

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

IN THE MATTER OF)
)
The Crow Tribe and)
Apsáalooke Water and Wastewater)
Authority)
)
Wyola Public Water System)
PWS ID # 083090014)
)
Respondents.)

Docket No. SDWA-08-2020-0039

August 18, 2020
9:52 AM
Received by

**EMERGENCY
ADMINISTRATIVE ORDER**

EPA Region VIII
Hearing Clerk

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 Crow Tribe of Montana (“Tribe”) is a federally recognized Indian tribe and therefore a “person” as those terms are defined in the Act. 42 U.S.C. § 300f(10) and § 300f(12) for purposes of federal enforcement.
4. The Apsáalooke Water and Wastewater Authority is a tribal agency organized under the laws of the 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.
5. The Tribe and the Apsáalooke Water and Wastewater Authority (Respondents) own and/or operate the Wyola Public Water System (System) located within the exterior boundaries of the Crow Indian Reservation, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
6. The System is supplied by a groundwater source accessed via one well. The water is treated with chlorine. The System is operated year-round.
7. The System has 58 service connections and regularly serves 261 individuals daily for at least 60 days out of the year.

8. 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 Regulation (NPDWR) at 40 C.F.R. part 141.

9. Prior to issuing this Order, the EPA consulted with Respondents 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.

10. 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 paragraphs 11 and 12, below. The EPA has determined that this Order is necessary to protect public health.

11. A Wyola resident, who is also a user of the System, notified the EPA on July 22, 2020, that he did not have any water at his residence. Water restrictions had previously been implemented on July 21, 2020. On July 24, 2020, an EPA contractor performed an emergency visit, finding adequate water pressure in the main area of town and confirming no water was flowing to two homes and a small hotel along the distribution System’s lines on the east side of the Town of Wyola. Water service has not resumed to the two homes and hotel. On August 14, 2020, the Indian Health Service received a complaint of low pressure and a water outage in the main area of Wyola. An inspector visited Wyola on that same day and checked water service at three locations. Each location illustrated very low water pressure with predominantly air coming from the taps.

12. 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.

13. On August 17, 2020, the EPA provided Respondents with a public notice template for a boil water advisory.

ORDER

INTENT TO COMPLY

14. Within 24 hours of receipt of this Order, Respondents 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 ORDER AND PUBLIC NOTICE

15. Within 24 hours of receipt of this Order, Respondents shall distribute a copy of the boil order advisory referenced in paragraph 13, above, to persons served by the System, and shall submit a copy of the notice to the EPA. Respondents shall continue providing the public notice until the EPA provides written notice that public notice may be discontinued.

16. Respondents 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 paragraph 13, above, Respondents shall, no later than 24 hours after receipt of this Order, notify the impacted public that an alternative potable water supply is available at no cost to all impacted users of the System as needed for drinking, cooking, maintaining oral hygiene, and dish washing. Respondents shall provide at least two liters of potable water daily per person at a central location that is accessible to all impacted persons served by the System. The alternate water supply shall be made available until the Respondents receive 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 33, below), Respondents shall provide the EPA with a copy of their notification of the availability of an alternate water supply.

CORRECTIVE MEASURES

19. Within 15 days after the effective date of this Order, Respondents shall provide the EPA with a plan and schedule that outlines corrective actions taken and/or to be taken to prevent future pressure loss at all sections of the System and to ensure all System users are served with potable water. The plan shall identify the cause of the pressure loss referenced in paragraph 11, above, 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 19, 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 pressure loss, the EPA may order further steps.

21. Respondents 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 as required by paragraph, 19 above, Respondents 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 (as determined in consultation with the EPA), Respondents shall collect daily (two samples per day, one sample from a location in the impacted distribution system upstream of the pressure loss, and one sample from a location in the impacted distribution system downstream of the pressure loss) special purpose (defined in 40 C.F.R. § 141.853(b)) total coliform samples, identified in a following sentence herein, 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 determining compliance. Respondents 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, Respondents shall measure the chlorine residual indicating free or total and provide these measurements to the EPA along with the total coliform analysis from the laboratory.
24. After Respondents receive written notification from the EPA that they may discontinue "special" daily total coliform sampling, Respondents shall thereafter resume monthly routine total coliform sampling as required by 40 C.F.R. § 141.855.
25. The EPA may require Respondents to increase total coliform sampling and reporting at any time while this Order is in effect.

REPORTING

26. Respondents must give daily updates to the EPA on the progress on pressure changes, disinfecting and flushing the System and monitoring for total coliform. Updates must be submitted to the EPA daily until the EPA provides written notification to Respondents that reports may be submitted less frequently or discontinued. These updates may be submitted via e-mail.
27. Any notices, reports, or updates required by this Order to be submitted to the EPA shall be submitted via email 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 Respondents from obligations 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 \$24,386 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 85 Fed. Reg. 1751, 1754 (January 13, 2020).
30. This Order constitutes final agency action. Respondents 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 Respondents in writing and they shall be incorporated into this Order.
32. The provisions of this Order shall be deemed satisfied upon Respondents' receipt of written notice from the EPA that Respondents have demonstrated, to the satisfaction of EPA, that there are no remaining requirements under this Order.
33. Issued and effective this 17th day of August, 2020.

**SUZANNE
BOHAN**

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Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division