposes of federal enforcement of the Act.

6. Respondents own and/or operate the Hays White Cow drinking water system (the system), located in Hays, Montana, which provides water to the public 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 system serves an average of 30 persons daily throughout the year, and therefore is a "public water system" and a "community water system" as defined in section 1401 of the Act, 42 U.S.C. § 300f and 40 C.F.R. § 141.2.

9. EPA has determined that conditions exist at the system that may present an imminent and substantial endangerment to human health. EPA has made this determination based on one sample collected on September 28, 2009, which was determined to be total coliform and fecal coliform positive and four repeat samples collected on October 2, 2009, two of which were E. coli positive and one which was total coliform positive. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. E.coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health 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.

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

FINDINGS OF VIOLATION

11. Respondents are required to monitor the system's water at least once per month to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. §141.21. The drinking water regulations define the acute maximum contaminant level (MCL) for total coliform bacteria as a fecal coliform positive or E. coli positive repeat sample, or any total coliform positive repeat sample following a fecal coliform positive or E. coli positive routine sample. 40 C.F.R. §141.63(b). The results of samples collected by the Respondents

on October 2, 2009, exceeded the acute MCL for total coliform bacteria and, therefore, violated this requirement.

ORDER

INTENT TO COMPLY

12. 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.

BOIL ORDER AND PUBLIC NOTICE

13. Within 24 hours of receipt of this Order, Respondents shall notify the public of the problem described in this Order by posting a boil water advisory in conspicuous locations in the 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 to this Order. Respondents shall submit a copy of the notice to EPA within 24 hours of its distribution. Respondents shall continue the public notice as set forth in Attachment A until EPA provides written notification to discontinue. Respondents must carry out the public notice and other notice requirements that EPA directs. Respondents must comply with this requirement upon any future acute MCL violation or any similar emergency situation.

ALTERNATE WATER SUPPLY

14. Using the public notice required in paragraph 13 above, Respondents 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 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.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

15. If Respondent has not already done so since October 2, 2009, Respondent shall, within 48 hours of receipt of this Order, clean, flush, and disinfect the system, including disinfection of

the system's distribution system and any storage tanks that are part of the system.

16. Once the system has been flushed and disinfected, Respondents shall collect consecutive daily (1 sample per day) special purpose total coliform samples from the distribution system.

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

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

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

20. Respondents shall collect all total coliform samples at sites which are representative of water throughout the distribution system. Additionally, Respondents shall report all coliform and chlorine residual sampling results to EPA by telephone or fax immediately upon receiving the results.

21. For the total coliform sampling in paragraph 17 above, Respondents shall, before having that sample analyzed, designate one sample as the monthly compliance sample to determine compliance with the MCL for total coliform. 40 C.F.R. §141.63.

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

COMPLIANCE MEASURES

23. Within 7 days of the effective date of this Order, Respondents shall provide EPA with a modification to the compliance plan and schedule submitted to EPA on February 27, 2009, as a requirement of the October 9, 2008 Order issued by EPA

to Respondents (Docket Number SDWA-08-2009-0006). The plan shall outline actions to be taken that will ensure compliance with the total and acute coliform MCLs. 40 C.F.R. §141.63. The plan shall identify the cause of the positive E. coli and total coliform samples mentioned above and describe efforts which Respondents will take to prevent recurrence of total, fecal and E. coli positive contamination in the system, including evaluation of the system's chlorination system, tank cleaning, and tank security. If applicable, the plan shall include proposed system modifications, estimated costs of modifications, a schedule for completion of the project and compliance with the Order and Federal requirements. The proposed schedule shall include specific milestone dates and a final compliance date to be completed within 1 month from the date of EPA's approval of the plan. The plan and schedule must be approved by EPA before construction or modifications may commence.

24. The plan and schedule required by paragraph 23, above, shall be incorporated into this Order as enforceable requirements upon written approval by EPA. EPA may choose to incorporate the above required plans into the Administrative Order that was issued to this system on October 9, 2008. If implementation of the plan fails to achieve permanent compliance, EPA may order further steps and/or seek penalties for noncompliance.

25. Within 10 days of completion of the approved plans and schedule required in paragraph 23, Respondents shall notify EPA in writing of project completion.

REPORTING

26. Respondents shall give daily updates to EPA on the progress of returning the system to compliance. Daily updates must be submitted to EPA until EPA notifies the Respondents that reports may be discontinued. These reports may be submitted via phone, fax, or e-mail.

Emergency Administrative Order
Hays White Cow Public Water System
Page 6 of 6

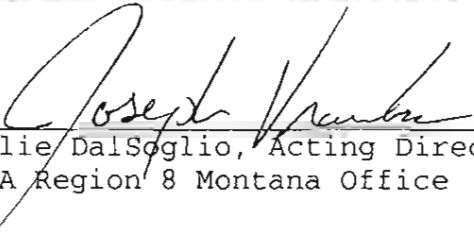
27. Unless otherwise directed in writing by EPA, all contact with EPA on this matter shall be to:

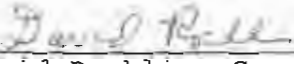
Barbara Burkland
US Environmental Protection Agency
10 West 15th St.
Helena, MT 59626
Phone: 457-5009 or 1-866-457-2690
Fax: (406)457-5055

e-mail: burkland.barbara@epa.gov

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

Issued and effective this 6th day of October, 2009.


Julie DalSoglio, Acting Director
EPA Region 8 Montana Office


David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

BOIL ORDER NOTICE REQUIREMENTS AND TEMPLATE

This public notice shall be issued by broadcast media if available and posted in conspicuous locations throughout the area served by the Hays Whitecow water system and hand delivered to persons served by the water system. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future drinking water regulations violations. Respondent shall submit a copy of the public notice to EPA within 24 hours of completion of the public notice. The public notice shall include the following information:

All requirements as specified in 40 C.F.R. § 141.205 including:

1. A description of the emergency situation and potential contaminants of concern, and (as applicable) the contaminant level;
2. When the violation or situation occurred;
3. Any potential adverse health effects from the violation or situation (see section 11. below);
4. The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
5. Whether alternative water supplies are being used and locations where the water is provided for public use;
6. What actions consumers should take, including when they should seek medical help;
7. What the system is doing to correct the violation or situation;
8. When the system expects to return to compliance or resolve the situation;
9. The name, business address, and phone number of the system owner, operator, or designee of the system as a source of additional information concerning the notice; and
10. A statement to encourage the recipients to distribute the public notice to other persons served by the system.

11. Mandatory health effects language as specified in 40 C.F.R. § 141.205(d)(1), Appendix B to subpart Q of part 141. This language is as follows:

E. coli are bacteria whose presence indicates that 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.

UNTIL FURTHER NOTIFIED, ALL WATER DERIVED FROM THE PUBLIC WATER SYSTEM USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, ETC., SHALL BE BOILED FOR AT LEAST THREE (3) MINUTES, AT A ROLLING BOIL, BEFORE USE, ALL STORED WATER, DRINK OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE DISCARDED.

Instructions for Fecal Coliform or *E. Coli* Notice – Community (Tier 1)

Template on Reverse

Since exceeding the fecal coliform or *E. coli* maximum contaminant level is a Tier 1 violation, you must provide public notice to persons served as soon as practical but within 24 hours after you learn of the violation (141.202(b)). During this time, you must also contact your primacy agency. You should also coordinate with your local health department. You may also have to modify the template if you also have high nitrate levels or other coliform MCL violations. You must use one or more of the following methods to deliver the notice to consumers (141.202(c)):

- Radio
- Television
- Hand or direct delivery
- Posting in conspicuous locations

You may need to use additional methods (e.g., newspaper, delivery of multiple copies to hospitals, clinics, or apartment buildings), since notice must be provided in a manner reasonably calculated to reach all persons served.

The notice on the reverse is appropriate for hand delivery or a newspaper notice. However, you may wish to modify it before using it for a radio or TV notice. If you do, you must still include all required elements and leave the health effects language in italics unchanged. This language is mandatory (141.205(d)). If you post or hand deliver, print your notice on letterhead, if you have it.

Population Served

Make sure it is clear who is served by your water system--you may need to list the areas you serve.

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with fecal coliform or *E. coli* violations. Use one or more of the following actions, if appropriate, or develop your own:

- We are chlorinating and flushing the water system.
- We are switching to an alternate drinking water source.
- We are increasing sampling for coliform bacteria to determine the source of the contamination.
- We are repairing the wellhead seal.
- We are repairing the storage tank.
- We are restricting water intake from the river/lake/reservoir to prevent additional bacteria from entering the water system and restricting water use to emergencies.

After Issuing the Notice

Make sure to send EPA a copy of each notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

It is recommended that you notify health professionals in the area of the violation. People may call their doctors with questions about how the violation may affect their health, and the doctors should have the information they need to respond appropriately. In addition, health professionals, including dentists, use tap water during their procedures and need to know of contamination so they can use bottled water.

It is a good idea to issue a "problem corrected" notice when the violation is resolved. See Template 1-6 or call your primacy agency for information.

Please send a copy of your notice and dates posted to:

Barbara Burkland
US EPA
10 West 15th St., Suite 3200
Helena, MT 59626

Or, you may fax a copy to Barbara Burkland at 406-457-5055.

Certification of Public Notification

I _____ certify that the attached public notification was issued from
(PWS Operator / Responsible Party)

_____ to _____
(Date) (Date)

The attached notice was issued by _____
(Method of delivery)

Signature _____ Date _____

DRINKING WATER WARNING

The water provided by the Hays/Whitecow water system is contaminated with E. coli bacteria

BOIL YOUR WATER BEFORE USING

E. coli bacteria were found in the water supply on September 28 and again on October 2, 2009. These bacteria can make you sick, and are a particular concern for people with weakened immune systems.

Bacterial contamination can occur when increased run-off enters the drinking water source, such as during heavy rains. It can also happen due to a break in the pipes, a problem with the water tank, or a failure in the water treatment process.

What should I do? What does this mean?

- **DO NOT DRINK THE WATER WITHOUT BOILING IT FIRST.** Bring all water to a boil, let it boil for three minutes, and let it cool before using, or use bottled water. Boiled or bottled water should be used for drinking, making ice, brushing teeth, washing dishes, and food preparation until further notice. Boiling kills bacteria and other organisms in the water. Discard all stored water, drinks, or ice made recently from this supply.
- E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause 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 symptoms above are not caused only by organisms in drinking water. If you experience any of these symptoms and they persist, you may want to seek medical advice. People at increased risk should seek advice about drinking water from their health care providers.

What is being done?

We are inspecting the system with an engineer today. We will inform you when tests show no bacteria and you no longer need to boil your water. We anticipate resolving the problem within one week.

For more information, please contact Scott Snow at 353-2745 353-8313. General guidelines on ways to lessen the risk of infection by microbes are available from the EPA Safe Drinking Water Hotline at 1-800-426-4791.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by Prairie Mountain Utilities.
Water System ID#: 3090044. Date distributed: October 5, 2009.