



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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MAR 25 2019

2019 MAR 25 PM 4:34

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W-SDW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
and via email

Mr. William Hillman, Director
Oglala Sioux Tribe Water & Sewer Company
P.O. Box 1064
Pine Ridge, South Dakota 57770

Re: Emergency Administrative Order under SDWA Section 1431
Wounded Knee Water System, PWS ID #084690478
Docket No. **SDWA-08-2019-0014**

Dear Mr. Hillman:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Oglala Sioux Tribe Water & Sewer Company (OST W&S), under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i.


The EPA has determined that conditions exist at the Wounded Knee Water System 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 OST W&S on March 25, 2019, that the System lost pressure.

Pursuant to the 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. The Order and its requirements are necessary to ensure adequate protection of public health.

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 the System to, among other things, issue a boil water advisory and provide an alternate source of water until notified by the EPA to discontinue; submit a plan and schedule to resolve the pressure loss; disinfect and flush the System; and take additional total coliform bacteria samples. The consequences for failing to comply are set forth in the Order.

If you have any questions or wish to discuss the Order, please contact Olive Hofstader at (800) 227-8917 extension 6467 or (303) 312-6467, or by email at hofstader.olive@epa.gov. Any questions from counsel should be directed to Shaula Eakins, Enforcement Attorney, at the above 800 number, extension 6317, or at (303) 312-6317, or by email at eakins.shaula@epa.gov.

Sincerely,

 acting for
Tiffany Cantor, Supervisor
SDWA Enforcement Unit
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: President Julian Bear Runner
Mr. Chad Snell, IHS
Ms. Dawn Holguin, IHS
Mr. Terrold Menzie, IHS
Mr. Mike Boland, IHS
Mr. James Begeman, IHS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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IN THE MATTER OF)
)
Oglala Sioux Tribal Water & Sewer,)
)
Wounded Knee Water System)
084690483)
)
Respondent.)

Docket No. SDWA-08-2019-0014

FILED
EPA REGION VIII
HEARING CLERK

**EMERGENCY
ADMINISTRATIVE ORDER**

AUTHORITY

1. This Emergency Administrative Order (Order) is issued by the U.S. 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. The EPA may issue an order under section 1431(a) of the Act, 42 U.S.C. § 300i(a), when a contaminant that is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and appropriate state and local authorities have not acted to protect the health of such persons.

FINDINGS

3. The EPA has primary enforcement responsibility for the Act's public water supply protection program on the Pine Ridge Reservation (Reservation). No other governmental authority has applied for and been approved to administer the program on the Reservation.
4. The Oglala Sioux Tribe ("Tribe") is a federally recognized Indian tribe and therefore is a "municipality" and a "person" as those terms are defined in the Act. 42 U.S.C. § 300f(10) and § 300f(12), respectively.
5. The Oglala Sioux Tribe Water & Sewer Company (OST W&S) is a tribal agency organized under the laws of the Tribe and therefore a "person" as that term is defined in the Act. 42 U.S.C. § 300f(12).
6. Respondent OST W&S owns and/or operates the Wounded Knee Water System Public Water System (System) located within the exterior boundaries of the Pine Ridge Reservation, South Dakota. The System provides water to the public for human consumption through pipes or other constructed conveyances.
7. The System is a consecutive system that receives treated surface and ground water via the Kyle PWS.

8. The System has 51 service connections and regularly serves 255 individuals daily for at least 60 days out of the year.
9. The System is a “public water system” as defined in 40 C.F.R. § 141.2 and section 1401(4) of the Act, 42 U.S.C. § 300f(4), and, therefore, is subject to the requirements of the Act and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. part 141.
10. Prior to issuing this Order, the EPA consulted with the System to confirm the facts stated in this Order and with tribal and local authorities to confirm that they have not acted to protect the health of endangered persons because they are unable to act.
11. Based on the facts indicated in paragraphs 12 and 13, below, the EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to the health of humans. The EPA has determined that this Order is necessary to protect public health.
12. Respondent notified the EPA on March 25, 2019, that the System lost pressure due to a water main line break and pressure loss at the Kyle Water System caused by flooding.
13. 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 for fecal contamination or other disease-causing organisms to enter a distribution system.
14. On March 21, 2019, the EPA provided wholesaler Kyle Water System with a public notice template for a boil water advisory, and persons served by the Kyle Water System were notified of the contamination on March 22, 2019. The public notice distributed by the Kyle Water System went to all surrounding communities advising residents of alternate water available, including Wounded Knee.

ORDER

INTENT TO COMPLY

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

BOIL ORDER AND PUBLIC NOTICE

16. The boil order advisory referenced in paragraph 14, above, shall remain in place until the EPA provides written notification to Respondent that the boil order is no longer needed.
17. Respondent must carry out the public notice and other notice requirements as required by 40 C.F.R. part 141, subpart Q.

ALTERNATE WATER SUPPLY

18. Using the public notice referenced paragraph 14, above, Respondent shall, no later than 24 hours after receipt of this Order, notify the public that an alternative potable water supply is available at no cost to all users of the System as needed for drinking, cooking, maintaining oral hygiene, and dish washing. 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 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 until the Respondent receives written notification from the EPA.
19. No later than five days after the effective date of this Order (see paragraph 34, below), Respondent shall provide the EPA with a copy of this notification.

CORRECTIVE MEASURES

20. Within 7 days after 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. The plan shall include proposed 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 the EPA's approval of a schedule). The schedule must be approved by the EPA before construction or modifications may commence.
21. The schedule required by paragraph 20 above, will be incorporated into this Order as an enforceable requirement upon written approval by the EPA. If implementation of the plan fails to correct and/or prevent loss of pressure, the EPA may order further steps.
22. Within five days of completing corrective action, Respondent shall notify the EPA in writing of the date corrective action was completed.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

23. Within 24 hours after completing corrective action and establishing normal pressure in the distribution system, Respondent shall disinfect and flush the System.
24. Following disinfecting and flushing of the System, Respondent shall monitor the residual disinfectant level daily in the distribution system. When the residual disinfectant level returns to normal operating levels, Respondent shall collect consecutive daily (six samples per day, from locations identified in the RTCR sample siting plan) 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* and shall email each result to the EPA upon receipt of the analysis from the laboratory.
25. After Respondent receive written notification from the EPA that it may discontinue daily total coliform sampling, Respondent shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.855.
26. Respondent shall remain obligated to comply with the requirements in 40 C.F.R. §§ 141.402 (to collect an additional source water sample) and 141.858 (to collect three repeat samples within 24 hours of being notified of a total coliform-positive sample result). If a future repeat sample is positive for total coliform and/or *E. coli*, Respondent shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.
27. 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.
28. The EPA may require Respondent to increase total coliform sampling at any time while this Order is in effect.

REPORTING

29. Respondent must give daily updates to the EPA on the progress of repressurizing the System, disinfecting and flushing the System, and monitoring for total coliform and residual disinfectant levels. Updates must be submitted to the EPA until the EPA provides written notification to the Respondent that reports may be discontinued. These reports may be submitted via phone or e-mail.

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

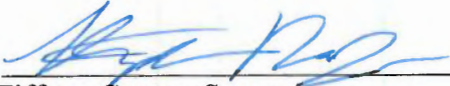
Olive Hofstader
via e-mail: hofstader.olive@epa.gov
Telephone (800) 227-8917, ext. 6467, or (303) 312-6467

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

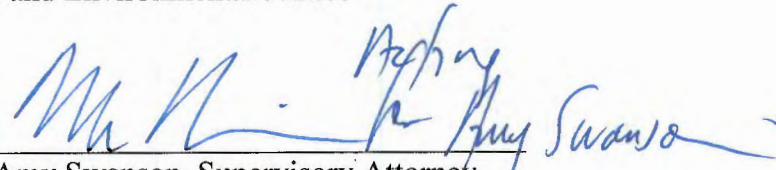
32. Failure to comply with this Order may result in civil penalties of up to \$23,963 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 84 Fed. Reg. 2056, 2059 (January 15, 2019).

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

34. Issued and effective this 25th day of March, 2019.



Tiffany Cantor, Supervisor
SDWA Enforcement Unit
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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