

**FILED**

**1/5/2024**

**4:21 PM**

**U.S. EPA REGION 8  
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF )  
)  
Two Medicine Water Company )  
)  
Respondent. )  
)  
Town of Browning Public Water System )  
PWS ID #083090091 and Two Medicine )  
Water Public Water System )  
PWS ID #083090090 )

Docket No. SDWA-08-2024-0010

**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 official has 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 or an underground source of drinking water 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 Two Medicine Water Company (Respondent) is a tribal agency organized under the laws of the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana (Tribe) and therefore is a “person,” as that term is defined in the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, for purposes of federal enforcement under the Act.
4. Respondent owns and/or operates the Town of Browning Public Water System and Two Medicine Water Public Water System (Systems) located within the exterior boundaries of the Blackfeet Indian Reservation of Montana. The Systems provide water to the public for human consumption through pipes or other constructed conveyances.
5. The Town of Browning Public Water System is a consecutive system that receives treated surface water via the Two Medicine Water Public Water System.
6. The Systems are supplied by a surface water source with treatment provided. The Systems are operated year round.

7. The Town of Browning Public Water System has 1607 service connections and regularly serves 4671 individuals daily for at least 60 days out of the year. Two Medicine Water Public Water System has 240 Service connections and regularly serves 6775 individuals daily for at least 60 days out of the year.

8. The Systems are “public water systems” as defined in 40 C.F.R. § 141.2 and 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 (NPDWRs) at 40 C.F.R. part 141.

9. On January 4, 2024, EPA consulted with appropriate tribal and/or local authorities regarding actions such authorities have taken in this matter to protect the health of individuals served by the Systems; to confirm the correctness of the information on which this Order is based; and to ascertain the actions which tribal and/or local authorities are or will be taking.

10. The EPA is responsible for direct implementation of the Act on the Blackfeet Indian Reservation as no other governmental entity has received delegated authority to implement the Act on the Reservation. The EPA has determined that tribal and/or local authorities have not acted to protect the health of persons in this instance.

11. The EPA has determined that conditions exist at the Systems that may present an imminent and substantial endangerment to the health of humans, based on the facts indicated in paragraphs 12 and 13, and that this Order is necessary to protect public health.

12. On December 28, 2023, the EPA was notified that a variable frequency drive for a pump at the Two Medicine Water Public Water System treatment plant had broken. On January 3, 2024, the EPA was notified that the power at the Two Medicine Water Public Water System had been down for a period of time and the replacement part for the pump had a major defect that failed in the process of installation causing the Town of Browning Public Water System to lose pressure in some areas and drop below 20 psi in other areas.

13. Loss of pressure in a drinking water distribution system may cause a net movement of water from outside of a 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 January 2, 2024, the EPA provided Respondent with a public notice template for a boil water advisory, and Respondent notified persons served by the Town of Browning Public Water System of the contamination on January 3, 2024.

**ORDER**

**INTENT TO COMPLY**

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

**BOIL WATER ADVISORY PUBLIC NOTICE**

16. The boil water advisory referenced in paragraph 14, above, shall remain in place until the EPA provides written notification to Respondent that the boil water advisory 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 template referenced in 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 Town of Browning Public Water System as needed for drinking, cooking, maintaining oral hygiene, and dish washing. Respondent shall provide at least one gallon of potable water daily per person at a central location that is accessible to all persons served by the Town of Browning Public Water System. The alternate water supply shall be made available until the Respondent receives written notification from the EPA that it is no longer necessary to supply it.

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 its notification concerning an alternate water supply is available.

**CORRECTIVE MEASURES**

20. Within 15 days after the effective date of this Order, Respondent shall provide the EPA with a plan and schedule that outlines corrective actions taken and/or to be taken to prevent future contamination at the Town of Browning Public Water System. The plan shall identify the cause of the pressure loss referenced in paragraph 12, if possible, and 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 further contamination, the EPA may order further steps.
22. Respondent shall notify the EPA in writing within 24 hours after completing corrective action.

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

23. Within 24 hours after providing the notification that corrective action has been taken to address the cause of the pressure loss required by paragraph 20, above, Respondent shall disinfect and flush the Town of Browning Public Water System.
24. After disinfecting and flushing the Town of Browning Public Water System, Respondent must take the following action beginning on the first date when chlorine levels returned to normal: collect daily (two samples per day, one sample from a location in the distribution system upstream of the pressure loss, and one sample from a location in the distribution system downstream of the pressure loss) “special” purpose total coliform samples (defined in 40 C.F.R. § 141.853(b)) from the Town of Browning Public Water System’s distribution system until notified in writing by the EPA that consecutive daily sampling may be discontinued. These daily samples should be labeled as “special” samples, not for determining compliance. Respondent shall ensure that each sample is analyzed for total coliform and *E. coli* and shall email each result to the EPA immediately upon receipt of the analysis from the laboratory (*i.e.*, as soon as practicable, and in no event more than 24 hours after). Along with the total coliform sample collection, Respondent shall measure the chlorine residual indicating free or total and provide the EPA these measurements along with the total coliform analysis from the laboratory.
25. After Respondent receives written notification from the EPA that they may discontinue “special” daily total coliform sampling, Respondent shall thereafter resume monthly routine total coliform sampling at the Town of Browning Public Water System as required by 40 C.F.R. § 141.857.
26. The EPA may require Respondent to increase total coliform sampling and reporting at any time while this Order is in effect.

### **REPORTING**

27. Respondent must give daily updates to the EPA to include the progress on installing a new variable frequency drive for a pump at the Two Medicine Water Public Water System, providing an alternative water supply, disinfecting and flushing the Town of Browning Public Water System, and monitoring for total coliform and chlorine residual. Updates must be submitted to the EPA daily until the EPA provides written notification to the Respondent that

reports may be submitted less frequently or discontinued. These reports may be submitted via e-mail.

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

Steve Latino  
via e-mail: latino.steven@epa.gov  
Telephone (800) 227-8917, ext. 6440, or (303) 312-6440

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

30. Failure to comply with this Order may result in civil penalties of up to \$29,154 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 88 Fed. Reg. at 89309 (December 27, 2023).

31. 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).

32. The EPA may modify this Order. The EPA will communicate any modification(s) to Respondent in writing and they shall be incorporated into this Order.

33. The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from the EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Order have been satisfactorily completed.

34. Issued and effective this 5th day of January, 2024.

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Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division