



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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OCT 05 2017

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EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-W-SDW

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

The Honorable Alvin Not Afraid, Jr., Chairman  
Crow Tribe  
P.O. Box 159  
Crow Agency, Montana 59022

Ms. Dayle Felicia, Director  
Apsáalooke Water and Waste Water Authority  
P.O. Box 520  
Crow Agency, Montana 59022

Re: Emergency Administrative Order under Section 1431 of the Safe Drinking Water Act, Crow Agency (TP02) Public Water System, PWS ID# 083090011, Docket No. **SDWA-08-2018-0001**

Dear Chairman Not Afraid and Ms. Felicia :

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Apsáalooke Water and Waste Water Authority (AWWWA) and the Crow Tribe (Tribe) pursuant to section 1431 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300i, in response to conditions at the Crow Agency Public Water System (System) that may present an imminent and substantial endangerment to human health. The Order sets forth the actions the AWWWA and the Tribe must take to ensure that the people served by the System are provided with safe drinking water.

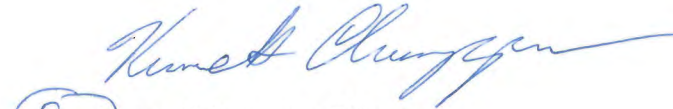
On October 4, 2017, EPA was notified that that the System was vandalized, causing extensive damage to the System's water treatment plant. Damage included destruction of the gas chlorination system, the SCADA system, and chemical plant feed components. It is unknown if other actions such as intentional contamination of the water in the clarifier and clearwell also occurred. The plant was running when the vandalism was discovered, and it is unknown how much, if any, contaminated water was sent to the distribution system. Therefore, the consumers of the water have the potential to be exposed to unknown contaminants, which may present an imminent and substantial endangerment to human health.

The enclosed Order sets forth the actions AWWWA and the Tribe must take to address the current emergency situation, including notifying the affected public of the situation described in the Order, distributing a Do Not Use advisory, and sampling the drinking water for chemical, radiological and bacteriological contaminants.

Additionally, EPA encourages you to perform a security assessment, considering such things as fencing, locks on doors and fencing, routine patrols by security personnel, and surveillance.

This Order is intended to help you provide safe drinking water to your community. If your staff has technical questions, they may contact Olive Hofstader at (800) 227-8917, extension 6467, or (303) 312-6467 or by email at [hofstader.olive@epa.gov](mailto:hofstader.olive@epa.gov). If you are represented by an attorney or have legal questions, please contact Amy Swanson, Enforcement Attorney, at (800) 227-8917, extension 6906, or at (303) 312-6906 or by email at [swanson.amy@epa.gov](mailto:swanson.amy@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Arturo Palomares".

for Arturo Palomares, Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

cc: Ms. Connie Howe, Environmental Director  
Mr. Dennis Bear Dont Walk, Attorney  
Mr. Gerald Pease, Public Works Cabinet Head

Ms. Melissa Haniewicz, Regional Hearing Clerk  
U.S. EPA Region 8

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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IN THE MATTER OF )  
 )  
Apsáalooke Water and Waste )  
Water Authority, Operator, and )  
The Crow Tribe, Owner, )  
 )  
Crow Agency (TP02) Public Water )  
Supply, PWS ID # 083090011, )  
 )  
Respondents. )

Docket No. ~~SDWA-08-2018-0001~~

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**EMERGENCY  
ADMINISTRATIVE ORDER**

Proceeding under section 1431(a) of the  
Safe Drinking Water Act

**AUTHORITY AND FINDINGS**

1. This Emergency Administrative Order (Order) is issued by the 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 officials have been properly delegated this authority.
2. Failure to comply with this Order may result in civil penalties of up to \$22,906 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 82 Fed. Reg. 3633 (January 12, 2017).
3. The EPA may issue an order pursuant to section 1431(a) of the Act, 42 U.S.C. § 300i(a), upon receipt of information that that there is an intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals, which may present an imminent and substantial endangerment to the health of persons, and appropriate State or local authorities have not acted, or do not have the authority to act, to protect human health.
4. The EPA has primary enforcement responsibility for the Act's public water supply protection program on the Crow Reservation. No other governmental authority has applied for and been approved to administer the program on the Reservation.
5. The Apsáalooke Water and Waste Water Authority (AWWWA) is a tribal agency organized under the laws of the Crow Tribe and is therefore a "person" as that term is defined in the Act and its implementing regulations. 42 U.S.C. § 300f(12); 40 C.F.R. § 141.2.
6. The Crow Tribe is a federally recognized tribe and is therefore a "person" as that term is defined in the Act. 42 U.S.C. § 300f(10), (12), (14).
7. Respondents AWWWA and the Crow Tribe own and/or operate the the Crow Agency (TP02) Public Water System (System) located near Crow Agency, Montana, that provides water to the public for human consumption.

8. The System is supplied by surface water from the Little Big Horn River, which serves 1300 users through 406 service connections.
9. Systems that have at least 15 service connections or regularly serve at least 25 people per day at least 60 days per year are “public water systems” as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and therefore, are subject to the requirements of the Act and the National Primary Drinking Water Regulations (NPDWR) at 40 C.F.R. part 141.
10. The EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to the health of persons. On October 4, 2017, EPA was notified that at approximately 8:00 a.m. an operator discovered that the System had been vandalized. Damage included destruction of the gas chlorination system, the SCADA system, and chemical plant feed components. It is unknown if other actions such as intentional contamination of the water in the clarifier and clearwell also occurred. The plant was running when the vandalism was discovered, and it is unknown how much, if any, contaminated water was sent out to distribution. Therefore, the consumers of the water have the potential to be exposed to unknown contaminants which may present an imminent and substantial endangerment to human health.
11. Before issuing this Order, the EPA consulted with the AWWWA, the Tribe, the System operator, and other governmental authorities to confirm the facts, and has determined that this Order is necessary to protect human health.

### **ORDER**

#### **INTENT TO COMPLY**

12. Within 24 hours of receipt of this Order, Respondents must notify the EPA in writing of their intent to comply with the terms of this Order. Notification by email to the EPA point of contact identified below is acceptable.

#### **PUBLIC NOTICE**

13. Within 24 hours of receipt of this Order, Respondents must notify the public in the affected area of the situation described in this Order and distribute the Do Not Use public notice provided by the EPA on October 4, 2017. The notice must be distributed door-to-door as well as posting it in conspicuous locations and announced on the local radio station. Respondents must submit a copy of the notice to the EPA within 24 hours of its distribution. Respondents must continue providing the public notice until the EPA provides written notification to discontinue.

### **ALTERNATE WATER SUPPLY**

14. Upon receipt of this Order, Respondents shall notify the public that an alternate potable water supply is available. 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. Respondents may also opt to provide an alternate water supply that is either 1) provided by a licensed water distributor, 2) purchased bottled water, or 3) provided by another public water system that meets the requirements of the NPDWRs. The alternate water supply shall be made available at no cost to all users of the System as needed for drinking and cooking until water service is restored to affected users of the System.

### **EMERGENCY SAMPLING**

15. Respondents shall conduct emergency sampling for unidentified chemical and radiological contaminants and deliver the special purpose samples to the Montana State Lab for analysis on October 5, 2017. The required sampling locations are the clearwell in the water plant and the local elementary school.

16. Respondent shall collect two special purpose samples from the clearwell and the local elementary school to be analyzed for total coliform and *E. coli*.

17. Respondents shall submit to EPA the results of all samples immediately upon receipt of the lab analyses.

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

### **COMPLIANCE AND CORRECTIVE MEASURES**

19. Respondents must conduct a complete assessment of damage to the water plant (including, but not limited to, all filtration equipment, electrical components, telemetry components and computer, and disinfection components).

20. The completed damage assessment must be submitted to the EPA within 15 days and must describe damage detected and repairs necessary to return the water plant to operation in compliance with drinking water regulations.

21. Within 30 days of the effective date of this Order, Respondents shall provide the EPA with a plan and schedule that outlines actions taken or to be taken based on the damage assessment. 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. The schedule must be approved by the EPA before construction or modifications may commence.

22. The schedule required by paragraph 21, above, will be incorporated into this Order as an enforceable requirement upon written approval by the EPA. If implementation of the plan fails to return the plant to operation in compliance with the drinking water regulations, the EPA may order further steps.

23. Respondent shall not send water from plant TP02 until completion of all repairs and written approval by EPA.

**NOTIFY EPA OF SITUATIONS WITH POTENTIAL ADVERSE EFFECTS  
TO PUBLIC HEALTH**

24. Respondents must notify EPA within 24 hours after learning of a violation or situation with the potential to have serious adverse effects on human health as a result of short-term exposure to contaminants. 40 C.F.R. § 141.202(b)(2).

**REPORTING**

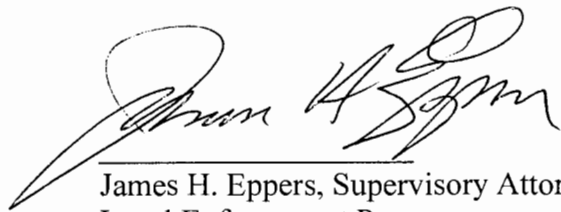
25. Respondents must submit all monitoring and reporting required above to the EPA by telephone and email or fax within 24 hours of receiving the results. These reports should also include daily updates on the System's status and progress towards restoring normal water service.

26. The point of contact for all communication with EPA in this matter is:

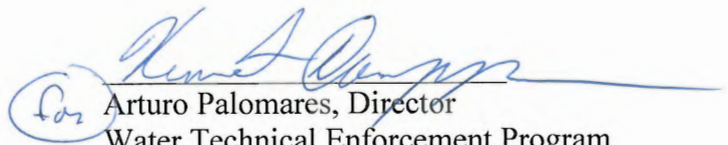
Olive Hofstader  
E-mail: Hofstader.olive@epa.gov  
Telephone: (800)227-8917, ext. 6467, or (303) 312-6467  
Fax: (303) 312-7518

27. This Order does not affect any legal requirement or EPA's legal enforcement options in this matter. This Order constitutes final agency action. Under section 1448(a) of the SDWA, 42 U.S.C. 300j-7(a), Respondents may seek federal judicial review of SDWA section 1431 emergency orders.

Issued and effective this 5<sup>th</sup> day of October, 2017.



James H. Eppers, Supervisory Attorney  
Legal Enforcement Program  
Regulatory Enforcement Unit  
Office of Enforcement, Compliance  
and Environmental Justice



Arturo Palomares, Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice