

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

April 23, 2020  
8:44 AM

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IN THE MATTER OF )  
)  
)  
Department of the Interior, )  
Bureau of Indian Affairs, )  
Crow Agency Public Water System, )  
PWS ID# 083090011 )  
)  
Respondent. \_\_\_\_\_)

Docket No. **SDWA-08-2020-0025**

Received by  
EPA Region VIII  
Hearing Clerk

**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 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 EPA has primary enforcement responsibility for the Act's public water supply protection program on the Crow Indian Reservation (Reservation). No other governmental authority has applied for and been approved to administer the program on the Reservation.
4. The Department of the Interior, Bureau of Indian Affairs (Respondent) owns and/or operates a portion of the Crow Agency Public Water System (System), including the System's distribution system. The System provides piped water to the community of Crow Agency, Montana, for human consumption through pipes or other constructed conveyances. The System is located within the exterior boundaries of the Reservation.
5. Respondent is a "Federal agency" within the meaning of Section 1401(11) of the Act, 42 U.S.C. § 300f(11), and is a "person" within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, for purposes of enforcement under the Act.

6. Each department, agency, and instrumentality of the federal government that owns or operates a public water system is subject to and must comply with all Federal, State, and local requirements pursuant to Section 1447(a) of the Act, 42 U.S.C. § 300j-6(a).
7. The System is supplied by a surface water source accessed via an intake on the Little Big Horn River with treatment provided via a conventional filtration system and is disinfected using sodium hypochlorite. The System is operated year-round.
8. The System has 532 service connections and regularly serves an average of approximately 1300 individuals daily for at least 60 days out of the year.
9. 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 Regulations (NPDWRs) at 40 C.F.R. part 141.
10. Prior to issuing this Order, the EPA consulted with Respondent to confirm the facts stated in this Order and with appropriate tribal and local authorities to ascertain they have not acted to protect the health of persons in this instance.
11. 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 paragraph **Error! Reference source not found.**2-13, below. The EPA has determined that this Order is necessary to protect public health.
12. On April 22, 2020, the EPA was notified that components of the System lost pressure due to failure to isolate the east tank prior to a line break due to construction.
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 April 22, 2020, 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 April 22, 2020.

## **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 AND 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 referenced in paragraph 17, 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 System as needed for drinking, cooking, maintaining personal 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.

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 their notification concerning availability of an alternate water supply.

### **CORRECTIVE MEASURES**

20. Within 7 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 System. The plan shall identify the cause of the contamination 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 corrective action has been taken to address the cause of the pressure loss, Respondent shall disinfect and flush the System.
24. Following disinfecting and flushing of the System, beginning on the first date when chlorine levels return to normal, Respondent shall 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 (defined in 40 C.F.R. § 141.853(b)) total coliform samples from the System's distribution system until notified by the EPA that daily sampling may be discontinued. These daily samples should be labeled as "special" samples, not for use for 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. Along with the total coliform sample collection, Respondent shall measure the chlorine residual indicating free or total chlorine, and provide 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 as required by 40 C.F.R. § 141.855.
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 on the progress of repairing the line break, disinfecting and flushing the 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:

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

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

30. Pursuant to section 1447(a) of the Act, Respondent is subject to and shall comply with all federal, state, interstate, and local requirements, both substantive and procedural, respecting public water systems in the same manner and to the same extent as any person is subject to such requirements, including, but not limited to, administrative orders and all civil and administrative penalties and fines. 42 U.S.C. § 300j-6(a).

Respondent shall seek all existing funds to meet the requirements of this order. Failure to obtain adequate funds or appropriations from Congress does not release Respondent from its obligations to comply with the order. Nothing in this order shall be interpreted to require obligations or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

31. This Order constitutes final agency action.

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 22nd day of April, 2020.

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Colleen Rathbone, Chief  
Water Enforcement Branch  
Enforcement and Compliance Assurance Division