



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

July 11, 2008

Ref: 8MO

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Julia Doney, President
Fort Belknap Community Council
RR1, Box 91
Harlem, Montana 59526

Re: Emergency Administrative Order
Docket No. **SDWA-08-2008-0074**
Prairie Mountain Utilities/Ft. Belknap
PWS ID #083090041

Dear President Doney:

Enclosed is an Emergency Administrative Order ("Order") issued to Prairie Mountain Utilities and the Fort Belknap Community Council under section 1431 of the Safe Drinking Water Act ("SDWA"), 40 U.S.C. § 300i. In its current state, the water supply of Ft. Belknap Agency Water System ("System") may present an imminent and substantial endangerment to the health of persons. The Order is based on a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure may carry with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system. In addition, it appears that there is a high likelihood of another loss of pressure due to inadequate staffing of the water plant.

The enclosed Order sets forth the actions that Prairie Mountain Utilities and the Fort Belknap Community Council must take immediately to ensure that the people served by the System are provided with safe drinking water. Penalties for failing to comply are set forth in the Order. The Order requires that Prairie Mountain Utilities and the Fort Belknap Community Council conduct the following activities: (1) within 24 hours, provide a written intent to EPA to comply with the EAO; (2) submit and implement a plan to adequately staff the water plant; (3) conduct increased monitoring for total coliform bacteria; and (4) provide public notice within 24 hours.



In order to protect public health, EPA strongly recommends that the Respondents named in the Order provide an alternative source of water to the System's customers until the current emergency situation is resolved.

Julie DalSoglio and Barbara Burkland of the Montana Office will be at the Reservation at 9:00 am on Tuesday, July 15, 2008, to meet with members of the Utility Board, Utility Department staff and available members of Council. We appreciate the opportunity to discuss possible solutions to what has been a chronic staffing problem at the water plant. One possible solution you may wish to consider is a Memorandum of Understanding and cross training among Tribal Departments, so that in the event of such an emergency, Tribal employees can be directed to help fill a staffing vacancy, or meet temporary high demand.

If you have questions or comments regarding this action, please do not hesitate to call John Wardell, Director of EPA's Montana Office, at 406-457-5001. If your staff has questions specific to the elements of the Order, the most knowledgeable people regarding these issues are Barbara Burkland, Environmental Scientist, who can be reached at (406)457-5009, or Peggy Livingston, Enforcement Attorney, who can be reached at (800) 227-8917 ext 6858.

We urge your prompt attention to this matter.

Sincerely,



John Wardell, Director
EPA Region 8, Montana Office

Enclosure

cc: Scott Snow, Manager, Prairie Mountain Utilities
Robert Fox, Chair, Prairie Mountain Utility Commission

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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IN THE MATTER OF)
)
Prairie Mountain Utilities, Operator)
Fort Belknap Indian Community Council, Owner)
Fort Belknap Agency, Montana)
PWS ID# 083090041)
Respondents)
)
)
)
Proceeding under section 1431(a))
of the Safe Drinking Water Act,)
42 U.S.C. § 300i(a))

EMERGENCY
ADMINISTRATIVE
ORDER

Docket No. SDWA-08-2008-0074

STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i, as properly delegated to the Supervisors of the EPA Montana Office and the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

JURISDICTION

1. EPA has jurisdiction to issue emergency orders pursuant to section 1431 of the Act, 42 U.S.C. § 300i.
2. EPA has primary enforcement responsibility for the Act's public water supply protection program on the Fort Belknap Indian Reservation (the Reservation). No other governmental authority has applied for and been approved to administer the program on the Reservation.

FINDINGS

1. Respondent Prairie Mountain Utilities (the Utility) is a Tribal agency under the laws of the Fort Belknap Indian Community Council. Respondent Fort Belknap Indian Community (FBIC) is a federally recognized tribal government/tribal agency consisting of the Assiniboine and Gros Ventre Tribes. The Utility and FBIC, collectively referenced as Respondents, are each a "person" as defined in 40 C.F.R. § 141.2 for purposes of federal enforcement of the Act.
2. The Fort Belknap Agency Water System (System) provides water for human consumption on the Fort Belknap Indian Reservation. The System serves approximately 2400 year-round residents annually through 420 service connections. The FBIC and the Utility, respectively, own and operate the System.
3. The System is a "public water system" and a "community water system" as defined in section 1401 of the Act, 42 U.S.C. § 300f and 40 C.F.R. § 141.2.
4. As the owner and operator, respectively, of the System, each Respondent is a "supplier of water" as that term is defined in section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. As provided in section 1411 of the Act, 42 U.S.C. § 300g, the Respondents are therefore required to comply with the Act and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. part 141.

5. The System is supplied solely by surface water from the Milk River.
6. EPA has determined that conditions at the System may present an imminent and substantial endangerment to the health of persons. The current emergency conditions began on July 10, 2008, when the System's water storage tank emptied, due to the absence of an on-site operator.
7. As a result of the water storage tank emptying on July 10, 2008, the System's distribution system lost pressure that day. Because cracks, breaks, or joints are common in pipes and other components of distribution systems, loss of pressure can draw water from outside into the distribution system, presenting a high potential for fecal contamination or other disease causing organisms to enter the distribution system.
8. The Respondents contacted EPA approximately 4 hours after the System learned of this emergency situation. This is consistent with 40 C.F.R. §§ 141.202(b)(2) and 141.202(a)(9), which require Respondents to notify EPA as soon as practical upon learning of a situation with significant potential to have serious adverse effects on human health as a result of short-term exposure.
9. This Order is necessary to ensure adequate protection of public health.
10. Prior to issuing this Order, EPA consulted with local (Tribal) authorities to confirm the information on which this Order is based and to ascertain the actions which such authorities were taking. State and local authorities are not able to act

to protect public health in this instance, because they are not authorized to take action under section 1431 of the Act.

11. On April 15, 2005, EPA issued a Notice of Violation to the Respondents, citing exceedances of turbidity limits and inadequate disinfection and requiring a Tier I Public Notice, including boil water language, be issued to customers. That boil order continues in effect due to ongoing turbidity violations.
12. On September 6, 2007 an Administrative Order (AO), was issued to the Respondents, noting continuing violations and requiring compliance with certain NPDWRs. An Amended Administrative Order (AAO), was issued on April 8, 2008, following continuing and new violations. The issuance of this Emergency Administrative Order (EAO) does not change the Respondents' obligations to comply with all requirements of the September 6, 2007 AO and the April 8, 2008 AAO.

EMERGENCY ADMINISTRATIVE ORDER

1. Within 24 hours of receipt of this Order, Respondents shall notify EPA in writing of their intention to comply with the terms of this Order. The written response shall include a general plan for compliance with each of the elements of this Order.
2. Within 24 hours, Respondents shall disinfect and flush the System's distribution system.

3. Upon receipt of this Order, Respondents shall maintain a detectable disinfectant residual as measured at the far ends of the distribution system. Respondents shall monitor the disinfectant residual daily and report those results to EPA by email or FAX until notified otherwise by EPA.
4. Upon receipt of this Order, Respondents shall monitor the tank level and report the level to EPA daily by email or FAX until notified otherwise by EPA.
5. Beginning no later than 24 hours after pressure of at least 25 pounds per square inch (psi) is regained throughout the distribution system and the distribution system is restored to service, Respondents shall begin collecting two total coliform samples each day of the treated water to determine compliance with the MCL for total coliform bacteria as set forth in 40 C.F.R. § 141.63. Respondents shall continue daily total coliform monitoring until receiving written notice from EPA that it may discontinue daily sampling. Respondents shall report daily total coliform sampling results to EPA by email or FAX immediately upon receiving the laboratory results.
6. After Respondents receive written notification from EPA allowing it to discontinue daily total coliform sampling, Respondents shall conduct weekly bacteriological sampling to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondents shall report weekly total coliform sampling results to EPA by email or FAX immediately upon receiving

the laboratory results. Prior to having the samples analyzed, Respondents shall designate one set of samples as their monthly compliance samples required to determine compliance with the total coliform MCL.

7. Respondents shall continue weekly bacteriological monitoring until they receive notification from EPA that they may discontinue weekly bacteriological sampling. Respondents shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.21 to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondents shall report analytical results to EPA within the first 10 days after the end of the month of sampling, as required by 40 C.F.R. § 141.31(a).
8. Respondents shall collect all total coliform samples at sites that are representative of water throughout the distribution system.
9. If any one of the designated compliance sample results is total coliform-positive, Respondents shall conduct repeat sampling as required by 40 C.F.R. § 141.21(b), including collecting at least (a) four repeat samples within 24 **hours of being** notified of the total coliform-positive sample and (b) five routine **total coliform** samples the month following a total coliform-positive sample result.
10. Immediately upon receipt of this Order, Respondents shall ensure that adequate staffing is continuously maintained at the water treatment plant for effective operations while this Emergency Order remains in effect. Within 4 days of receipt

of this Order, EPA shall submit to EPA a plan for ensuring adequate staffing of the System's water treatment plant in the six months following issuance of this Order. Within 10 days of receipt of the plan, EPA will provide comments to the Respondents. The Respondents shall incorporate EPA's comments, finalize the plan and submit it to EPA within 30 days of receipt of this Order. EPA will then incorporate the approved plan into the April 8, 2008 Amended Administrative Order as enforceable requirements in that Order.

11. If Respondents learn of a violation or situation at the System with the potential to have serious adverse effects on human health as a result of short-term exposure to contaminants, including any loss of pressure or water outage comparable to the **events described in the Findings** section of this Order, or any other situation or violation determined to have such potential according to the NPDWRs or by EPA on a case-by-case basis, Respondents shall notify EPA as soon as practicable but in no event more than 24 hours later. 40 C.F.R. §§ 141.202(b)(2) and 141.202(a)(9).
12. Within 24 hours of receipt of this Order, Respondents shall provide public notice in the affected area as set forth in this Order, and as required since April 15, 2005. This public notice shall be posted in conspicuous locations throughout the area served by the water system and hand delivered to persons served by the water system, including but not limited to the hospital and schools. Upon the effective

date of this Order. Respondents shall comply with applicable public notification requirements at 40 C.F.R. § 141.201 **et seq.** following any future National Primary Drinking Water Regulations (NPDWRs) violation. Respondents shall submit a copy of the public notice to EPA within 24 hours of completion of the public notice, as required by 40 C.F.R. § 141.31(d). The public notice shall include the following information:

- a. All requirements as specified in 40 C.F.R. § 141.205 including:
 - (1) A description of the violation, including the emergency situation and potential contaminants of concern, and (as applicable) the contaminant level;
 - (2) When the violation or situation occurred;
 - (3) Any potential adverse health effects from the violation or situation (see section b. below);
 - (4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
 - (5) Whether alternative water supplies should be used (see section b. below);
 - (6) What actions consumers should take, including when they should seek medical help, if known (see section b. below);
 - (7) What the system is doing to correct the violation or situation;

- (8) When the water system expects to return to compliance or resolve the situation;
- (9) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and
- (10) A statement to encourage the notice recipients to distribute the public notice to other persons served by the system.

b The following language:

Ft. Belknap Agency Water System (System), experienced a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure carries with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Fecal coliforms and E. Coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly and people with severely compromised immune systems.

ALL WATER USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, ETC., SHALL BE BOILED UNTIL FURTHER NOTIFICATION FOR AT LEAST THREE (3) MINUTES.

AT A ROLLING BOIL, BEFORE USE. ALL STORED WATER,
DRINK OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE
DISCARDED.

13. Respondents shall continue the public notice as set forth in paragraph 12 above until EPA Region 8 provides written notification to discontinue public notice.
14. All reports and notifications herein required shall be submitted to:

Barbara Burkland
U. S. EPA Region 8 Montana Office
10 West 15th St., Suite 3200
Helena, MT 59626
burkland.barbara@epa.gov
phone: (406) 457-5009 or 1-866-457-2690, ext. 5009
FAX: (406) 457-5055

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondents to a civil penalty not to exceed \$16,500 (adjusted for inflation according to 40 C.F.R. part 19) for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).

3. Violation of any requirement of the NPDWRs may subject the Respondents to a civil penalty of not more than \$32,500 (adjusted for inflation according to 40 C.F.R. part 19) per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act. 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance.

Issued this 11th day of July, 2008.

John Wardell, Director
EPA Region 8 Montana Office

for Wendy J. Silver
David J. Janik, Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Prairie Mountain Utilities
Fort Belknap Indian Community
Fort Belknap Agency EAO
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3. Violation of any requirement of the NPDWRs may subject the Respondents to a civil penalty of not more than \$32,500 (adjusted for inflation according to 40 C.F.R. part 19) per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance.

Issued this 17th day of July, 2008.



John Wardell, Director
EPA Region 8 Montana Office

for Wendy J. Silver
David J. Janik, Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice