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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

FILED
EPA REGION 8
APR 17 2012

IN THE MATTER OF:)
)
Bureau of Indian Affairs,)
)

Respondent.)

Docket No. SDWA-08-2011-0064

**AMENDED ADMINISTRATIVE
ORDER**

1. This Amended Administrative Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3, as properly delegated to the undersigned officials.
2. The Bureau of Indian Affairs (BIA or Respondent) is a federal agency that owns and/or operates the Crow Agency Water System (TP01 or the system) which provides piped water to the community of Crow Agency, Montana for human consumption. The Crow Agency Water System is located within the exterior boundaries of the Crow Indian Reservation.
3. The system is supplied solely by surface water with an intake on the Little Big Horn River. The raw water is treated via a conventional filtration system including coagulation, flocculation, sedimentation, filtration and chlorination.
4. The system has approximately 430 service connections used by year-round residents and regularly serves an average of approximately 1,600 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 § 1401 of the Act, 42 U.S.C. § 300f.
5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (drinking water regulations) at 40 C.F.R. part 141. The drinking water regulations are "applicable requirements" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. On October 12, 2010, EPA sent Respondent a sanitary survey report, which identified significant deficiencies at the system. As required by 40 C.F.R. § 141.723(c), Respondent was required to respond in writing to those significant deficiencies within 45 days of receipt of the report, indicating how and on what schedule the Respondent will address the significant deficiencies. Respondent provided an email response to EPA on November 22, 2010, which indicated that three of the five significant deficiencies had been corrected, and the other two were in the process of being addressed. However, Respondent failed to provide a schedule for the correction of one significant deficiency (lack of continuous chlorine analyzer), and, therefore, violated this requirement.

7. In January of 2011, EPA learned from discussions with the water plant operator that four of the five identified significant deficiencies had not been addressed as indicated in the November 22, 2010 response. This was documented in a letter sent from EPA to the BIA Facilities Manager on February 16, 2011. Respondent therefore failed to correct the significant deficiencies according to the schedule provided by Respondent, in violation of 40 C.F.R § 141.723(d).
8. In a letter received by EPA on March 21, 2011 BIA stated that steps would be taken to correct the significant deficiencies. However, Respondent failed to include a schedule for the correction of three of the significant deficiencies, as required by 40 C.F.R § 141.723(c), and, therefore, violated this requirement.
9. Respondent is required to report any failure to comply with any drinking water regulation to EPA within 48 hours (except where the drinking water regulations specify a different time period), 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 6, 7 and 8, above, to EPA and, therefore, violated this requirement.
10. Respondent is required to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. § 141.201 *et seq.* Respondent attempted to notify the public on March 11, 2011, however the public notice did not include the information on the violations cited in paragraphs 6, 7 and 8, above, and, therefore, violated this requirement.
- 11. Respondent is required to record the turbidity of the individual filter turbidity (IFT) of a system using a surface water source and conventional filtration at least once every 15 minutes (40 C.F.R. § 141. 560(c)). During a site visit on March 14 – 16, 2012, representatives of EPA and the Indian Health Service requested these records, but respondent was unable to provide consistent and legible records for turbidity results recorded at least every 15 minutes, as required, and, therefore, violated this requirement.**
- 12. Respondent is required to keep records of individual filter turbidity (IFT) for at least 3 years (40 C.F.R. § 141. 571(a)). During a site visit on March 14 – 16, 2012, representatives of EPA and the Indian Health Service requested these records. Consistent and legible records of IFT turbidity from the System's two filters could not be provided for the last 3 years. The Respondent, therefore, violated this requirement.**
- 13. Respondent is required to report to EPA by the 10th of the following month the filter number(s), corresponding date(s), and the turbidity value(s) which exceeded 1.0 NTU during the month, and the cause (if known) for the exceedance(s) when two consecutive measurements exceed 1.0 NTU. 40 C.F.R. § 141.570(b)(2). During the March 14 - 16, 2012 site visits, Respondent was observed sending water to the clearwell immediately after backwashing one of the two filters; the turbidity reached as high as 2 NTU for more than 40 minutes. The System has not reported individual filter readings exceeding 1.0 NTU for more than 15 minutes to EPA by the 10th of the month, and the Respondent, therefore, violated this requirement.**



14. Respondent is required to monitor continuously the residual disinfectant concentration in the water entering the System's distribution system and to record the lowest value each day. Monitoring must be continuous with a calibrated, online unit meeting the requirements of 40 C.F.R. § 141.74(a). Alternatively, if there is a failure in the continuous monitoring equipment, the System must take at least three grab samples, every 4 hours, per day (40 C.F.R. § 141.74(c)(2)). During the March 14 – 16, 2012 site visits, the online chlorine analyzer was inoperable, and Respondent was unable to monitor the residual disinfectant concentration in the water entering the System's distribution system. Further, the Respondent failed to monitor and accurately report the System's residual disinfectant level with the required minimum number of grab samples per day during March 2012 and, therefore, violated this requirement.

15. Respondent is required to monitor the system's water and report the results for disinfection byproduct precursors, taking quarterly paired samples of total organic carbon (TOC) in source water and treated water, with an alkalinity sample of the source water to be taken at the same time. 40 C.F.R. § 141.132(d) and 40 C.F.R. § 141.134(d). Respondent failed to monitor and report the System's water for disinfection byproduct precursors during the fourth quarter of 2011 and the first quarter of 2012 and, therefore, violated these requirements.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order:

16. Within 30 days of receipt of this Order, Respondent shall submit to EPA a written corrective action plan and schedule that defines the corrective actions that Respondent will take to address the significant deficiencies, as required by 40 C.F.R. § 141.723 (c). Respondent shall thereafter consult with EPA and correct any significant deficiencies in accordance with 40 C.F.R. § 141.723 (c) and (d). The corrective action plan shall include specific tasks and timelines for completion of the following significant deficiencies:

- a) Lack of calibrated and operational influent and effluent flow meters. Without calibrated and operational influent and effluent flow meters, Respondent is unable to calculate compliance with 40 C.F.R. § 141.70(a) or conduct disinfection profiling as required by 40 C.F.R. §§ 141.530 through 141.534.
- b) Lack of a calibrated, continuous chlorine analyzer as required by 40 C.F.R. § 141.74(c)(2) and (a) and a surge protector to prevent future equipment failure due to power surges.
- c) Failure to monitor finished water pH and temperature daily in order to calculate and document compliance with 40 C.F.R. § 141.70(a) or conduct disinfection profiling as required by 40 C.F.R. §§ 141.530 through 141.534. A copy of the daily disinfection profiling calculations shall be submitted to EPA with each monthly Surface Water



Treatment Rule (SWTR) report.

- d) Lack of calibrated turbidimeters for filtered water as required by 40 C.F.R. § 141.560(b). During a May 5, 2011 phone conversation between EPA and Midwest Assistance Program (MAP), EPA was notified that the turbidimeters had been successfully calibrated. Respondent shall verify in writing if this corrective action has been completed. Calibrations must be performed at least quarterly or per manufacturer's recommendations, and documented on each monthly (SWTR) report.

17. Respondent must complete appropriate actions to correct all significant deficiencies according to the corrective action plan approved by EPA as stated in paragraph 16 above. The approved plan and schedule required will be incorporated into the Order as enforceable requirements.

18. Respondent shall notify EPA within 30 days of completion of the corrective actions. Respondent shall provide evidence to EPA, including photographs and the following certification signed by a person of authority in the system, that the above corrective actions have been completed: "I certify under penalty of perjury that Bureau of Indian Affairs has completed corrective action to address all significant deficiencies, as required by 40 C.F.R. § 141.723(d). EPA was onsite on August 29, 2011 and was able to acquire photo documentation of the corrective actions listed in paragraph 11 above. On September 15, 2011, the system provided EPA with an email describing how and when each item in paragraph 11 above was corrected which was approved by EPA.

19. Upon receipt of this of this Order, Respondent shall monitor continuously individual filter turbidity and record results for each of the two filters at least once every 15 minutes, and keep these records for at least 3 years, as required by 40 C.F.R. § 141.560(c) and §141.571(a). Copies of each month's individual filter turbidity records must be submitted to EPA within the first 10 days following the end of the month in which those records were collected, until notified otherwise by EPA.

20. Upon receipt of this Order, Respondent shall report the filter number, the date, and the cause (if known) to EPA by the 10th of the following month whenever 2 consecutive individual filter turbidity (IFT) turbidity readings (at 15 minute intervals) exceed 1.0 NTU (40 C.F.R § 141.570(b)(2)).

21. Respondent shall continuously monitor the residual disinfectant concentration of the water entering the System's distribution system. If Respondent's continuous monitoring equipment fails, Respondent must substitute 3 grab samples per day, taken no more than four hours apart. The lowest value from either the continuous analyzer record or the three daily grab samples must be recorded that day, as required by 40 C.F.R. § 141.74(c)(2). Within 10 days after the end of each month Respondent shall report each day's lowest value to the EPA, as required by 40 C.F.R. § 141.75(b)(2). Copies of continuous or grab samples will be made available to EPA upon request.



22. Within 30 days after receipt of this Order, the respondent shall provide EPA with a written compliance plan (Plan) on how the system will remain in compliance with these requirements (in paragraphs 19-20, above). Among other things the Plan should include:

- a. A schedule on how the chlorine monitoring equipment will be calibrated and maintained, and how the chlorine values will be recorded and the lowest daily value determine and reported to EPA(in paragraph 21, above).
- b. A schedule for how the individual filter turbidity (IFT) turbidity readings (at 15 minute intervals) measurements will be determined and recorded, how instrumentation will be maintained, and how values will be reported appropriately to EPA (in paragraph 20, above).
- c. A schedule of how and when the two circular IFT chart recorders were fixed, how they will be maintained, and how the daily IFT records will be legible and clearly labeled to show the chart span (maximum NTU) so that the turbidity values can be understood. The individual filter turbidity chart recorders must be maintained in operational order and the daily IFT records must clearly show correlation with each filter's status (e.g., operational or not, sending filtered water to waste, or sending water to the clearwell) by filter number, to document valid turbidity readings of water sent to the distribution system (in paragraph 19, above).

23. Respondent shall monitor the System's water each quarter for disinfection byproduct precursors, as required by 40 C.F.R. § 141.132(d). Within the first 10 days after the end of each quarter, Respondent shall report analytical results, including its calculation of the TOC removal percentage and all other information required by 40 C.F.R. § 141.134(d), to the EPA, as required by 40 C.F.R. § 141.132(d).

24. Respondent shall report any violation of the drinking water regulations to EPA within 48 hours of the violation occurring as required by 40 C.F.R. §141.31(b). However, if a different time period for reporting is specified in this Order or the drinking water regulations, Respondent shall report within that different period.

25. Within 30 days after receipt of this Order, Respondent notify the public of the violations cited in paragraphs 6, 7, 8, 11 ,12 ,13, 14 and 15, above as required by 40 C.F.R. part 141, subpart Q. Thereafter, following any future violation of the drinking water regulations, Respondent shall comply with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to EPA.

GENERAL PROVISIONS

26. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.



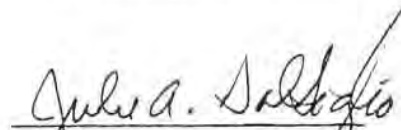
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27. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$32,500 per day of violation (as adjusted for inflation). Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$32,500 per day per violation (as adjusted for inflation). 42 U.S.C. §§300g-3, 300j-6, 300j-8; 40 C.F.R. part 19.

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