



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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DENVER, CO 80202-1129  
Phone 800-227-8917  
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EPA REGION VIII  
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Ref: 8ENF-W-SDW

MAY 16 2018

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Sheri Bement, General Manager  
Northern Cheyenne Utility Commission  
P.O. Box 747  
Lame Deer, Montana 59043

RE: Emergency Administrative Order under Section 1431 of the Safe Drinking Water Act, Lame Deer Public Water System, PWS ID #083090064, Docket No. SDWA-08-2018-0014

Dear Ms. Bement:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Northern Cheyenne Utility Commission (NCUC), under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i. The EPA has determined that conditions exist at the Lame Deer Public Water System (System) that may present an imminent and substantial endangerment to the persons served by the System. The EPA has made this determination based on notification from the NCUC that the System lost pressure.

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.

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, in part: provision of an alternate water supply to customers; repair broken water line in the System; disinfect and flush the System; and, take additional total coliform bacteria samples, among other steps. The consequences for failing to comply are set forth in the Order.

If you have any questions or wish to discuss this Order, please contact Olive Hofstader at (800) 227-8917 extension 6467 or 303-312-6467, or by email at [hofstader.olive@epa.gov](mailto:hofstader.olive@epa.gov). Any questions from counsel for NCUC should be directed to Amy Swanson, Supervisory Enforcement Attorney, at the above 800 number, extension 6906, or 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,

*T. Cantor*

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

Enclosures

Boil Order Advisory

cc: Melissa Haniewicz, EPA Regional Hearing Clerk  
The Honorable Lawrence "Jace" Killsback, President Northern Cheyenne Tribe (fax)  
Charlene Alden, Environmental Director Northern Cheyenne Tribe (via email)  
Sean Big Bear, Operator, Lame Deer Water System  
Jim White, Indian Health Services (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF )  
)  
Northern Cheyenne Utility )  
Commission, )  
Lame Deer PWS )  
PWS ID 083090064 )  
)  
Respondent. )

Docket No. SDWA-08-2018-0014

**EMERGENCY ADMINISTRATIVE ORDER**

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**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 (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 \$23,374 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 83 Fed. Reg. at 1193 (January 10, 2018).
3. The EPA may issue an order pursuant to section 1431(a) of the Act, 42 U.S.C. § 300i(a), upon receipt of information that a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of humans, and appropriate state, tribal or local authorities have not acted, or do not have the authority to act, to protect human health.
4. The EPA has primary enforcement responsibility for the Act's public water supply protection program on the Northern Cheyenne Reservation (Reservation). No other governmental authority has applied for or been approved to administer the program on the Reservation.
5. Respondent Northern Cheyenne Utility Commission (NCUC) is an organization authorized under the laws of the Northern Cheyenne Tribe to provide water and wastewater services to predominantly tribal communities. Respondent is a "municipality" and "person" as those terms are defined in the Act. 42 U.S.C. § 300f(10) and § 300f(12), respectively.
6. Respondent, NCUC, owns and/or operates the Lame Deer Public Water System (System) located in the Town of Lame Deer, Montana (Town). The System provides water to the public for human consumption through pipes or other constructed conveyances.
7. Systems that have at least 15 service connections or regularly serve at least 25 people per day at least 60 days per year are "public water systems" as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and, therefore, are subject to the requirements of the Act and the National Primary Drinking Water Regulations (NPDWR) at 40 C.F.R. part 141.
8. The System has approximately 871 service connections used by year-round residents and/or regularly serves an average of approximately 3160 year-round residents. Therefore, the

System is a “public water system” and a “community water system” as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.

9. Prior to issuing this Order, the EPA consulted with NCUC and Indian Health Services to confirm the facts stated in this Order and to confirm that the Tribe is unable to act to protect public health in this instance. The EPA attempted to consult with and the Northern Cheyenne Tribal Government.

10. The EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to the health of humans, based on the facts indicated below. The EPA has determined that this Order is necessary to protect human health.

11. The NCUC notified the EPA on May 16, 2018, that the System lost pressure due to a water line break. The NCUC water operator reported the break was from a main water line in a 6-inch PVC service line. The East Tank drained completely, resulting in complete pressure loss on the east and south sides of town. The NCUC water operator isolated the West tank, which maintained pressure on the west and north sides of town. Indian Health Service (IHS) reported pressure loss at the IHS facility located on the north side of town.

12. Loss of pressure in a drinking water distribution system 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. Backsiphonage 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 a distribution system.

13. On May 16, 2018, the EPA provided Respondent with a template for a boil water advisory. The EPA has been advised that Respondent have issued an advisory to the homes impacted by the pressure loss.

### **ORDER**

#### **INTENT TO COMPLY**

14. 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.

#### **BOIL ORDER AND PUBLIC NOTICE**

15. Upon receipt of this Order, Respondent shall continue to provide information to the public of the situation described in this Order and notify the public that a boil water advisory is in effect.

The boil water advisory will continue until the System's repairs are completed and monitoring of the water is conducted. Respondent shall submit a copy of the notice to the EPA within 24 hours of receipt of this Order. Respondent shall continue providing the public notice until the EPA provides written notice that public notice may be discontinued.

### **ALTERNATE WATER SUPPLY**

16. Upon receipt of this Order, Respondent shall notify the public that an alternate potable water supply is available. Respondent 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. Respondent may also opt to provide an alternate water supply that is 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 NPDWRs. The alternate water supply shall be made available at no cost to all users of the System as needed for drinking and cooking until water service is restored to affected users of the System.

### **DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS**

17. Within 24 hours of repairing the water line break, Respondent shall properly disinfect and flush the System's distribution system and return pressure to normal.

18. Within 24 hours after flushing and disinfecting the System as required by paragraph 17, above, Respondent shall collect consecutive daily (one sample per day) special purpose (defined in 40 C.F.R. § 141.853(b)) samples from the System's distribution system. Respondent shall ensure that each sample is analyzed for total coliform and *E.coli*.

19. After Respondent receives written notification from the EPA that it may discontinue daily total coliform sampling, Respondent must collect weekly bacteriological samples (one sample per week) to determine compliance with the *E.coli* MCL as stated in 40 C.F.R. § 141.860.

20. After Respondent receives written notification from the EPA that it may discontinue weekly total coliform sampling, Respondent shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. §§ 141.857.

21. Respondent shall monitor and report the System's chlorine residual at the same time and same location as all special and routine total coliform samples.

22. Respondent shall remain obligated to comply with all applicable requirements of 40 C.F.R. part 141 including, but not limited to, the requirements in 40 C.F.R. § 141.858 to collect three repeat samples within 24 hours of being notified of a total coliform-positive sample result and to collect an additional source water sample. If a repeat sample is total coliform or *E. coli* positive, within 24 hours of being notified of the positive sample, Respondent shall consult with the EPA for further compliance requirements.



23. Respondent shall collect all total coliform sampling at sites that are representative of water throughout the System according to the Sample Siting Plan submitted to the EPA by the Respondent. Additionally, Respondent shall report all sampling results to the EPA by telephone, email or fax immediately upon (*i.e.*, as soon as practicable, and in no event more than 24 hours after) receiving the results.

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

### **CORRECTIVE MEASURES**

25. Within 15 days of the effective date of this Order, Respondent shall provide the EPA with a plan and schedule that outlines actions taken or to be taken to prevent future loss of pressure to the system. The plan shall identify the cause of the line break, if possible, and describe efforts that Respondent will take to repair the line, restore pressure to the System and prevent a recurrence of pressure loss in the System. If applicable, the plan shall include proposed line repair training for staff, system modifications, estimated costs of modifications, and a schedule for completion of the project. The proposed schedule shall include specific milestone dates and a final completion date (to be within three months from the date of EPA's approval of the plan). The schedule must be approved by the EPA before construction or modifications may commence.

26. The schedule required by paragraph 25, above, will be incorporated into this Order as an enforceable requirement upon written approval by the EPA. The EPA may incorporate the above required schedule into a new administrative order. If implementation of the plan fails to correct and/or prevent pressure loss, the EPA may order further steps.

### **REPORTING**

27. Respondent must give weekly updates to the EPA on the progress of repairing the water line break, disinfecting and flushing the System, and monitoring for total coliform and chlorine residual. Weekly updates must be submitted to the EPA until the EPA notifies the System that reports may be discontinued. These reports may be submitted via phone, fax, or e-mail.

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

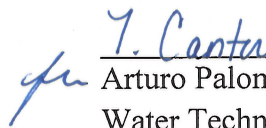
Olive Hofstader, 8ENF-W-SDW  
US Environmental Protection Agency  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
Telephone (800) 227-8917, ext. 6467, or (303) 312-6467

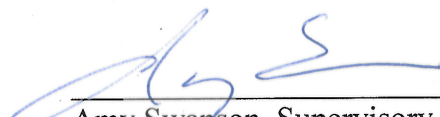
Fax (303) 312-7518  
e-mail: hofstader.olive@epa.gov

29. This Order does not relieve Respondent from complying with any applicable federal, tribal, state, or local law.

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

31. Issued and effective this 16 day of May, 2018.

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

  
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Amy Swanson, Supervisory Attorney  
Regulatory Enforcement Unit  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice