

July 13, 2021

07:00 AM

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Received by
EPA Region VIII
Hearing Clerk

IN THE MATTER OF)
)
Northern Cheyenne Utility Commission,)
)
Respondent.)
)
Lame Deer Public Water System)
PWS ID #083090064)

Docket No. SDWA-08-2021-0032

**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 Northern Cheyenne Utility Commission (Respondent) is a tribal agency organized under the laws of the Northern Cheyenne Tribe (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, for purposes of federal enforcement.
4. Respondent owns and/or operates the Lame Deer Public Water System (System) located within the exterior boundaries of the Northern Cheyenne Indian Reservation, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances
5. The System is supplied by a groundwater source accessed via five wells. The water is treated with sodium hypochlorite. The System is operated year-round.
6. The System has 871 service connections and regularly serves 3160 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 Regulations (NPDWRs) at 40 C.F.R. part 141.

8. Prior to issuing this Order, the EPA consulted with the System 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 humans, based on the facts indicated in paragraph 10, below. The EPA has determined that this Order is necessary to protect public health.

10. On July 12, 2021, the EPA was notified that the components of the System lost pressure. A water main broke in the distribution system, causing a loss of pressure in the distribution system. During the course of the repair, the repair person hit two sewer lines, and there is raw sewage in the vicinity of the recently repaired water pipe.

11. 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.

12. On July 12, 2021, the EPA provided Respondent with a public notice template for a boil water advisory.

ORDER

INTENT TO COMPLY

13. 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

14. Respondent must post the boil order within 24 hours of the violation, 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.

15. The boil water advisory referenced in paragraph 12, above, shall remain in place until the EPA provides written notification to Respondent that the boil water advisory is no longer needed.

16. 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

17. Using the public notice referenced in paragraph 12, 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 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.

18. No later than five days after the effective date of this Order (see paragraph 32, below), Respondent shall provide the EPA with a copy of its notification concerning an alternate water supply is available.

CORRECTIVE MEASURES

19. Within 15 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 10, 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.

20. The schedule required by paragraph 18, 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.

21. Respondent shall notify the EPA in writing within 24 hours after completing corrective action.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

22. Within 24 hours after corrective action has been taken to address the cause of the pressure loss required by paragraph 18, above, Respondent shall disinfect and flush the System.

23. 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, and provide these measurements along with the total coliform analysis from the laboratory.

24. After Respondent receive 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.

25. The EPA may require Respondent to increase total coliform sampling and reporting at any time while this Order is in effect.

REPORTING

26. 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 must be submitted via e-mail.

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

Steven Latino
via e-mail: latino.steven@epa.gov
Telephone (800) 227-8917, ext. 6440, or (303) 312-6440

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

29. Failure to comply with this Order may result in civil penalties of up to \$24,674 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 85 Fed. Reg. at 83821 (December 23, 2020).
30. 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).
31. 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.
32. 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.
33. Issued and effective this 13th day of July, 2021.

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division