



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

**OCT 07 2016**

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The Honorable Vernon Finley, Chairman  
Confederated Salish & Kootenai Tribes  
P.O. Box 278  
Pablo, Montana 59855

and

Mr. Jason Adam, Executive Director  
Salish & Kootenai Housing Authority  
P.O. Box 38  
Pablo, Montana 59855

RE: Emergency Administrative Order under Section 1431 SDWA, Arlee Public Water System,  
PWS ID #083090027, Docket No. **SDWA-08-2017-0001**

Dear Chairman Finley and Mr. Adams:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Confederated Salish & Kootenai Tribes and the Salish & Kootenai Housing Authority, under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i. The EPA has determined that conditions exist at the Arlee 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 Montana Environmental Laboratory that one drinking water sample from the System has been analyzed as *E. coli* positive and two drinking water samples from the System have been analyzed as total coliform positive.

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: take any corrective actions identified in an assessment of the System; disinfect and flush the System; and, take additional total



coliform bacteria samples, among other steps. The penalties 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 the Confederated Salish & Kootenai Tribes or the Salish & Kootenai Housing Authority should be directed to Peggy Livingston, Enforcement Attorney, at the above 800 number, extension 6858, or at (303) 312-6858, or by email at [livingston.peggy@epa.gov](mailto:livingston.peggy@epa.gov).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arturo Palomares".

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

Enclosures

Emergency Administrative Order

cc: Ms. Melissa Haniewicz, EPA Regional Hearing Clerk  
Mr. Mike Durglo, Environmental Division Program Manager (via email)  
Mr. Bud Gillan, Water Facilities Manager (via email)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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IN THE MATTER OF )  
 )  
Confederated Salish )  
& Kootenai Tribes )  
and, )  
 )  
Salish & Kootenai Housing Authority, )  
 )  
Respondents. )  
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Docket No **SDWA-08-2017-0001**

FILED  
EPA REGION VIII  
HEARING CLERK

**EMERGENCY ADMINISTRATIVE ORDER**

**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 \$22,537 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 81 Fed. Reg. 43091-43096 (July 1, 2016).
3. The EPA may issue an order pursuant to section 1431(a) of the Act, 42 U.S.C. § 300i(a), when certain conditions exist which may present an imminent and substantial endangerment to the health of humans, and other state or local authorities have not acted, or do not have the authority to act, to protect human health.
4. Respondent Confederated Salish & Kootenai Tribes is a federally recognized Indian Tribe and an "Indian Tribe" as defined in 42 U.S.C. § 300f(14). Respondent Salish & Kootenai Housing Authority is a component unit of the Confederated Salish & Kootenai Tribes. Each Respondent is a "municipality" and "person" as those terms are defined in the Act. 42 U.S.C. § 300f(10) and § 300f(12), respectively.
5. Respondents own and/or operate the Arlee Public Water System (System) located in the Flathead Reservation, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
6. The System is supplied by a ground water source accessed via two wells with no treatment or continuous disinfection provided.
7. The System has approximately 30 service connections and/or regularly serves at least 90 individuals daily at least 60 days out of the year. Therefore, the System is a "public water system" as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2. The System is also a "community water system" as defined in 40 C.F.R. § 141.2.



8. 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.

9. 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 10 and 11, below. The EPA has determined that this Order is necessary to protect public health.

10. *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.

11. On October 5, 2016, Respondents notified the EPA that a routine bacteriological sample collected on October 3, 2016, was analyzed as positive for total coliform and *E. coli*. On October 6, 2016, the Respondents was notified that two repeat bacteriological samples, collected on October 5, 2016, tested positive for total coliform bacteria.

12. In addition, a violation of the maximum contaminant level (MCL) for *E. coli* occurs if a system has a total coliform-positive repeat sample following an *E. coli*-positive routine sample. These circumstances have occurred at the System, as set forth in paragraph 11, above, and, therefore, the Respondents has violated the *E. coli* MCL. 40 C.F.R. § 141.860.

13. On October 6, 2016, the EPA provided Respondents with a public notice template for a boil water advisory, and Respondents notified persons served by the System of the contamination on October 6, 2016.

### **ORDER**

#### **INTENT TO COMPLY**

14. Within 24 hours of receipt of this Order, Respondents shall notify the EPA in writing of its intention 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**

15. The boil order advisory referenced in paragraph 13 above shall remain in place until the EPA provides written notification to Respondents to lift the boil order. Respondents 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

16. Respondents 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.
17. 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.
18. Within 15 days of the effective date of this Order, Respondents 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(s) of the contamination, if possible, and describe the corrective action(s), 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.
19. The schedule required by paragraph 18, 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 *E. coli* contamination, the EPA may order further steps.

### DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

20. Within 24 hours after the source of *E. coli* has been identified and corrective action is completed, Respondents shall flush and disinfect the System.
21. Within 24 hours after flushing and disinfecting the System as required by paragraph 20, above, Respondents shall collect consecutive daily (one sample per day) special purpose samples (defined in 40 C.F.R. § 141.853(b)) from the System. Respondents shall ensure that each sample is analyzed for total coliform and *E. coli*.
22. After Respondents receive written notification from the EPA that they may discontinue daily total coliform sampling, Respondents must collect weekly bacteriological samples (one sample per week) to determine compliance with the *E. coli* MCL as stated in 40 C.F.R. § 141.63.
23. After Respondents receive written notification from the EPA that they may discontinue weekly total coliform sampling, Respondents shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.855.



24. Respondents 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, Respondents shall consult with the EPA for further compliance requirements.

25. Respondents shall collect all total coliform sampling at sites that are representative of water throughout the System according to the Sample Siting Plan previously submitted to EPA by the Respondents. Additionally, Respondents 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.

26. The EPA may require Respondents to increase total coliform sampling at any time while this Order is in effect.

#### REPORTING

27. Respondents must give daily updates to the EPA on progress of flushing and disinfecting the System, monitoring for total coliform, as well as scheduling Level 2 assessment with an 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.

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


Olive Hofstader, 8ENF-W  
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](mailto:hofstader.olive@epa.gov)


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



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

31. Issued and effective this 7<sup>th</sup> day of October, 2016.

  
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

