

August 4, 2020

7:00 AM

Received by

EPA Region VIII

Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF )  
 )  
Northern Cheyenne Utility Commission, )  
 )  
Respondent. )  
 )  
Ashland Community Water System )  
PWS ID# 083090061 )

Docket No. SDWA-08-2020-0036

**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 of the Northern Cheyenne Indian Reservation, Montana (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 operates the Ashland Community Water System Public Water System (System) located within the exterior boundaries of the Northern Cheyenne Indian Reservation, Montana. The System provides piped water to the public for human consumption.
5. The System is supplied by a groundwater source accessed via two wells. The water is treated with sodium hypochlorite. The System is operated year-round.
6. The System has 53 service connections and regularly serves 265 individuals daily for at least 60 days out of the year. 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.

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 Respondent 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 31, 2020, the EPA was notified that the well pumps that serve the System were not operable. Operators were able to get one pump operating, but operation is inconsistent. Telemetry readings indicate very low water in the storage tanks. The distribution system has experienced a significant pressure loss, leaving many residents without water.

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 31, 2020, the EPA provided Respondent with a public notice template for a boil water advisory, and Respondent notified persons served by the System of the contamination on July 31, 2020.

## **ORDER**

### **INTENT TO COMPLY**

13. Within 24 hours of receipt of this Order, Respondent shall notify the EPA in writing of its 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. 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.

15. 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**

16. 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 Respondent receives written notification from the EPA that it is no longer necessary to supply it.

17. 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 their notification concerning an alternate water supply is available.

### **CORRECTIVE MEASURES**

18. 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.

19. 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.

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

### **DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS**

21. 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.

22. 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, 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 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.

23. After Respondent receives 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.

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

### **REPORTING**

25. Respondent must give daily updates to the EPA on the progress of repairing the well pumps, 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 Respondent that reports may be submitted less frequently or discontinued. These reports may be submitted via e-mail.

26. 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

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

28. 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).

29. 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).

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30. 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.

31. 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.

32. Issued and effective this 3rd day of August, 2020.

**SUZANNE BOHAN** Digitally signed by SUZANNE  
BOHAN  
Date: 2020.08.03 19:54:15 -06'00'

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Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division