



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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EPA REGION VIII  
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JUN 04 2019

Ref: 8ENF-W-SD

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
and via email

The Honorable Harlan Baker, Chairman  
Chippewa Cree Indians of the Rocky Boy's Reservation  
P.O. Box 544  
Box Elder, Montana 59521

RE: Emergency Administrative Order under Section 1431 of the Safe Drinking Water Act,  
Rocky Boy Rural Water System PWS ID 083090075,  
Docket No. **SDWA-08-2019-0023**

Dear Chairman Baker:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency to the Chippewa Cree Indians of the Rocky Boy's Reservation (Tribe), under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i.

The EPA has determined that conditions exist at the Rocky Boy Rural 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 notifications from the Rocky Boy Rural Water operator on June 3, 2019, that divers found two mice carcasses on the bottom of the Colliflower Storage Tank (ST11) (Tank) while cleaning and inspecting the Tank.

Pursuant to the 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. The Order and its requirements are necessary to ensure adequate protection of public health.

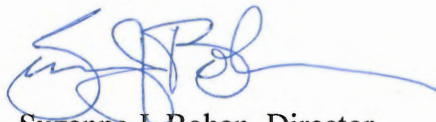
The enclosed Order sets forth the actions that must be taken to ensure that the people served by the System are provided with safe drinking water. The Order requires the Tribe to, among other things, take the following actions: issue a boil water advisory and provide an alternate source of water until notified by the EPA to discontinue; super-chlorinate and flush the distribution system; and drain, scour and disinfect the tank.

The penalties for failing to comply are set forth in the Order. If you have any questions or wish to discuss the 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 should be directed to Matt Castelli,

Assistant Regional Counsel, (800) 227-8917, extension 6491, or at (303) 312-6491, or by email at castelli.matthew@epa.gov.

Thank you for your attention to this matter.

Sincerely,



Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division

Enclosures

cc: Mr. Curtis Monteau, Tribal Water Resources/Department Director, Rocky Boy Rural Water System  
Mr. Tim Nault, Designated Operator  
Mr. Justin Four Colors, Tribal Water Resource Department, Operator  
Mr. Jim White, SFC Director, Indian Health Service

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IN THE MATTER OF )  
 )  
Chippewa Cree Indians of the Rocky )  
Boy's Reservation, )  
 )  
Respondent. )

Docket No. ~~SDWA-08-2019-0023~~

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**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 officials have 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 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 Chippewa Cree Indians of the Rocky Boy's Reservation (Tribe) is a federally recognized Indian tribe and therefore is a "municipality" and a "person" as those terms are defined in the Act. 42 U.S.C. § 300f(10) and § 300f(12), respectively.
4. Respondent, the Tribe, owns and/or operates the Rocky Boy Rural Public Water System (System) located within the exterior boundaries of the Rocky Boy's Reservation, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
5. The System is supplied by twelve ground water sources accessed via groundwater wells: one well with no treatment, and ten wells with continuous disinfection provided. The System is operated year-round.
6. The System has 477 service connections and regularly serves 2,000 individuals daily for at least 60 days out of the year.
7. The System is a "public water system" as defined in 40 C.F.R. § 141.2 and section 1401(4) of the Act, 42 U.S.C. § 300f(4), and, therefore, is subject to the requirements of the Act and the National Primary Drinking Water Regulation (NPDWR) at 40 C.F.R. part 141.

8. Prior to issuing this Order, the EPA consulted with Respondent to confirm the facts stated in this Order and with tribal and local authorities to ascertain they have not acted to protect the health of persons 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 persons, based on the facts indicated in paragraph 10, below. The EPA has determined that this Order is necessary to protect public health.

10. Cleaning and inspection of the Colliflower Storage Tank (ST11) (Tank) was required as one of the corrective measures in the Sanitary Survey Report of the Rocky Boy Rural Water System, dated March 15, 2017. During contracted cleaning and inspection of the Tank on June 2, 2019, divers found two mouse carcasses near the overflow outlet of the Tank. A week prior to the tank cleaning, the System operators located the overflow pipe that was partially buried, and not protected with either a flapper valve or screen. EPA contractors were onsite during the cleaning and inspected the tank for any other openings. None were identified. The operators isolated the Tank from the distribution system on June 2, took a special coliform sample from the tank, and called the EPA.

11. On June 3, 2019, 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 June 3, 2019.

### **ORDER**

#### **INTENT TO COMPLY**

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

#### **BOIL ORDER AND PUBLIC NOTICE**

13. The boil order advisory referenced in paragraph 11, above, shall remain in place until the EPA provides written notification to Respondent that the boil order is no longer needed.

14. 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**

15. Using the public notice referenced paragraph 11, 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 affected users of the System as needed for drinking, cooking, maintaining oral hygiene, and dish washing. Respondent shall provide at least two liters of potable water daily per person at a central location that is accessible to all persons served by the 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.

16. On June 3, 2019, bottled water was hand delivered to the homes served by the Tank, and Respondent will continue to provide alternate water to these homes until the boil order advisory is lifted.

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

17. Within 24 hours after receipt of this Order, Respondent shall disinfect and flush the System.

18. Following disinfecting and flushing of the System, beginning on the first date when the System returns to the normal chlorine residual range, Respondent shall collect consecutive daily (one sample per day) special purpose (defined in 40 C.F.R. § 141.853(b)) samples from the System's distribution system until notified by the EPA that consecutive daily sampling may be discontinued. Respondent shall ensure that each sample is analyzed for total coliform and *E. coli* and shall email each result to the EPA upon receipt of the analysis from the laboratory.

19. After Respondent receives written notification from the EPA that they may discontinue daily coliform sampling, Respondent shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.855.

20. Respondent shall remain obligated to comply with the requirements in 40 C.F.R. §§ 141.402 (to collect an additional source water sample) and 141.858 (to collect three repeat samples within 24 hours of being notified of a total coliform-positive sample result). If a future repeat sample is positive for coliform, Respondent shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.

21. Respondent shall collect all coliform samples at sites that are representative of water throughout the System according to the Sample Siting Plan submitted to the EPA by Respondent. Additionally, Respondent shall report all sampling results to the EPA by email immediately upon (*i.e.*, as soon as practicable, and in no event more than 24 hours after) receiving the results.

22. The EPA may require Respondent to increase coliform sampling at any time while this Order is in effect.

### REPORTING

23. Respondent must give daily updates to the EPA on the progress of disinfecting and flushing the System, and monitoring for coliform and recording chlorine residual at the same time and place as coliform samples. 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.

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

Olive Hofstader  
via e-mail: [hofstader.olive@epa.gov](mailto:hofstader.olive@epa.gov)  
Telephone (800) 227-8917, ext. 6467, or (303) 312-6467

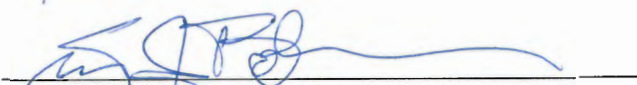
25. This Order does not relieve Respondent from the obligation to comply with any applicable federal, tribal or local law.

26. Failure to comply with this Order may result in civil penalties of up to \$23,963 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 84 Fed. Reg. 2056, 2059 (February 6, 2019) and 84 Fed. Reg. 5955 (February 25, 2019).

27. 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).

28. 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.

29. Issued and effective this 4<sup>th</sup> day of June, 2019.

  
Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202