



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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EPA REGION VIII
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AUG 06 2019

Ref: 8ENF-W-SD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
and via email

The Honorable Rynalea Whiteman Pena, President
Northern Cheyenne Tribe
P.O. Box 128
Lame Deer, Montana 59043-0128

Re: Emergency Administrative Order under Section 1431 of the Safe Drinking Water Act,
Busby Community Water System, PWS ID #083090063
Docket No. **SDWA-08-2019-0037**

Dear President Pena:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency to the Northern Cheyenne Utilities Commission (Utility) and the Northern Cheyenne Tribe (Tribe) under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i.

The EPA has determined that conditions exist at the Busby Community Public Water System (System) that may present an imminent and substantial endangerment to the persons served by the System. The EPA has made this determination based on notification from Busby Community Water System on August 4, 2019, that the System lost pressure.

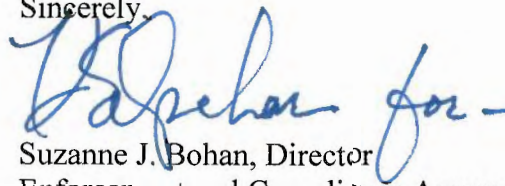
Pursuant to the authority set forth in section 1431 of the Act, 42 U.S.C. § 300i, the EPA is authorized to take actions necessary to protect human health. The Order and its requirements are necessary to ensure adequate protection of public health.

The enclosed Order sets forth the actions that must be taken to ensure that the people served by the System are provided with safe drinking water. The Order requires the Utility to, among other things, take the following actions: issue a boil water advisory and provide an alternate source of water until notified by the EPA to discontinue; submit a plan and schedule to resolve the pressure loss; disinfect and flush the System; and take additional total coliform bacteria samples.

The penalties for failing to comply are set forth in the Order. If you have any questions or wish to discuss the Order, please contact Steven Latino at (800) 227-8917 extension 6440 or 303-312-6440, or by email at latino.steven@epa.gov. Any questions from counsel should be directed to Amy Swanson, Regulatory Enforcement Section Chief, (800) 227-8917, extension 6906, or at (303) 312-6906, or by email at swanson.amy@epa.gov.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Suzanne J. Bohan for -". The signature is fluid and cursive.

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Adam Spang, Manager, Northern Cheyenne Utility Commission (Adamspang.ncuc@gmail.com)
Charlene Alden, Environmental Director (charlene.alden@cheyennenation.com)
Donita Sioux, Finance Director (donita.siuox@cheyennenation.com)
Ethelyn Shoulderblade, (ethelyn.ncuc@gmail.com; ncuc@rangeweb.net)
Northern Cheyenne Tribal Council, (nctribalsec@ncheyenne.net)
Jim White, Indian Health Service (jim.white@ihs.gov)
Richard Racine, Indian Health Service (racine.richard@ihs.gov)
Cleve McManus, Foreman, Northern Cheyenne Utility Commission

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IN THE MATTER OF)
)
Northern Cheyenne Tribe and)
Northern Cheyenne Utilities Commission,)
Busby Community Public Water System)
PWS ID #083090063)
)
Respondents.)

Docket No. **SDWA-08-2019-0037**

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**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 Tribe (Tribe) is a federally recognized Indian tribe and is a "person" within the meaning of 42 U.S.C. § 300f(10) and § 300f(12), respectively, for purposes of federal enforcement under the Act.
4. The Northern Cheyenne Utilities Commission 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 Northern Cheyenne Utilities Commission (Respondents) own and operate, respectively, the Busby Community (System) located within the exterior boundaries of the Northern Cheyenne Indian Reservation in Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
6. The System is supplied by a ground water source accessed via West Well #1 and East Well #2, with treatment provided. The System is operated year-round.
7. The System has 138 service connections and regularly serves 535 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 Regulations (NPDWRs) at 40 C.F.R. part 141.

9. 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.

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. On Saturday, August 3, 2019, the community lost power and the System’s East and West pumps were damaged and shut off. With the pumps not active, the storage tank level dropped and the System lost pressure. On Sunday, August 4, 2019, a contractor installed a temporary motor for the East pump. When the East and West pumps were restarted, the water was discolored. On Monday, August 5, 2019, the EPA was notified that the components of the System lost pressure and the operator is currently flushing the System.

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 5, 2019, the EPA provided Respondents with a public notice template for a boil water advisory, and Respondents notified persons served by the System of the contamination on August 5, 2019.

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. The boil order advisory referenced in paragraph 13, above, shall remain in place until the EPA provides written notification to Respondents that the boil order is no longer needed.

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 in paragraph 13, above, Respondents 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. Respondents 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 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 35, below), Respondents 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, Respondents shall provide the EPA with a plan and schedule that outlines corrective actions taken and/or to be taken to prevent future loss of pressure. The plan shall 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 loss of pressure, 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 making any needed corrections, above, Respondents shall disinfect and flush the System.

23. Following disinfecting and flushing of the System, Respondents shall monitor the chlorine residual daily in the distribution system. Beginning on the first date when chlorine levels return to normal, Respondents shall collect consecutive daily (one sample 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)) samples from the System's distribution system until notified by the EPA that consecutive daily sampling may be discontinued. Respondents shall ensure that each sample is analyzed for total coliform and *E. coli* and shall email each result to the EPA upon receipt of the analysis from the laboratory.

24. After Respondents receive written notification from the EPA that they may discontinue daily coliform sampling, Respondents shall thereafter resume monthly routine total coliform sampling as required by 40 C.F.R. § 141.855.

25. Respondents shall remain obligated to comply with the requirements in 40 C.F.R. §§ 141.402 (to collect an additional source water sample) and 141.858 (to collect three repeat samples within 24 hours of being notified of a routine total coliform-positive sample result). If a future repeat sample is positive for coliform, Respondents shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.

26. Respondents shall collect all routine coliform samples at sites that are representative of water throughout the System according to the Sample Siting Plan submitted to the EPA by Respondents. Additionally, Respondents shall report all sampling results to the EPA by email immediately upon (*i.e.*, as soon as practicable, and in no event more than 24 hours after) receiving the results.

27. The EPA may require Respondents to increase coliform sampling at any time while this Order is in effect.

REPORTING

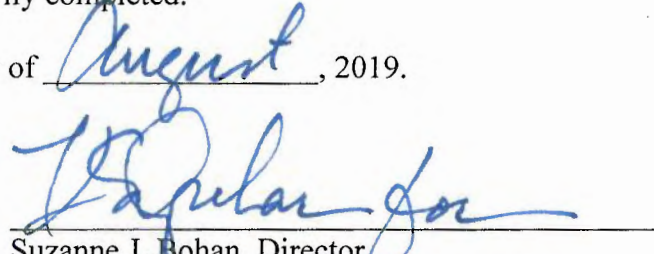
28. Respondents must give daily updates to the EPA on the progress of repairing the East and West pumps, disinfecting and flushing the System, and monitoring for coliform and chlorine residual. Updates must be submitted to the EPA daily until the EPA provides written notification to the Respondents that reports may be submitted less frequently or discontinued. These reports may be submitted via e-mail.

29. Any notices or reports 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

30. This Order does not relieve Respondents from obligation to comply with any applicable federal, tribal or local law.

31. Failure to comply with this Order may result in civil penalties of up to \$23,963 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 84 Fed. Reg. 2056, 2059 (February 6, 2019) and 84 Fed. Reg. 5955 (February 25, 2019).
32. 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).
33. 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.
34. 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 the terms of this Order have been satisfactorily completed.
35. Issued and effective this 6th day of August, 2019.



Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202