



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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<http://www.epa.gov/region08>

2017 MAR 30 PH 2: 21

FILED  
EPA REGION VIII  
HEARING CLERK

**MAR 30 2017**

Ref: 8ENF-W-SDW

The Honorable Harry Barnes, Chairman  
Blackfeet Tribe  
P.O. Box 850  
Browning, Montana 59417

Mr. Brian Crawford, Director  
Blackfeet Solid Waste Management  
P.O. Box 2029  
Browning, Montana 59417

RE: Amended Emergency Administrative Order under Section 1431 SDWA, Babb Water System, PWS ID #083090001, Docket No. SDWA-08-2017-0012

Enclosed is an Amendment to the Emergency Administrative Order. This supersedes and replaces in its entirety the Emergency Administrative Order the EPA issued to you on March 29, 2017. The Respondent Blackfeet Utility Commission is changed to Blackfeet Solid Waste Management. All other requirements in the Emergency Administrative Order remain in full force and effect.

If you have any questions regarding this amendment, please contact Metea Wright at the above address (with the mailcode 8ENF-W-SDW) or by phone at (800) 227-8917, extension 6023 or (303) 312-6023. If you are represented by an attorney, please ask your attorney to direct any legal questions to Amelia Piggott, Enforcement Attorney, at the above 800 number, extension 6410, or at (303) 312-6410.

Sincerely,

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

Enclosure

cc: Ms. Missy Haniewicz, EPA Regional Hearing Clerk  
Mr. Brian Crawford, Director, Blackfeet Solid Waste Management (via email)  
Mr. Jason Schneider, P.E., IHS Billings Office

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2017 MAR 30 PM 2: 21

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IN THE MATTER OF )  
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Blackfeet Solid Waste Management, )  
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Respondent. )  
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Docket No. SDWA-08-2017-0012

FILED  
EPA REGION VIII  
HEARING CLERK

**AMENDED  
EMERGENCY ADMINISTRATIVE ORDER**

**AUTHORITY**

1. This Amended 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). This order supersedes and replaces in its entirety the Emergency Administrative Order issued by EPA on March 29, 2017, EPA Docket No. SDWA-08-2017-0012. The undersigned officials have been properly delegated this authority.
2. Failure to comply with this Order may result in civil penalties of up to \$22,906 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 82 Fed. Reg. 3633.
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 or local authorities have not acted, or do not have the authority to act, to protect human health.
4. The Blackfeet Tribes are a federally recognized Indian Tribe and an “Indian Tribe” as defined in 42 U.S.C. § 300f(14). The EPA has primary enforcement responsibility for the Act’s public water supply protection program on the Blackfeet Reservation. No other governmental authority has applied for and been approved to administer the program on the Reservation.
5. Respondent Blackfeet Solid Waste Management is a component unit of the Blackfeet Tribes. 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 owns and/or operates the Babb Public Water System (System) located on the Blackfeet Reservation, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
7. The System is supplied by a ground water source accessed via one well with no treatment or continuous disinfection provided.

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.

9. The System has approximately 19 service connections used by year-round residents and/or regularly serves an average of approximately 60 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.

10. Prior to issuing this Order, the EPA consulted with the System 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 that may present an imminent and substantial endangerment to the health of humans, based on the facts indicated in paragraphs 13 and 14, below. The EPA has determined that this Order is necessary to protect public health.

12. *E. coli* are bacteria whose presence indicates that the water may have been contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

13. On March 23, 2017, Respondent notified the EPA that a routine bacteriological sample collected on March 21, 2017, was analyzed as positive for total coliform. On March 25, 2017, the Respondent was notified that all three repeat bacteriological samples, collected on March 24, 2017, tested positive for total coliform and one also tested positive for *E. coli*.

14. A violation of the maximum contaminant level (MCL) for *E. coli* occurs if a system has an *E. coli*-positive repeat sample following a routine total coliform positive sample. These circumstances have occurred at the System, as set forth in paragraph 13, above, and therefore, the Respondent has violated the *E. coli* MCL. 40 C.F.R. § 141.860.

15. On March 25, 2017, the EPA provided Respondent with a public notice template for a boil water advisory, and Respondent notified persons served by the System of the contamination on March 25, 2017.

**ORDER**

**INTENT TO COMPLY**

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

**BOIL ORDER AND PUBLIC NOTICE**

17. The boil order advisory referenced in paragraph 15 above shall remain in place until the EPA provides written notification to Respondent to lift the boil order. Respondent must carry out the public notice and other notice requirements as required by 40 C.F.R. part 141, subpart Q.

**COMPLIANCE AND CORRECTIVE MEASURES**

18. Respondent must comply with 40 C.F.R. § 141.859. This includes coordinating with a third party, approved by the EPA, to conduct a Level 2 assessment (as defined in 40 CFR § 141.2 and described further in 40 CFR part 141 subpart Y) that includes all actions required by the EPA.

19. The completed Level 2 assessment form must be submitted to the EPA within 15 days and must describe sanitary defects detected and corrective actions completed to address the cause of contamination.

20. 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 that will ensure that there is no future *E. coli* contamination at the System. The plan shall identify the cause of the contamination, if possible, and describe the corrective action, including correcting sanitary defects identified in the Level 2 assessment, to prevent a recurrence of contamination in the System. If applicable, 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 EPA's approval of the plan). 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 *E. coli* contamination, the EPA may order further steps.

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

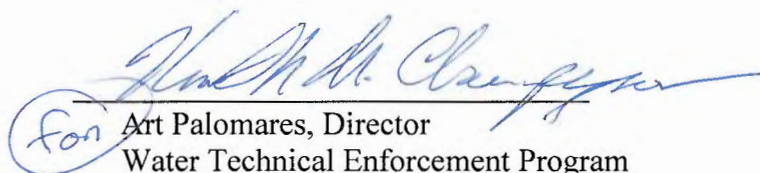
22. Within 24 hours after the source of *E. coli* and fecal contamination has been identified and corrective action is completed, Respondents shall disinfect and flush the System.
23. Within 24 hours after disinfecting and flushing the System as required by paragraph 22, above, Respondent shall collect consecutive daily (one sample per day) special purpose samples (defined in 40 C.F.R. § 141.853(b)) from the System. Respondent shall ensure that each sample is analyzed for total coliform and *E. coli*.
24. 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.
25. 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. § 141.855.
26. 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.
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 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 updates Monday through Friday to the EPA on the progress of disinfecting and flushing the System, monitoring for total coliform, as well as scheduling Level 2 assessment with EPA-approved third party, as applicable. Updates must be submitted to the EPA until the EPA provides written notification to the Respondents that reports may be discontinued. These reports may be submitted via phone, fax, or e-mail.
30. Any notices or reports required by this Order to be submitted to the EPA shall be submitted to:

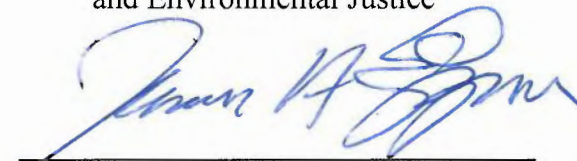
Metea Wright, 8ENF-W-SDW  
US Environmental Protection Agency  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
Telephone (800)227-8917, ext. 6023, or (303) 312-6023  
Fax (303) 312-7518  
e-mail: wright.metea@epa.gov

31. This Order does not relieve Respondent from complying with any applicable federal, state, or local law.
32. 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).
33. Issued and effective this 30th day of March, 2017.



(for) Art 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