



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 W. 15th STREET, SUITE 3200
HELENA, MONTANA 59626

2012 OCT 19 AM 8:03

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REGION 8
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OCT 17 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward F. Parisian, Director
Rocky Mountain Regional Office
Bureau of Indian Affairs
316 N 26th Street
Billings, MT 59101

Re: 3rd Violation of Amended
Administrative Order
Docket No. SDWA-08-2011-0064
Bureau of Indian Affairs
Crow Agency (TP01)
Public Water System
PWS ID #083090011

Dear Regional Director Parisian:

On August 29, 2011, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order (Order) to the Bureau of Indian Affairs (BIA) ordering compliance with various regulations promulgated under the Safe Drinking Water Act (Act), 42 U.S.C. § 300f *et seq.* [Docket No. SDWA-08-2011-0064]. On April 18, 2012, the EPA amended the Order and among other things, directed BIA to submit a written Compliance Plan, identifying those actions BIA would take to re-establish compliance with regulatory requirements. On May 16, 2012, the EPA received a Compliance Plan from BIA. On July 18, 2012, the EPA issued an addendum to the Order, which adopted the Compliance Plan into the Order. This made the terms and conditions in the Compliance Plan enforceable obligations of the BIA.

Our records indicate that BIA has failed to comply with the Order. The Order includes the following requirements:

1. BIA shall report the filter number, the date, and the cause (if known) to the EPA by the 10th of the following month whenever 2 consecutive individual filter turbidity (IFT) readings (at 15 minute intervals) exceed 1.0 NTU (40 C.F.R. § 141.570(b)(2)).

BIA failed to report to the EPA when 2 consecutive individual filter turbidity readings exceeded 1.0 NTU on August 23, 2012 by the 10th of the following month.

2. As a community system serving fewer than 10,000 persons, the System is required to develop a disinfection profile as described in 40 C.F.R. §§141.530-141.536. (40 C.F.R. § 141.503). The System is required to maintain a copy of the disinfection profile in its records indefinitely. 40 C.F.R.



§ 141.571. The Order required the System to submit a copy of the weekly disinfection profiling calculations to the EPA with each monthly Surface Water Treatment Rule (SWTR) report.

BIA has failed to submit their disinfection profiling calculations with their monthly SWTR report since June 2011. **If the System has the disinfection profile, please submit the information to the EPA as soon as possible. If BIA does not have this information, please consult with EPA to determine next steps.**

3. BIA shall report any violation of the National Primary Drinking Water Regulations (Drinking Water Regulations) to the EPA within 48 hours of the violation occurring as required by 40 C.F.R. §141.31(b).

BIA failed to report the above violations in Items 1 and 2 above to the EPA within 48 hours of the violation occurring.

4. BIA failed to accurately report several actions required by the Order regarding the individual filter turbidity (IFT) for filters 1 and 2, the combined filter effluent (CFE), and chlorine analyzer charts.

These Order requirements and violations are detailed in the attached Appendix A.

5. Within 30 days after receipt of this Order, BIA shall notify the public of the violations cited in the Order, as required by 40 C.F.R. part 141, subpart Q. Thereafter, following any future violation of the drinking water regulations, BIA shall comply with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, BIA shall submit a copy of the notice to the EPA.

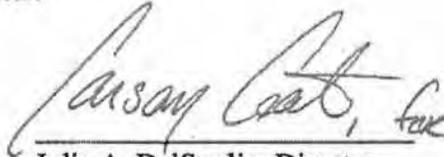
BIA has notified the EPA that the appropriate public notices have been issued; however, it has failed to provide a copy of the public notice and certification of issuance to the EPA. **If public notice has been completed, please provide the EPA a copy as soon as possible. If public notice has not been completed, please do so immediately and submit a copy to the EPA. For your convenience, EPA has provided a public notice template for your use.**

The EPA is considering additional enforcement action as a result of the non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$32,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with the EPA, you may contact Sienna Meredith at 1-866-457-2690, extension 5026 or (406) 457-5026. If you are represented by an attorney who has questions, please ask your attorney to contact Dana Stotsky, Enforcement Attorney, at 1-800-227-8917, extension 6905 or (303) 312-6905 or at the following address:

Dana Stotsky
Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.



Julie A. DalSoglio, Director
EPA Region 8 Montana Office

Enclosure: Appendix A: Violations of the Order
Public Notice

cc: Cedric Black Eagle, Chairman
Leroy Cummins, Facility Manager, BIA Crow Agency
Bruce Ward, Engineer, BIA Rocky Mountain Region
Vianna Stewart, Superintendant, BIA
Chris Dillon, Acting Manager Apsalooke Water and Wastewater Authority
Jim Real Bird, Apsalooke Water and Wastewater Board
John Doyle, Apsalooke Water and Wastewater Board
Larry Kindness, Apsalooke Water and Wastewater Board
Tina Artemis, EPA 8 Regional Hearing Clerk
Karen Dunnigan, Department of Interior, Solicitor's Office (via email)

Appendix A: Violations of the Order

Requirement	Filter 1 (IFE)	Filter 2 (IFE)	Finished Water (CFE)	Chlorine
Operators will indicate on each daily chart whether the water was being sent to waste or the clearwell during a high turbidity event. If the chart recorded for that day does not clearly indicate when the water is being sent to waste, it shall be presumed that the high turbidity water was sent to the clearwell. If high turbidity water is sent to the clearwell, EPA must be notified in the monthly report.	8-20-2012 8-21-2012 8-23-2012 8-27-2012	8-20-2012 8-21-2012 8-22-2012 8-23-2012 8-27-2012	NA	NA
The Operators will clearly mark IFT charts to show the correlation with each filter's status as operating or not.	All	All	NA	NA
The Operators will clearly mark the IFT charts to show notes with exact times when backwashing, sending water to waste, or to the clear well by filter number.	8-13-2012 8-14-2012 8-15-2012 8-16-2012 8-17-2012 8-20-2012 8-21-2012 8-22-2012 8-23-2012 8-27-2012 8-28-2012	8-13-2012 8-14-2012 8-15-2012 8-16-2012 8-17-2012 8-20-2012 8-21-2012 8-22-2012 8-22-2012 8-23-2012 8-27-2012	NA	NA
The Operators will mark all charts to show plant start-up and shut off times.	8-13-2012 through 8-27-2012, and 8-30-2012 through 9-07-2012	8-13-2012 through 8-27-2012 and 9-01-2012 through 9-07-2012	All	8-13-2012 through 8-26-2012 and 9-01-2012 through 9-06-2012
The Operators will record the maximum (span) value on each chart.	All	All	All	All

LEGEND	
ALL	8-13-2012 through 9-7-2012
BW	Backwash
FTCW	Filter to Clear Well
FTW	Filter to Waste
NA	Not Applicable

Instructions for SWTRs Turbidity Exceedance Notice – Template 2-6

Template on Reverse

Since surface water treatment filtration treatment technique violations require Tier 2 notification, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [40 CFR 141.203(b)]. This template may also be adapted for use with turbidity MCL violations. Your primacy agency may have more stringent requirements for treatment technique violations (e.g., it may require you to provide water from an alternate source). Check with your agency to make sure you meet all requirements. In addition:

<u>For Exceedances of Single Turbidity Limits</u>	<u>For Exceedances of Monthly Turbidity Limits</u>
<p>You must consult with your primacy agency as soon as practical but within 24 hours of learning of the violation. During the consultation, the agency may choose to elevate your turbidity exceedance to Tier 1. If consultation does not occur, the violation is automatically elevated to Tier 1 (use Template 1-7). For a Tier 2 notice, describe your violation as follows in the second paragraph of the notice:</p> <p>"Normal turbidity levels at our plant are [number] turbidity units. A water sample taken [date] showed levels of [number] turbidity units. This was above the standard of [standard] units. Because of these high levels of turbidity, there is an increased chance that the water may contain disease-causing organisms."</p>	<p>Use the following language to describe your violation and insert into the second paragraph of the template:</p> <p>"Water samples for [month] showed that [percentage] percent of turbidity measurements were over [standard] turbidity units – the standard is that no more than 5 percent of samples may exceed [standard] turbidity units per month. The turbidity levels are relatively low. However, their persistence is a concern. Normal turbidity levels at our plant are [number] units."</p>

Community systems must use one of the following methods [40 CFR 141.203(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Noncommunity systems must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify this notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language on health effects (from Appendix B to Subpart Q) must be included as written (with blanks filled in) and is presented in this notice in italics and with an asterisk on either end.

You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable [40 CFR 141.205(d)]. This language is also presented in this notice in italics and with an asterisk on either end.

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with filtration treatment technique violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We added chemicals that reduce turbidity.
- We sampled both untreated and treated water for the presence of coliform bacteria.
- We monitored chlorine levels and adjusted them as needed to compensate for the filtration problems.
- We inspected and cleaned the filters.

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met the public notice requirements within ten days after you issued the notice [40 CFR 141.31(d)].

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Crow Agency (TP01) BIA Plant Does Not Meet Treatment Requirements

Our water system recently violated a drinking water requirement. Although this was not an emergency, as our customers, you have a right to know what happened, what you should do, and what we did to correct this situation. We routinely monitor your water for turbidity (cloudiness). This tells us whether we are effectively filtering the water supply.

The System did not report to EPA when 2 consecutive individual filter turbidity readings exceeded 1.0 NTU on April 30, 2012; May 8, 2012; and August 23, 2012.

What should I do?

- There is nothing you need to do. You do not need to boil your water or take other actions. We do not know of any contamination, and none of our testing has shown disease-causing organisms in the drinking water.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. **Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.** These symptoms are not caused only by organisms in drinking water. If you experience any of these symptoms and they persist, you may want to seek medical advice.

What is being done?

[Describe the corrective actions and when the system returned or expects to return to compliance.]

For more information, please contact [name of contact] at [phone number] or [mailing address].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by [system]. State Water System ID#: _____.

Date distributed: _____.

Instructions for SWTR Disinfection Treatment Notices – Template 2-7

Template on Reverse

Since surface water treatment disinfection treatment technique violations require Tier 2 notification, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [40 CFR 141.203(b)]. Some disinfection problems may be serious. Your primacy agency may have more stringent requirements for treatment technique violations (e.g., it may require you to provide water from an alternate source). Check with your agency to make sure you meet all requirements.

Community systems must use one of the following methods [40 CFR 141.203(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Noncommunity systems must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify this notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language on health effects (from Appendix B to Subpart Q) must be included as written (with blanks filled in) and is presented in this notice in italics and with an asterisk on either end.

You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable [40 CFR 141.205(d)]. This language is also presented in this notice in italics and with an asterisk on either end.

Description of the Violation

Include one of the following descriptions of violations, and modify to fit your situation.

Not Enough Disinfection During Treatment - In order to ensure proper disinfection, water in the treatment plant must be in contact with enough chlorine or a similar disinfectant for a minimum amount of time. On [give date], this did not occur. Although chlorine quickly kills most bacteria, it is less effective against organisms such as viruses and parasites. For this reason, water needs to mix with chlorine for a longer time period to kill such organisms. The amount of time necessary, or the "contact time," depends on the amount of disinfectant in the water and the temperature of the water.

Disinfectant Residual - We routinely monitor for disinfectant residual in the distribution system. This measurement tells us whether we are effectively disinfecting the water supply. Disinfectant residual is the amount of chlorine or related disinfectant present in the pipes of the distribution system. If the amount of disinfectant is too low, organisms could grow in the pipes.

Monthly exceedance - During the months of [give dates], disinfectant residual was undetectable in more than 5% of samples. The standard is that disinfectant may be undetectable in no more than 5% of samples each month for two months in a row.

Single exceedance - On [give date], disinfectant levels dropped below 0.2 milligrams per liter for [give number of hours] hours. The standard is that levels may not drop below 0.2 for more than four hours.

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with disinfection treatment technique violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We are sampling/we sampled both untreated and treated water for the presence of coliform bacteria.
- We are sampling/we sampled disinfectant levels and will adjust/adjusted the amount of disinfectant added as necessary to maintain adequate levels.

Repeat Notices

If this is an ongoing violation, you should give the history behind the violation, if known.

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met the public notice requirements within ten days after you issued the notice [40 CFR 141.31(d)].

PORTANT INFORMATION ABOUT YOUR DRINKING WATER

Crow Agency (TP01) BIA Plant Did Not Meet Treatment Requirements

Our water system recently violated a drinking water requirement. Although this situation does not require that you take immediate action, as our customers, you have a right to know what happened, what you should do, and what we did to correct this situation.

- The System did not report the lowest measurement of residual disinfectant entering the distribution nor the date and duration of each period when the residual disinfectant fell below 0.2mg/L on April 30, 2012 and May 23, 2012 to EPA.
- The System failed to notify EPA within 24 hours when the chlorine residual was below 0.2 mg/L for more than four hours (from approximately 2:00 p.m. until 7:15 p.m.), on July 22, 2012.
- The System failed to correctly report the lowest chlorine residual on the July 2012, monthly Surface Water Treatment Rule report (specifically for July 22, 2012).

What should I do?

- There is nothing you need to do. You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. Tests taken during this same time period did not indicate the presence of bacteria in the water.

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.

These symptoms, however, are not caused only by organisms in drinking water, but also by other factors. If you experience any of these symptoms and they persist, you may want to seek medical advice.

What is being done?

[Describe corrective action.]

Disinfectant residual levels so far this month have met all requirements.

For more information, please contact [name of contact] at [phone number] or [mailing address].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by [system]. State Water System ID#: _____.

Date distributed: _____.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Crow Agency Water System Did Not Meet Treatment Requirements

Name of Public Water System

Our water system recently violated a drinking water standard. Although this situation does not require that you take immediate action, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We routinely monitor for disinfectant residual at the point of entry to the distribution system. This measurement tells us whether we are effectively disinfecting the water supply. Disinfectant residual is the amount of chlorine or related disinfectant present in the pipes at the entrance to the distribution system. If the amount of disinfectant is too low, organisms could grow in the pipes.

On July 22, 2012, disinfectant levels dropped below 0.2 milligrams per liter (mg/l) for over 5 hours. The
Date(s) of violation
standard is that levels may not drop below 0.2 mg/l for more than four hours. In addition, we were required to notify EPA no later than the end of the next business day. We did not notify EPA on July 23, 2012. This is a Tier 3 violation.

What should I do?

You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor.

People with severely compromised immune systems, infants, and some elderly may be at increased risk.

These people should seek advice about drinking water from their health care providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1 (800) 426-4791.

What does this mean?

This situation does not require that you take immediate action. If it had been, you would have been notified immediately. Tests taken during this same time period did not indicate the presence of bacteria in the water.

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.

These symptoms, however, are not caused only by organisms in drinking water, but also by other factors. If you experience any of these symptoms and they persist, you may want to seek medical advice.

What happened? What is being done?

(Describe why the violation occurred and corrective action in space above.)

For more information, please contact _____ at _____ or _____
Name of PWS responsible party Phone number

Mailing address

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by _____ State Water System ID#: _____
PWS Name

Date distributed: _____

ATTENTION: PWS Operator/Responsible Party

Since surface water treatment disinfection treatment technique violations are included in Tier 2, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation (141.203(b)). Some disinfection problems may be serious.

Community systems must use one of the following methods (141.203(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following methods (141.203(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.203(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on letterhead, if available. If you modify the notice, you must leave the mandatory health effects language in italics unchanged (141.205(d)).

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with disinfection treatment technique violations. Use one or more of the following actions, if appropriate, or develop your own:

- We are sampling/we sampled both untreated and treated water for the presence of coliform bacteria.
- We are sampling/we sampled disinfectant levels and will adjust/adjusted the amount of disinfectant added as necessary to maintain adequate levels.

After Issuing the Notice

Within ten days after issuing the notice, you must send to EPA a copy of each type of notice, along with a certification (see example below) that you have met all the public notice requirements. Mail copies to:

Mindy Mohr
US EPA Region 8 (8P-W-DW)
1595 Wynkoop Street
Denver, CO 80202-1129

Certification of Public Notification

I _____ certify that the attached public notification was issued
(PWS Operator/Responsible Party)

from _____ to _____
(Date) (Date)

The attached notice was issued by _____
(Method of delivery)

Signature _____ Date _____

EPA WILL BE ISSUING NOTIFICATION OF INSPECTION LETTERS TO THE CROW TRIBE AND THE BUREAU OF INDIAN AFFAIRS AND A 3RD VIOLATION LETTER TO THE BUREAU OF INDIAN AFFAIRS (BIA) FOR THE CROW AGENCY PUBLIC WATER SYSTEM, LOCATED ON THE CROW RESERVATION IN

MONTANA: The water system serves approximately 1,600 year-round residents and is supplied by the Little Big Horn River. Crow Agency has two water treatment facilities, one owned and operated by BIA and one owned and operated by the Crow Tribe. EPA issued an Administrative Order to BIA for violations of the drinking water regulations on August 29, 2012. EPA issued a Compliance Assistance Plant (CAP) to the Tribe for the tribally owned plant (TP02) on June 2, 2011. Sienna Meredith, located in EPA's Montana Office, plans to perform an enforcement inspection of both plants on October 23, 2012. EPA has contracted with Mike Boyd, Midwest Assistance Program, to assist in gathering data to verify the current understanding of both plant's operations. Additionally, EPA is planning to issue a 3rd violation letter (AOV) to the BIA for violations of the Administrative Order. EPA issued violation letters on June 29, 2012 and September 5, 2012. The 3rd AOV includes violations of the same type as the first and second violation letters, in addition to violations for failure to provide the EPA with disinfection profile calculations and failure to provide public notice to water users. The Drinking Water Enforcement Program is working closely with the Tribal Assistance Program and coordinating on next steps. EPA continues to work with the Tribe and BIA to bring the system into compliance with the drinking water regulations. The EPA conducted onsite training for both the Tribal and BIA facilities on October 3rd and 4th, 2012. Informational only, no action required.