

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

January 20, 2021
9:39 AM

IN THE MATTER OF:)
)
Bureau of Indian Affairs)
)
Respondent.)
)
Crow Agency (TPO1) Public Water System,)
PWS ID #083090011)

Docket No. SDWA-08-2021-0008

ADMINISTRATIVE ORDER

Received by
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. Bureau of Indian Affairs (Respondent) is a federal agency that owns and/or operates the Crow Agency TPO1 Public Water System (System), which provides piped water to the public within the boundaries of the Crow Indian Reservation for human consumption through pipes or constructed conveyances.
3. 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 disinfection via sodium hypochlorite.
4. The System has approximately 510 service connections used by year-round residents and/or regularly serves an average of approximately 1300 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 of the Act, 42 U.S.C. § 300f.
5. For purposes of federal enforcement, Respondent is a “person” as defined in section 1401(12) of the Act, 42 U.S.C § 300f(12) and is subject to the Act and 40 C.F.R. part 141 (Part 141). Part 141 is an “applicable requirement” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. Pursuant to section 1447(a) of the SDWA, 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).
7. Part 141 includes monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

8. In order to control disinfection byproduct precursors in the System’s drinking water, Respondent is required to reduce the total organic carbon (TOC) between the System’s source water and its combined filter effluent by at least 25 percent. 40 C.F.R. § 141.135(b)(2). Respondent did not achieve this percentage reduction during the 12-month periods from July 1, 2019, through June 30, 2020, and

from October 1, 2019, through September 30, 2020, and, therefore, violated this requirement, according to quarterly calculations performed by the EPA under the methodology described in 40 C.F.R. § 141.135(c)(1).

9. Respondent is required to notify the public of certain violations of Part 141 and, within 10 calendar days after completing public notice, provide a copy of the public notice and certification to the EPA. 40 C.F.R. §§ 141.31(d) and 141.201-141.211. The violation identified in paragraph 7, above, is classified as Tier 2 violation, requiring public notice within 30 calendar days, according to 40 C.F.R. §141.203. Respondent failed to notify the public of the violations cited in paragraph 7 and/or failed to submit a copy to the EPA and, therefore, violated this requirement.

10. Respondent is required to report any failure to comply with Part 141 to the EPA within 48 hours (except where Part 141 specifies a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violation cited in paragraph 7, above, to the EPA and, therefore, violated this requirement.

ORDER

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

11. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.

12. Respondent shall achieve a reduction of at least 25 percent of TOC between the System's source water and its combined filter effluent, as required by 40 C.F.R. § 141.135(b)(2).

13. Within 30 calendar days after receipt of this Order, Respondent shall submit to the EPA a proposed plan and schedule to bring the System into compliance with the TOC treatment technique as identified in 40 C.F.R. § 141.135(b)(2).

- a. The plan shall include proposed modifications to the System and estimated costs of such modifications. The schedule shall include a project start date, interim milestone deadlines, and a final compliance deadline (which shall be within six months of the project start date). Respondent shall not begin construction or modifications to the System before the EPA has approved the schedule.
- b. The EPA-approved schedule (Schedule) shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.
- c. Within 30 calendar days after receipt of the EPA's approval of the Schedule, Respondent shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with the treatment technique. Each quarterly report is due by the 10th calendar day of the month following the relevant quarter.

- d. Within 10 calendar days after completing all tasks included in the Schedule, Respondent shall notify the EPA of the project's completion.

14. The System shall achieve compliance with the treatment technique by the final compliance deadline specified in the Schedule. If Respondent's plan fails to achieve permanent compliance, the EPA may order further steps, seek penalties for noncompliance, or both.

15. For any future violation of Part 141 for which this Order does not specify a reporting period, Respondent 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 Part 141 specifies a different time period for reporting the particular violation, Respondent shall report the violation to the EPA within that different period.

16. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violation cited in paragraph 7, above, persists, Respondent shall notify the public of this violation. 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>. Thereafter, following any future violation of Part 141, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 calendar days after providing public notice, Respondent shall submit a copy of the notice and certification to the EPA. 40 C.F.R. § 141.31(d).

17. If Respondent contracts with or hires any other person or entity to operate the System, Respondent shall, within 10 calendar days, provide a copy of this Order to the lessee, purchaser, or contractor and notify the EPA in writing of the change. In either of these circumstances, Respondent shall remain obligated to comply with this Order.

18. Respondent shall send all reporting and notifications required by this Order to the EPA at:

Email: R8DWU@epa.gov, and latino.steven@epa.gov

GENERAL PROVISIONS

19. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or Part 141. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

20. Violation of any part of this Order may subject Respondent to a civil administrative penalty of up to \$41,1200 (as adjusted for inflation) per day of violation. See 42 U.S.C. §§ 300g-3 and 300j-6(b)(2); 40 C.F.R. part 19; 85 Fed. Reg. at 83821 (December 23, 2020).

Issued: January 20, 2021.

**COLLEEN
RATHBONE**

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RATHBONE
Date: 2021.01.20 09:29:40 -07'00'

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