

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF: )  
 )  
 )  
The Crow Tribe of Montana, Owner, )  
and Apsáalooke Water and Waste Water )  
Authority, Operator )  
Wyola Public Water System )  
PWS # 083090014 )  
 )  
 )  
Respondents. )

Docket No. SDWA-08-2019-0044

**ADMINISTRATIVE ORDER**

2019 SEP 11 AM 9:50  
FILED  
EPA REGION VIII  
HEARING CLERK

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned official.
2. The Crow Tribe of Montana (Tribe) is a federally recognized Indian tribe and is a “person” within the meaning of 42 U.S.C. § 300f(10) and § 300f(12), respectively, for purposes of federal enforcement under the Act.
3. The Apsáalooke Water and Waste Water Authority is a tribal agency organized under the laws of the 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.
4. The Tribe and the Apsáalooke Water and Wastewater Authority (Respondents) own and/or operate the Wyola Public Water System (System) located within the exterior boundaries of the Crow Reservation. The System provides water to the public for human consumption through pipes or other constructed conveyances.
3. The System is supplied by a groundwater source accessed via two wells. The water is disinfected with sodium hypochlorite.
4. The System has approximately 58 service connections used by year-round residents and/or regularly serves an average of approximately 261 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(4) of the Act, 42 U.S.C. § 300f(4).
5. Respondents are subject to the Act and 40 C.F.R. part 141 (Drinking Water Regulation). The Drinking Water Regulation is an “applicable requirement” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The Drinking Water Regulation includes monitoring requirements. The EPA has sent Respondents annual notifications of the specific monitoring requirements that apply to the System.

## VIOLATIONS

7. Respondents are required to monitor the System's water annually for nitrate at every entry point to the distribution system which is representative of each well after treatment. 40 C.F.R. § 141.23(a) and (d). Respondents failed to monitor the System's water for nitrate during 2018 and, therefore, violated this requirement.
8. Respondents are required to complete corrective action of a significant deficiency in accordance with an EPA approved corrective action schedule or within 120 days of receiving written notification from EPA of a significant deficiency. 40 C.F.R. § 141.404(a). Respondents are required to notify the EPA within 30 days of completion of a significant deficiency corrective action. 40 C.F.R. § 141.405(a)(2). Respondents received a letter from the EPA on May 9, 2017, which detailed significant deficiencies, and the EPA approved a schedule for the System to complete the corrective actions by November 9, 2017. Respondents failed to complete all corrective actions by November 9, 2017 or failed to notify the EPA of corrective action completion by December 9, 2017 and, therefore, violated this requirement.
9. Respondents are required to monitor the System's water monthly for total coliform bacteria. 40 C.F.R. §§ 141.853-858. Respondents failed to monitor the System's water for total coliform bacteria during February and October of 2017, February through April and June through December of 2018, January and March of 2019 and, therefore, violated this requirement.
10. Respondents are required to notify the public of certain violations of the Drinking Water Regulation no later than 30 days after the System learns of the violation (Tier 2) and, within 10 days after completing public notice, provide a copy of the public notice to the EPA. 40 C.F.R. §§ 141.201-141.211. Respondents failed to notify the public of the violation cited in paragraph 8, above, or failed to submit a copy to the EPA, and, therefore, violated this requirement.
11. Respondents are required to notify the public of certain violations of the Drinking Water Regulation no later than 1 year after the System learns of the violation (Tier 3) and, within 10 days after completing public notice, provide a copy of the public notice to the EPA. 40 C.F.R. §§ 141.201-141.211. Respondents failed to notify the public of the 2017 and 2018 violations cited in paragraph 9, above, or failed to submit a copy to the EPA, and, therefore, violated this requirement. The public notice for the failure to monitor nitrate violation cited in paragraph 7 is not due until December 31, 2019.
12. Respondents are required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours (except where the Drinking Water Regulation specifies a different time period). 40 C.F.R. § 141.31(b). Respondents failed to report the violations cited in paragraphs 7 and 8, above, to the EPA and, therefore, violated this requirement.
13. Respondents are required to report to the EPA any failure to comply with the coliform monitoring requirement within 10 days after discovering the violation. 40 C.F.R. § 141.861(a). Respondents failed to report the violations cited in paragraph 9, above, to the EPA and, therefore, violated this requirement.

**ORDER**

Respondents are ordered to perform the following actions upon Respondents' receipt of this Order (unless a different deadline is specified below):

14. Respondents shall monitor the System's water at least annually for nitrate, in accordance with 40 C.F.R. §§ 141.23(a) and (d). Respondents shall report monitoring results to the EPA within the first 10 days following either (1) the month in which the result is received or (2) the end of the required monitoring period as stipulated by the EPA, whichever is shortest. 40 C.F.R. § 141.31(a). Respondents did sample for nitrate on January 14, 2019. The next nitrate sample will be due in 2020.

15. Within 180 days of receipt of this Order, Respondents shall complete corrective action of the following significant deficiency and notify the EPA within 30 days after completion: Tanks ST01 and ST02 must be inspected and the structure/condition compared to the Tech Tips for Finished Water Storage Facilities. Respondents shall provide sufficient evidence to the EPA, including photographs, of the corrective actions. Thereafter, Respondents shall complete corrective action of significant deficiencies and provide notification of their completion as required by 40 C.F.R. §§ 141.403(a) and 141.405(a)(2).

16. Respondents shall monitor the System's water monthly for total coliform bacteria. If a sample is positive for total coliform, within 24 hours of being notified of the positive result, Respondents shall collect a set of three repeat samples for each total coliform-positive sample. 40 C.F.R. § 141.853-858. Respondents shall report total coliform analytical results to the EPA within the first ten days following the end of the System's required monitoring period. See, 40 C.F.R. § 141.31(a).

17. Within 30 days after receipt of this Order, Respondents shall notify the public of the violation cited in paragraph 8, above. Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#pn>. Within 10 days after providing public notice, Respondents shall submit a copy of the notice to the EPA. Thereafter, following any future violation of the Drinking Water Regulation, Respondents shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q.

18. Within 30 days after receipt of this Order, Respondents shall notify the public of the 2017 and 2018 total coliform bacteria monitoring violations (Tier 3). Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#pn>. The template to use for the Tier 3 notice is titled - Revised Total Coliform Rule - Failure To Monitor - PN Template. Within 10 days after providing public notice, Respondents shall submit a copy of the notice to the EPA. Thereafter, following any future violation of the Drinking Water Regulation, Respondents shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q.

19. Respondents shall report any violation of the Drinking Water Regulation to the 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 Regulation, Respondents shall report within that different period.
20. Respondents shall report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.861(a)(4).
21. Respondents are ordered to comply with all provisions of the Act and the Drinking Water Regulation, including but not limited to each requirement cited above.
22. For any future violation of the Drinking Water Regulation for which this Order does not specify a reporting period, Respondents shall report the violation to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if the Drinking Water Regulation specifies a different time period for reporting the particular violation, Respondents shall report the violation to the EPA within that different period.
23. If Respondents contract with or hires any other person or entity to operate the System, Respondents shall, within ten days, provide a copy of this Order to the contractor and notify the EPA in writing of the change. In either of these circumstances, Respondents shall remain obligated to comply with this Order.
24. Respondents shall send all reporting and notifications required by this Order to the EPA at:

Email: [R8DWU@epa.gov](mailto:R8DWU@epa.gov), and [wittenberg.olive@epa.gov](mailto:wittenberg.olive@epa.gov)

**GENERAL PROVISIONS**

25. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or the Drinking Water Regulation. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

26. Violation of any part of this Order, the Act, or the Drinking Water Regulation may subject Respondents to a civil penalty of up to \$57,317 (as adjusted for inflation) per day of violation, a court injunction ordering compliance, or both. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 84 Fed. Reg. at 2059 (February 6, 2019).

27. Respondents may seek federal judicial review of this Order pursuant to section 1448(a) of the Act. 42 U.S.C. § 300j-7(a).

Issued: Sept. 11, 2019.

  
Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division