



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-W

JUL 24 2015

BY EMAIL AND BY
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable John Yellowbird Steele, President
Oglala Sioux Tribe
P.O. Box 2070
Pine Ridge, South Dakota 57770-2070

RE: Emergency Administrative Order, Northwest Housing Standpipe of the Oglala Rural Water System Public Water System, PWS ID #4690480, Docket No. **SDWA-08-2015-0028**

Dear President Steele:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Oglala Sioux Tribe (Tribe) under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i. The EPA has determined that conditions exist at the Northwest Housing Standpipe Tank of the Oglala Rural Water System (System) that may present an imminent and substantial endangerment to the health of persons served by the System. The EPA has made this determination based on a tank inspection report that identified contamination in the Northwest Housing Standpipe storage tank.

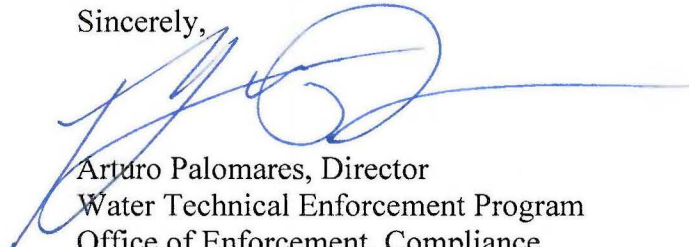
Pursuant to its authority set forth in section 1431 of the Act, 42 U.S.C. § 300i, the EPA is authorized to take actions necessary to protect human health. This Order and its requirements are necessary to ensure adequate protection of public health at the System based on the EPA's primary enforcement responsibility under the Act.

The enclosed Order sets forth the actions that must be taken to ensure that the people served by the System are provided with safe drinking water. The Order requires, among other things, that the Tribe measure chlorine residual at the Northwest Housing portion of the water system, submit a proposed plan and schedule for completion of repairs at the Northwest Housing Standpipe tank, and clean and disinfect the Standpipe tank prior to resuming normal service of the tank for the Northwest Housing area. The EPA's approval of any plan and schedule does not substitute for any state, local, or tribal approvals that may be required before any modification may be made to the System. The EPA encourages the System to contact appropriate agencies (state, local or tribal) to obtain any needed approvals for the plan required. 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 Mario Mérida at (800) 227-8917, extension 6297, or 303-312-6297. Any questions from the Tribe's counsel should be directed to Peggy Livingston, Enforcement Attorney, at the above 800 number, extension 6858, or at (303) 312-6858.

Thank you for your attention to this matter.

Sincerely,



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

Enclosure

Emergency Administrative Order

cc: Suzy (Lloydell) Mesteth, Environmental Director, Pine Ridge (via email)
Bill Hillman, OST Water and Sewer (via email)
Willard Clifford, Acting Director, OSWRR (via email)
Brent Rohlfs, Deputy Director, Great Plains Area IHS (via email)
Mike Boland, Great Plains Area IHS (via email)
James Begeman, Great Plains Area IHS (via email)
Tina Artemis, EPA Regional Hearing Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2015 JUL 24 AM 11:29

IN THE MATTER OF)
)
Oglala Sioux Tribe,)
)
Respondent.)
)
)
[Oglala Rural Water System)
PWS ID 4690480])
_____)

FILED
EPA REGION VIII
HEARING CLERK

EMERGENCY ADMINISTRATIVE ORDER

DOCKET NO. : SDWA-08-2015-0028

AUTHORITY

1. This Emergency Administrative Order (Order) is issued by the Environmental Protection Agency (EPA) pursuant to the authority of section 1431(a) of the Safe Drinking Water Act (the 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 \$21,500 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19.
3. The EPA may issue an order pursuant to section 1431(a) of the Act, 42 U.S.C. § 300i(a), when certain conditions exist which may present an imminent and substantial endangerment to the health of humans, and other state or local authorities have not acted, or do not have the authority to act, to protect human health.
4. The Oglala Sioux Tribe (Respondent) is an Indian Tribe.
5. Respondent is a “municipality” and a “person” as those terms are defined in the Act. 42 U.S.C. § 300f(12).
6. Respondent, through its Water and Sewer Department, owns and/or operates the Oglala Rural Water System (System) located in the Pine Ridge Reservation, South Dakota, which provides water to the public for human consumption. One component of the System is the Northwest Housing Standpipe tank (Tank).
7. The System has at least 15 service connections and/or regularly serves at least 25 people per day at least 60 days per year and is, therefore, a “public water system” as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4). Respondent is, therefore, subject to the requirements of the Act and the National Primary Drinking Water Regulations at 40 C.F.R. part 141.
8. The System serves an average of 3500 persons daily at least 60 days per year through 536 residential and 16 non-residential connections, and is, therefore, a community public water system as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4). [Note: the Tank serves the Northwest Housing portion of the System’s distribution system, or approximately 364 people.]

9. The EPA has determined that this Order is necessary to protect human health.
10. Prior to issuing this Order, the EPA consulted with the Respondent's Water and Sewer Department and with federal governmental authorities, including the Indian Health Service and Bureau of Reclamation, to confirm the facts stated in this Order and to confirm that state and local governments are unable to act to protect public health in this instance.
11. The EPA has determined that conditions exist at the System, specifically at the Tank, that may present an imminent and substantial endangerment to the health of humans, based on the facts indicated below.
12. The Tank is one of three storage facilities that service the Northwest Housing area of the System. Treated (chlorinated) water is sent from the Tank, without further treatment, to the Northwest Housing portion of the System's distribution system for consumption by its customers. The Tank has a capacity of 130,000 gallons.
13. On September 16, 2014, the EPA conducted a sanitary survey of the Oglala Rural Water System. During this survey, the EPA noted that the Tank had not been cleaned or inspected during the preceding 10 years, and had unknown integrity, and identified this as a significant deficiency. Cleaning and inspection of the tank was required as a corrective measure. In compliance with this requirement, on May 28, 2015, the System's contractor cleaned and inspected the Tank. Per the report of the May 28, 2015, inspection, sediment and 13 dead birds were removed from the tank, holes, of approximately two-inch diameter, were found in the wall-to-roof seam of the Tank. Holes were also found on the vent cover. These third-party inspection findings were reported to the EPA on July 21, 2015. The holes have since been temporarily patched.
14. The presence of dead birds in the storage tank has the potential to represent an imminent and substantial endangerment to the health of persons and requires that the Respondent take the following actions to protect the health of users of the System, in particular the users of the Northwest Housing area.

ORDER

INTENT TO COMPLY

15. Within 24 hours of receipt of this Order, Respondent shall notify the EPA in writing of its intention to comply with the terms of this Order. Notification by e-mail is acceptable.

REQUIREMENTS

16. Within 48 hours of receipt of this Order, Respondent shall begin daily monitoring of chlorine residual in the Northwest Housing portion of the System's distribution system. Respondent shall report results to the EPA daily, on the same day of monitoring.

17. Respondent shall report all results of sampling of the System's water to the EPA by telephone or fax immediately upon (i.e., as soon as practicable, and in no event more than 24 hours after) receiving the results.

18. At any time the chlorine residual is below 0.2 milligrams per liter, the Respondent shall immediately notify the EPA. (During Saturday and Sunday, the Respondent should notify the EPA On- Scene Coordinator at 303-293-1788.)

19. The EPA may require Respondent to provide public notice and an alternative source of drinking water to all customers if contamination is identified in the Tank and/or the Northwest Housing portion of the System's distribution system.

20. The EPA may require Respondent to increase total coliform and chlorine residual sampling at any time while this Order is in effect.

COMPLIANCE MEASURES

21. Within seven days of the effective date of this Order, Respondent shall submit a plan and schedule to the EPA for professional repair of the Tank. Repairs must address, at a minimum, repairs to holes located in the wall-to-roof seam and vent cover of the Tank. The proposed schedule shall include specific milestone dates and a final deadline (to be within 60 days of Respondent's receipt of this Order) for taking actions to ensure that contaminants do not enter the System via the Tank in the future.

22. The plan and schedule required by paragraph 21, above, will be incorporated into this Order as enforceable requirements upon written approval by the EPA. If implementation of the plan fails to achieve permanent compliance and/or to alleviate the imminent and substantial endangerment, the EPA may order further steps and/or seek penalties as appropriate.

23. No later than 10 days after performing all repairs to the Tank as required by the plan and schedule referenced above, Respondent shall isolate, drain, and disinfect the Tank. Within 24 hours thereafter, Respondent shall reconnect the Tank to the Northwest Housing portion of the distribution system.

NOTIFY EPA OF SITUATIONS WITH POTENTIAL ADVERSE EFFECTS ON PUBLIC HEALTH

24. Respondent shall initiate consultation with the EPA as soon as practicable (in no event more than 24 hours) after learning of any violation or situation with the potential to have serious adverse effects on human health as a result of short-term exposure to contaminants, as required by 40 C.F.R. § 141.202(b)(2). The Respondent must comply with this regulation in any future event that may pose a threat to public health or any similar emergency situation.

REPORTING

25. Respondent shall give daily updates to the EPA on progress of all requirements and compliance measures, above. Daily updates must be submitted to the EPA until the EPA notifies the Respondent that reports may be discontinued. These reports may be submitted via phone, fax, or e-mail.


26. Any notices or reports required by this Order to be submitted to the EPA shall be submitted to:

Mario Mérida, 8ENF-W
US Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129
Telephone (800) 227-8917, ext. 6297, or (303) 312-6467
Fax (303) 312-7518
e-mail: merida.mario@epa.gov


27. This Order does not relieve Respondent from the obligation to comply with any applicable federal, state, or local law.

28. This Order constitutes final agency action. Respondent may seek federal judicial review of this Order under section 1431 of the SDWA, 42 U.S.C. § 300(i), pursuant to section 1448(a) of the SDWA, 42 U.S.C. 300j-7(a).

29. This Order is and effective this 24th day of July, 2015.



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



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