



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

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Ref: 8ENF-W

OCT 06 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Matthew Box, Chairman
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, CO 81137

Lena Atencio, Director
Department of Natural Resources
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, CO 81137

RE: Emergency Administrative
Order under Section 1431 SDWA
Docket No. SDWA-08-2010-0068
Lake Capote Recreation Area
Public Water System
PWS ID #0890002

Dear Chairman Box and Ms. Atencio:

On August 13, 2010, the U.S. Environmental Protection Agency (EPA) issued an Emergency Administrative Order (Order) under section 1431 of the Safe Drinking Water Act (the Act), 40 U.S.C. § 300i, to the Southern Ute Indian Tribe and its Department of Natural Resources as owner and operator of the Lake Capote Recreation Area public water system (the system). This letter confirms the verbal and e-mail notice provided to Mr. Josh Batchelor of the Southern Ute Indian Tribe's Department of Natural Resources, Division of Wildlife, by Mario Mérida of EPA on September 16, 2010, regarding, first, discontinued monitoring and, second, the continued public notice and boil order requirements under the Order. This letter also confirms receipt of the Tribe's compliance plan and schedule required under the Order.

This letter serves as written notice that effective September 16, 2010, pursuant to the Order, bacteriological monitoring in the distribution system is no longer required. This notice is based on confirmation on September 14, 2010 by the Southern Ute Indian Tribe's Division of Wildlife that the Lake Capote Recreation Area's drinking water system had been isolated from the public and is now only available for basic sanitation

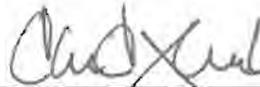
(i.e., public toilet) services on the campground and in the bait shop. Further, EPA acknowledges that daily bacteriological monitoring of the distribution system conducted August 22 through September 13, 2010, resulted in samples which were analyzed as total coliform and E. coli-negative.

However, EPA notes that the Tribe has reported total coliform-positive and E. coli-positive special source water samples collected from the system on August 25, August 27, and again on September 8, 2010. Given these source sample results, and in the interest of discouraging any inappropriate use of potentially unsafe water at the Lake Capote Recreation Area, EPA has decided to not rescind the public notification and boil order requirements under the Order. The Tribe, therefore, is required to continue to provide the public notice discussed in paragraph 13 of the Order until EPA advises otherwise. The Tribe is required also to comply with all other provisions of the Order. Penalties for failing to comply are set forth in the Order.

Finally, EPA also acknowledges receipt of the Southern Ute Indian Tribe's draft compliance plan and schedule on September 10, 2010, as required in paragraph 23 of the Order. EPA is reviewing and will address by separate letter this draft plan, which also serves to clarify the Tribe's strategy regarding options for addressing the potential status of the water supply designated as ground water under the direct influence of surface water, as required by EPA's letter of September 8, 2010.

We appreciate the Southern Ute Indian Tribe's ongoing cooperation and efforts aimed at protecting public health at the Lake Capote Recreation Area. If you have any questions regarding this matter, please contact Mario Mérida at (303) 312-6297. Your attorneys may call Legal Enforcement Attorney Peggy Livingston at the above 800 number, extension 6858, or at (303) 312-6858.

Sincerely,



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



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

cc: Tina Artemis, EPA Regional Hearing Clerk
Josh Batchelor, Parks Recreation Manager, Division of Wildlife, Department of
Natural Resources
Tom Johnson, Division Head, Southern Ute Environmental Program