



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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JUL -7 2015

Ref: 8ENF-L

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Rae Peppers, General Manager  
Northern Cheyenne Utilities Commission  
P.O. Box 747  
Lame Deer, Montana 59043

Re: Findings of Violation and Order for Compliance, In the Matter of Northern Cheyenne Utilities Commission, Docket No. **CWA-08-2015-0020**

Dear Ms. Peppers:

The U.S. Environmental Protection Agency (EPA) is issuing the Northern Cheyenne Utilities Commission (NCUC) the enclosed Findings of Violation and Order for Compliance (Order) for alleged violations of the Clean Water Act (Act) and National Pollutant Discharge Elimination System Permit No. MT0029360 (Permit) at the Lame Deer Wastewater Treatment Facility (Facility) owned and/or operated by NCUC. The EPA is authorized to issue this Order pursuant to section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3).

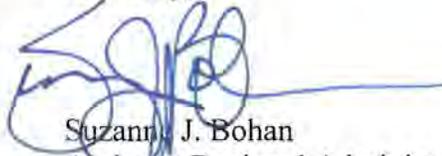
The Order describes the actions necessary for NCUC to achieve compliance with its Permit and the Act. Specifically, the Order requires that NCUC verify that it has repaired the lift station and the sewer line responsible for the Facility's collection system sanitary sewer overflows into Lame Deer Creek, or make the repairs within a specified time frame. Further, the Order requires NCUC to develop a draft Plan of Operation describing NCUC's responsibilities, standard operating procedures, management and staff positions, equipment, budget and board. The plan of operation also includes overflow emergency response, maintenance and repair, and design and performance. NCUC also is required by the Order to submit a plan and schedule to install disinfectant and comply with the fecal coliform limitation to comply with Part 1.3.4 of the Permit. Pursuant to the Order, NCUC is required to comply with all other requirements of the Permit.

The Act authorizes the EPA to take appropriate enforcement actions necessary to secure prompt compliance with the Act. Section 309 of the Act provides a variety of possible enforcement actions, including the filing of a civil, criminal or administrative action. (See 33 U.S.C. § 1319, subsections (b), (c), (d), and (g).) Please be advised that issuance of this Order does not preclude civil or criminal U.S. District Court action or EPA administrative penalty proceedings for the violations cited in the Order. Please review the Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of the Order.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet is enclosed. The SBREFA sheet notifies small entities of their right to comment on regulatory enforcement activities and provides information on compliance assistance resources and tools available to small businesses. SBREFA does not eliminate the City's responsibility to comply with the Act or to respond to this Order.

If you have any questions relating to technical issues raised in the Order, please contact David Rise in the EPA Montana at (406) 457-5012 or [rise.david@epa.gov](mailto:rise.david@epa.gov). Any questions relating to legal issues should be directed to Ms. Amy Swanson at (303) 312-6906 or by email at [swanson.amy@epa.gov](mailto:swanson.amy@epa.gov). Thank you for your attention to this matter.

Sincerely,



Suzann J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosures

1. Findings of Violation and Order for Compliance
2. Small Business Regulatory Enforcement and Fairness Act Information Sheet

cc: The Honorable Llevando Fisher, President  
Ms. Charlene Alden, Environmental Director  
Northern Cheyenne Tribe

Mr. Jim White, Director, Environmental Health and Engineering, Billings Area Office  
Mr. Jason Hrdlicka  
Mr. Todd Rydquist  
Indian Health Service



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2015 JUL -7 PM 2: 59

In the Matter of: ) Docket No. ~~CWA-08-2015-0020~~ **FILED**  
) ) **EPA REGION VIII**  
) ) **HEARING CLERK**  
Northern Cheyenne Utilities Commission ) **FINDINGS OF VIOLATION AND**  
Lame Deer, Montana, ) **ORDER FOR COMPLIANCE**  
) )  
Lame Deer Wastewater Treatment Facility ) Proceedings under Section 309(a) of the  
NPDES Permit No. MT0029360, ) Clean Water Act, 33 U.S.C. § 1319(a)  
Respondent. )

**STATUTORY AUTHORITY**

The following Findings of Violation and Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of, *inter alia*, sections 301 or 402 of the Act, or in violation of any permit condition or limitation implementing such sections of the Act. This authority has been properly delegated to the undersigned Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

**FINDINGS OF FACT AND LAW**

1. The Northern Cheyenne Utilities Commission (NCUC) is a tribal organization authorized under the laws of the federally recognized Northern Cheyenne Tribe (Tribe) to provide wastewater treatment services to the communities located within the exterior boundaries of the Northern Cheyenne Indian Reservation (Reservation).
2. For purposes of federal enforcement, NCUC is a “person” as that term is defined in section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

3. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, under which the EPA may issue permits authorizing discharges into navigable waters, subject to specific terms and conditions.
4. NCUC owns and/or operates the Lame Deer Wastewater Treatment Facility (Facility) located in township 2S, range 41E, section 33, 45° 37' 44"N 106° 40' 25", Rosebud County, Montana.
5. The Facility is a wastewater treatment facility that includes a sewer collection and conveyance system, a lift station and a three-cell wastewater treatment lagoon. Only two of the lagoon cells (#2 and #3) are in use. Sewage wastes feed into lagoon cell #2 and are treated there through the operation of aerators. The wastes are fed by gravity into lagoon cell #3 and the treated wastewater is discharged from the northwest corner of lagoon cell #3 into Lame Deer Creek.
6. The Facility serves the community of Lame Deer, including approximately 2,000 residents, 521 homes, Tribal offices, Bureau of Indian Affairs offices, schools, a Tribal college, a medical center and a number of other businesses and private enterprises.
7. The Facility is a "point source" within the meaning of section 502(14) of the Act, 33 U.S.C. § 1362(14).
8. The Facility discharges into Lame Deer Creek, a perennial stream that has been determined to be a jurisdictional water of the U.S. by the U.S. Army Corps of Engineers. Lame Deer Creek flows north into Rosebud Creek, a tributary of the Yellowstone River, which flows into the Missouri River. Lame Deer Creek is a "water of the United States" within the meaning of 40 C.F.R. § 122.2 and therefore, a navigable water within the meaning of section 502(7) of the Act, 33 U.S.C. § 1362(7).

9. Section 301(a) of the Act, 33 U.S.C. § 1311(a), in relevant part, prohibits the discharge of any pollutant by any person into navigable waters unless authorized by a permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342.
10. Wastewater is a “pollutant” within the meaning of section 502(6) of the Act, 33 U.S.C. § 1362(6).
11. The EPA, consistent with the EPA Policy for the Administration of Environmental Programs on Indian Reservations, consulted with the Tribe about the Facility’s noncompliance set forth below and informally sought to work cooperatively with the Tribe to return the Facility to compliance with the Act and the Facility’s NPDES permit by providing compliance and technical assistance, including a Compliance Assistance Plan (CAP), prior to issuing this Order.

#### Permit Requirements

12. Pursuant to section 402 of the Act, 33 U.S.C. § 1342, the EPA issued NPDES Permit No. MT0029360 (Permit) effective June 1, 2005, authorizing NCUC to discharge treated wastewater from the Facility to Lame Deer Creek in accordance with the conditions set forth in the Permit. The Permit was renewed effective March 1, 2011.
13. NCUC is subject to the requirements of the Act, the Permit, and the EPA’s regulations implementing the Act.
14. Part 1.2 of the Permit provides that the authorization to discharge is limited to discharges from the outfall (outfall #1) located at the northwest corner of lagoon cell #3 into Lame Deer Creek.
15. Part 1.3.1 of the Permit establishes effluent limitations for discharges from outfall #1 for the following parameters: biochemical oxygen demand (BOD); total suspended solids

(TSS); fecal coliform; pH; and oil and grease. The quality of effluent discharged by the Facility must, at a minimum, meet the effluent limitations.

16. Part 1.3.2 of the Permit requires NCUC to monitor the discharges from outfall #1 at specified intervals for the following parameters: flow, BOD, TSS, fecal coliform, pH, and oil and grease. Pursuant to Part 2.1 of the Permit, NCUC is required to monitor the discharges pursuant to procedures approved under 40 C.F.R. part 136 and to collect representative samples.
17. Part 1.3.3.1 of the Permit requires NCUC to inspect the Facility on a weekly basis for among other things, the following: 1) to determine if an unauthorized discharge has occurred or is likely to occur; 2) leakages from the dikes of the lagoon; 3) excessive erosion of the dikes; 4) rooted plants growing in the water; 5) to determine if the vegetation on the dikes needs mowing; and 6) to determine if proper operation and maintenance procedures are being undertaken.
18. Part 1.3.3.2. of the Permit requires NCUC to maintain a bound inspection notebook recording specified information, including: 1) date and time of the inspection; 2) name of the inspector; 3) the Facility's discharge status; 4) the flow rate of any discharge; 5) identification of operational and/or maintenance problems; 6) recommendations to remedy problems; 7) a brief description of remedial actions; and 8) other information as appropriate. The NCUC is required to maintain the notebook and provide it upon request to the EPA and/or the Tribe.
19. Part 1.3.3.3 of the Permit requires NCUC to address problems identified during the inspection through proper operation and maintenance.

20. Part 1.3.4 of the Permit required NCUC to 1) select a type of disinfection by September 1, 2011; 2) complete installation of the disinfection by March 1, 2012; and 3) come into compliance with fecal coliform limitations by September 1, 2012.
21. Part 2.4 of the Permit requires NCUC to summarize the effluent monitoring results from the previous month and report the results on discharge monitoring reports (DMRs). NCUC is required to submit the DMRs to the EPA and to the Northern Cheyenne Environmental Protection Department (NCEPD) on a monthly basis.
22. Part 2.7 of the Permit requires NCUC to maintain the following information on site: data collected on site; data used to prepare the DMRs; copies of DMRs; and a copy of the Permit.
23. Part 2.8.1 of the Permit requires NCUC to report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time that NCUC first becomes aware of the circumstances. The report is to be submitted to the EPA and the Tribe by calling phone numbers provided in Part 2.8.1 of the Permit.
24. Part 2.8.2 of the Permit requires NCUC to report any unanticipated bypass or upset that exceeds any effluent limitation to the EPA and the Tribe by the first workday following the day the NCUC becomes aware of the circumstances. NCUC is required to report any violation of a maximum daily discharge limitation to the EPA and the Tribe within twenty-four (24) hours.
25. Part 2.8.3 of the Permit requires NCUC to make a written submission containing information regarding any noncompliance to the EPA and the Tribe within five days after NCUC becomes aware of the noncompliance.

26. Part 3.4 of the Permit requires NCUC to take all reasonable steps to minimize or prevent any unauthorized discharge which has a reasonable likelihood of adversely affecting human health or the environment.
27. Part 3.5 of the Permit requires NCUC to at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by NCUC to achieve compliance with the conditions of the Permit.
28. Part 3.5.1 of the Permit requires NCUC to have a current operation and maintenance manual (O & M manual) describing the proper operational procedures and maintenance requirements of the Facility; have the O & M manual readily available to the operator and require that the operator become familiar with the manual; have a schedule for routine operation and maintenance activities at the Facility; and require the operator to perform the routine operation and maintenance requirements in accordance with the schedule.
29. Part 3.5.2 of the Permit requires NCUC to maintain a daily log in a bound notebook containing a summary record of all operation and maintenance activities at the Facility.
30. Part 3.7.2 of the Permit requires NCUC to submit notice of an unanticipated bypass to the EPA and the Tribe within twenty-four (24) hours.
31. Part 3.7.3 of the Permit prohibits any bypass of treatment unless the bypass is unavoidable to prevent loss of life, personal injury, or severe property damage; there are no feasible alternatives to the bypass; and the NCUC provides notice to the EPA and the Tribe.

Discharges of Untreated or Insufficiently Treated Sewage Wastewater

32. On March 6, 2013, the NCEPD reported to the EPA that a discharge of insufficiently treated wastewater from lagoon cell #2 at the Facility was entering Lame Deer Creek.

33. On March 7, 2013, an inspector from the EPA contacted the operator at NCUC via telephone and confirmed that the discharge was occurring. The NCUC operator advised the EPA inspector that the discharge was from lagoon cell #2 that had overtopped as the result of a failure of the lift station, and that NCUC was working with the Indian Health Service (IHS) to repair the lift station.
34. On May 1, 2013, the NCUC submitted its monthly discharge monitoring report (DMR) for the month of April. The DMR reported that the "Lagoon has had overflow of 4-5 months." NCUC had not timely reported these discharges to the EPA as required under the Permit.
35. Later in May 2013, the EPA learned that the unauthorized overflow discharges were continuing from lagoon cell #2.
36. On May 8, 2013, the NCEPD reported to the EPA that a sanitary sewer overflow (SSO) had occurred from an overflowing manhole and that discharges of raw sewage were entering Lame Deer Creek. NCUC did not report this SSO to the EPA as required under the Permit.
37. On July 10, 2013, the EPA inspector conducted an inspection of the Facility. Due to a fence blocking the road, the inspector was not able to determine whether the overflow from lagoon cell #2 was still occurring.
38. During the inspection, the inspector was informed that another SSO was occurring from the same location as the previous SSO. The inspector went to the area and observed that raw sewage was flowing once again from the manhole (designated by NCUC as manhole #G20) into Lame Deer Creek. On July 22, 2013, the inspector was told that the manhole had been overflowing constantly for the last couple of weeks.

39. The EPA inspector learned the SSO was caused by a blockage in the sewer line resulting from a broken pipe.
40. The inspector contacted the NCUC general manager who stated that NCUC had been using a pump to divert the sewage around the blockage in the sewer line. The general manager stated that on that day, however, the pump had been removed for use elsewhere, causing the manhole to overflow.
41. The EPA inspector was informed by the NCEPD that children play in Lame Deer Creek and several had become sick as a result of ingesting the water, and one had to be admitted to the hospital.
42. On July 24, 2013, the Tribe contacted the EPA and requested that the EPA begin emergency response efforts to address the SSO.
43. On July 24, 2013, the EPA dispatched an on-scene coordinator (OSC) to the Reservation. The OSC went to manhole #G20, which was not overflowing at that time. The manhole cover was lifted and the OSC observed approximately 6 feet of human waste and solids. The OSC also observed that two pumps were in place, pumping the sewage around the blockage so that manhole #G20 would not overflow.
44. The OSC learned that the sewer line contained two blockages. The IHS was providing assistance to NCU in repairing the line. The OSC advised the NCUC operator that the EPA does not handle sanitary sewer infrastructure problems. The OSC provided an extra pump and hoses to the NCUC operator so the sewage could be continuously pumped until the blockage could be fixed, and instructed the NCUC operator that the pump was to be used for that purpose.

45. On July 30, 2013, a tribal member informed the EPA that raw sewage was again overflowing from manhole #G20. Photographs received that day showed sewage overflowing from the manhole and there were no pumps being utilized. The NCUC did not report this SSO as required under the Permit.
46. On July 31, 2013, a tribal member informed the EPA inspector that the overflow on the previous day had occurred because no one was present to pump the sewage.
47. On or about February 24, 2014, NCUC communicated with the EPA and reviewed all prior impermissible discharges, on-going violations and potential formal enforcement if discharges continued.
48. On May 5, 2014, NCEPD informed the EPA that discharges of insufficiently treated sewage from lagoon cell #2 were again occurring into Lame Deer Creek. The NCUC did not report these discharges to the EPA as required under the Permit.
49. On May 5, 2014, the EPA inspector contacted the NCUC operator who stated he did not know why the lagoon was overflowing. The NCUC operator stated the valves in the lagoon system were open, but the discharge from the permitted outflow was low, indicating that the overflow from lagoon cell #2 was the result of wastewater not being released fast enough through the system.
50. Later on May 5, 2014, the NCUC operator contacted the EPA inspector and advised that he had worked with the valves and the discharge from the outfall was flowing more strongly.
51. On May 6, 2014, the NCUC sent a letter to the EPA advising that a crew from the NCUC had snaked the line and broken some debris loose, freeing the discharge. The NCUC further reported that the lagoon levels had dropped and would be monitored.

52. On May 15, 2014, the EPA provided written notice to the Tribe that NCUC was in noncompliance with the CAP and continued to have unauthorized wastewater discharges in violation of the Act and the Permit.
53. On May 20, 2014, the EPA conducted a Compliance Assistance Inspection of the lagoon cells and noted that the wastewater discharge from the permitted outfall exiting lagoon cell #3 was bright green in color, indicating that the wastewater had not been sufficiently treated prior to discharge through the outfall.
54. An engineer from the IHS present during the inspection on May 20, 2014, discovered that a bypass drain from a manhole was discharging sewage directly into lagoon cell #3 and that sewage was bypassing the aeration treatment in lagoon cell #2. The NCUC crew closed the gate to the bypass drain so the flow would be redirected to the lift station to lagoon cell #2.

Failure to Comply With Reporting Requirements  
From October 1, 2008, Through December 31, 2014

55. The NCUC failed to submit or submitted DMRs more than two months late on 12 occasions.
56. The NCUC failed to report 30 day and/or 7 day pH values on the DMRs on 23 occasions.
57. The NCUC failed to report 30 day and/or 7 day BOD values on the DMRs on 13 occasions.
58. The NCUC failed to report 30 day and/or 7 day TSS values on the DMRs on 16 occasions.
59. The NCUC failed to report 30 day and/or 7 day fecal coliform values on the DMRs on 24 occasions.

60. The NCUC failed to report 30 day and/or daily max flow values on the DMRs on 49 occasions.
61. The NCUC failed to report oil and grease visual observations on the DMRs on 8 occasions.
62. The NCUC failed to report oil and grease effluent limitations on the DMRs on 8 occasions.

Failure to Comply with Permit Effluent Limitations  
From October 1, 2008, Through May 31, 2014

63. The 30 day BOD Permit limit of 45 mg/l was exceeded on 13 occasions.
64. The pH maximum Permit limit of 9 s.u. was exceeded on one occasion.
65. The pH minimum Permit limit of 6 s.u. was exceeded on one occasion.
66. The 30 day TSS Permit limit of 45 mg/l was exceeded on four occasions.
67. The 7 day TSS Permit limit of 65 mg/l was exceeded on one occasion.
68. The 30 day fecal coliform limit of 200 org/100 ml, established as of September 1, 2012, was exceeded on 13 occasions.
69. The 7 day fecal coliform limit of 400 org/100 ml, established as of September 1, 2012, was exceeded on 13 occasions.

Failure to Comply With Other Permit Conditions

70. The NCUC failed to meet a deadline of September 1, 2011, established under the Permit for selection of the type of disinfectant to be used and submission of a report to the EPA.
71. During a compliance inspection conducted on December 13, 2011, the EPA inspector determined that no lagoon inspection records were kept.
72. The NCUC failed to meet a deadline of March 1, 2012, established under the Permit for installation of a disinfectant and submission of a report to the EPA.

73. The NCUC failed to meet a deadline of September 1, 2012, established under the Permit for compliance with fecal coliform limitations and submission of a report to the EPA on the installation of a disinfectant.
74. During the compliance inspection conducted on May 20, 2014, the EPA inspector observed the following violations:
  - a. Inspections of the lagoon cells were not conducted and documented
  - b. The treatment plant operator did not have a copy of the Permit
  - c. The treatment plant operator was not aware of many of the Permit requirements
  - d. The treatment plant operator did not have a copy of the O & M manual
  - e. The treatment plant operator was not familiar with the O & M manual

#### **FINDINGS OF VIOLATION**

75. From approximately January 2013 through May 2013, and on or about May 5, 2014, NCUC discharged insufficiently treated wastewater from an unauthorized location at lagoon cell #2 into Lame Deer Creek in violation of Part 1.2 of the Permit.
76. NCUC failed to report the discharges of insufficiently treated wastewater from lagoon cell #2 into Lame Deer Creek to the EPA and the Tribe in violation of Parts 2.8.1 and 2.8.3 of the Permit.
77. On or about May 8, 2013, July 15, 2013, and July 30, 2013, NCUC discharged untreated sewage from manhole #G20 into Lame Deer Creek in violation of Part 1.2 of the Permit.
78. NCUC failed to report the discharges of untreated sewage from manhole #G20 into Lame Deer Creek to the EPA and the Tribe in violation of Parts 2.8.1 and 2.8.3 of the Permit.

79. On or about May 20 and May 21, 2014, NCUC bypassed treatment by discharging sewage directly into lagoon cell #3 and thereby bypassing aeration in lagoon cell #2 in violation of Part 3.7.3 of the Permit.
80. NCUC failed to report the bypass to the EPA and the Tribe in violation of Parts 2.8.1, 2.8.2, and 3.7.2 of the Permit.
81. Between October 1, 2008, and December 31, 2014, NCUC failed to submit DMRs or submitted DMRs more than two months late to the EPA and the NCEPD on 12 occasions in violation of Part 2.4 of the Permit.
82. Between October 1, 2008, and December 31, 2014, NCUC failed to report 30 day and/or 7 day pH values on the DMRs on 23 occasions in violation of Part 2.4 of the Permit.
83. Between October 1, 2008 and December 31, 2014, 2013, NCUC failed to report 30 day and/or 7 day BOD values on the DMRs on 13 occasions in violation of Part 2.4 of the Permit.
84. Between October 1, 2008, and December 31, 2014, NCUC failed to report 30 day and/or 7 day TSS values on the DMRs on 16 occasions in violation of Part 2.4 of the Permit.
85. Between October 1, 2008, and December 31, 2014, NCUC failed to report 30 day and/or 7 day fecal coliform values on the DMRs on 24 occasions in violation of Part 2.4 of the Permit.
86. Between October 1, 2008, and December 31, 2014, NCUC failed to report 30 day and/or daily max flow values on the DMRs on 49 occasions in violation of Part 2.4 of the Permit.
87. Between October 1, 2008, and September 17, 2013, NCUC failed to report oil and grease visual observations on the DMRs on eight occasions in violation of Part 2.4 of the Permit.

88. Between October 1, 2008, and September 17, 2013, NCUC failed to report oil and grease effluent limitations on the DMRs on eight occasions in violation of Part 2.4 of the Permit.
89. Between October 1, 2008, and May 31, 2014, the discharge from outfall #1 exceeded the 30 day BOD Permit limit of 45 mg/l on 13 occasions in violation of Part 1.3.1 of the Permit.
90. Between October 1, 2008, and September 17, 2013, the discharge from outfall #1 exceeded the pH maximum Permit limit of 9 s.u. on one occasion in violation of Part 1.3.1 of the Permit.
91. Between October 1, 2008, and May 31, 2014, the discharge from outfall #1 exceeded the pH minimum Permit limit of 6 s.u. on one occasion in violation of Part 1.3.1 of the Permit.
92. Between October 1, 2008, and September 17, 2013, the discharge from outfall #1 exceeded the 30 day TSS Permit limit of 45 mg/l on four occasions in violation of Part 1.3.1 of the Permit.
93. Between October 1, 2008, and September 17, 2013, the discharge from outfall #1 exceeded the 7 day TSS Permit limit of 65 mg/l on one occasion in violation of Part 1.3.1 of the Permit.
94. Between September 1, 2012, and May 31, 2014, the discharge from outfall #1 exceeded the 30 day fecal coliform Permit limit of 200 org/100 mg on 13 occasions in violation of Parts 1.3.1 and 1.3.4 of the Permit.
95. Between September 1, 2012, and May 31, 2014, the discharge from outfall #1 exceeded the 7 day fecal coliform Permit limit of 400 org/100 ml on 13 occasions in violation of Parts 1.3.1 and 1.3.4 of the Permit.

96. NCUC failed to meet a deadline of September 1, 2011, for selection of the type of disinfectant to be used and submission of a report to the EPA in violation of Part 1.3.4 of the Permit.
97. NCUC failed to meet a deadline of March 1, 2012, for the installation of disinfectant and compliance with the fecal coliform limitations to the EPA in violation of Part 1.3.4 of the Permit. NCUC has not selected or installed a disinfectant for use at the Facility, nor has NCUC submitted a report to the EPA.
98. From approximately May 1, 2007, to the present, NCUC failed on numerous occasions to properly monitor and collect samples from discharges at outfall #1 in violation of Parts 1.3.2 and 2.1 of the Permit.
99. From approximately May 1, 2007, to the present, NCUC failed on numerous occasions to conduct weekly inspections of the Facility in violation of Part 1.3.3.1 of the Permit.
100. From approximately May 1, 2007, to the present, NCUC failed to maintain a bound inspection notebook containing required information in violation of Part 1.3.3.2 of the Permit.
101. From approximately May 1, 2007, to the present, NCUC failed to properly maintain and operate the Facility in violation of Parts 1.3.3.3, 3.4, 3.5, and 3.5.1 of the Permit.
102. From approximately May 1, 2007, to the present, NCUC failed to maintain required information on site, including the Permit and O & M manual, in violation of Parts 2.7 and 3.5.1 of the Permit.
103. From approximately May 1, 2007, to the present, NCUC failed to require the Facility operator to be familiar with the O & M manual in violation of Part 3.5.1 of the Permit.

104. From approximately May 1, 2007, to the present, NCUC failed to maintain a daily log in a bound notebook containing a summary record of all operation and maintenance activities at the Facility, in violation of Part 3.5.2 of the Permit.
105. NCUC's unauthorized discharges of insufficiently treated wastewater from lagoon cell #2 and SSOs from manhole #G20 into Lame Deer Creek constitute violations of section 301 of the Act, 33 U.S.C. § 1311.
106. NCUC's violations of the Permit issued under section 402 of the CWA, 33 U.S.C. § 1342, constitute violations of section 301 of the Act, 33 U.S.C. § 1311.

**ORDER**

107. Within 10 days of receipt of this Order, NCUC shall submit a written notice to EPA of intent to comply with the requirements of this Order.
108. NCUC shall comply with all requirements of the Permit.
109. NCUC shall comply with Part 1.3.4 of the Permit and submit a plan and schedule to install disinfectant and comply with the fecal coliform limitation to the EPA within 60 days of receipt of this Order. Upon approval of the plan and schedule by the EPA, NCUC shall install disinfectant and submit a report notifying the EPA that disinfectant has been installed according to the approved timeframe but no later than one year after receiving this Order.
110. NCUC shall comply with Parts 1.3.3.3, 3.4 and 3.5 of the Permit and submit to the EPA and the Tribe written verification that the sewer line that caused the SSOs at manhole #G20 has been permanently repaired no later than 90 days after receiving this Order. If the permanent repair has not been performed, NCUC within 90 days of receiving this

Order shall repair the sewer line that caused the SSO at manhole #G20 and provide the EPA with written verification of the repair.

111. NCUC shall comply with Parts 1.3.3.3, 3.4 and 3.5 of the Permit and submit to the EPA and the Tribe written verification that repairs have been completed to the Facility's lift station, aerators, valves, pipes and pumps no later than 90 days after receiving this Order. If the repairs have not been performed, NCUC within 90 days of receiving this Order shall perform the repairs to the lift station and provide the EPA with written verification of the repair.
112. The written verification required under paragraphs 110 and 111 shall be accompanied by invoices, photographs and other information documenting that the work has been successfully completed.
113. NCUC shall comply with Part 3.5 of the Permit and develop and submit to the EPA for review and approval a draft Plan of Operation (Plan) for NCUC no later than 120 days after receiving this Order. The plan shall describe NCUC's responsibilities (e.g., communities served and services provided), standard operating procedures, management and staff positions, equipment, budget, and description of the board and its function. NCUC may seek assistance from a contractor, consultant, or federal agency other than the EPA to draft the plan but remains solely liable for complying with this requirement. The plan, in addition to the categories required above, shall include the following elements:
  - a. Overflow Emergency Response Plan. An overflow emergency response plan to protect public health from overflows and unanticipated bypasses or upsets that exceed any effluent limitation in the permit. At a minimum the emergency response plan must include mechanisms to:

(i) Ensure that NCUC is aware (to the greatest extent possible) of all overflows from portions of the collection system and any unanticipated bypass or upset that exceeds any effluent limitation in the permit.

(ii) Ensure appropriate responses including assurance that reports of an overflow or of an unanticipated bypass or upset that exceeds any effluent limitation in the permit are immediately dispatched to appropriate personnel for investigation and response and, further, that all potentially impacted surface water users and groundwater under the direct influence of surface water users are notified.

(iii) Ensure that NCUC has appropriate backup equipment, staff, and resources to respond to future situations where the primary system at the lift station fails.

(iv) Ensure appropriate personnel are aware of and follow the plan and are appropriately trained and have access to the information they need to operate the system.

b. Maintenance and Repair Plan. To help prepare for and fund anticipated maintenance and repairs, this plan must address the following elements, including identification of the person or position in its organization responsible for each element:

(i) Provide adequate maintenance facilities and equipment.

(ii) Maintain a map of the collection system.

(iii) Provide a schedule, checklist and form for conducting weekly inspections and other routine preventive operation and maintenance activities.

(iv) Assess the current dry and wet weather capacities of the collection system and treatment facilities.

(v) Identify and prioritize structural deficiencies, and identify and implement short-term and long-term rehabilitation actions to address each deficiency.

(vi) Provide appropriate facility training on a regular basis.

(vii) Maintain equipment and replacement parts inventories including identification of critical replacement parts.

c. Design and Performance Provisions. NCUC must establish the following:

(i) Requirements and standards for the installation of new sewers, pumps and other appurtenances; and rehabilitation and repair projects.

(ii) Procedures and specifications for inspecting and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects.

(iii) List of all changes made or proposed to the facility to respond to future lift station failures.

d. Budget

(i) Provide NCUC's current billing process, rates and user fees, collection policy, and process for shut offs if appropriate.

(ii) Create and prepare a three-year budget for salaries, overhead, daily operation, and emergency response and planned repairs for the next three years from the date that the plan is finalized. The plan shall include an assessment of current funding, staff and equipment shortcomings and description of what is needed for NCUC to safely and reliably provide water and wastewater services to the Northern Cheyenne communities.

e. Standard Operating Procedures. NCUC must establish and provide for staff to use in the field SOPs for the wastewater treatment and collection systems that provide step-by-step instructions for when and how to perform regular and emergency wastewater operation and maintenance activities for the collection system and lagoon including, but not limited to the following:

(i) Visual inspections

(ii) Sampling

(iii) Discharge Monitoring Reporting

(iv) Emergency overflow or backup response

(v) Vegetation control

114. Within 30 days of receiving plan approval from the EPA, with or without changes, NCUC shall submit the Plan to the EPA and the Tribe, addressing the EPA's changes and/or comments, if any.

115. All notices and reports to EPA required by this Order shall be given to:

David Rise (8MO)  
U.S. EPA Montana Office  
10 W. 15<sup>th</sup> St., Suite 3200  
Helena, MT 59626

116. All notices and reports to the Tribe required by this Order shall be given to:

Charlene Alden, Director  
Northern Cheyenne Environmental Protection Division  
P.O. Box 128  
Lame Deer, MT 59043

117. All reports and information required by this Order shall include the following certification statement, signed and dated by either a principal executive officer or a ranking elected official for NCUC, or a duly authorized representative:

I hereby certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

118. NCUC may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

119. Any failure to comply with the requirements of this Order shall constitute a violation of the Order and may subject NCUC to penalties as provided under section 309 of the Act, 33 U.S.C. § 1319.

120. This Order does not constitute a waiver or election by the EPA to forego any civil or criminal action to seek penalties, fines or other relief as it may deem appropriate under the Act. Section 309(d) of the Act, 33 U.S.C. § 1319(d), authorizes the imposition of judicial civil penalties of up to \$37,500 per day for each violation of the Act. Section 309(g) of the Act, 33 U.S.C. § 1319(g), authorizes a maximum administrative civil penalties of \$137,500. Section 309(c) of the Act, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations of the Act.

121. Nothing in this Order shall be construed to preclude further action under section 309 of the Act for those violations cited herein or relieve NCUC from responsibilities, liabilities, or penalties established pursuant to any applicable federal law or regulation.
122. This Order shall be effective upon receipt by NCUC.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8,**  
Complainant.

Date: July 7, 2015



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Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance, and  
Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the preceding Administrative Order for Compliance were hand carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202, and that a true copy of the same was sent to the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED:

Ms. Rae Peppers, General Manager  
Northern Cheyenne Utilities  
PO Box 747  
Lame Deer, MT 59043

Date: 7/7/15

By: Jean Detty