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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)
)
Lame Deer Public Schools)
(PWS ID#083090067))
)
)
Respondent. _____)

Docket No. SDWA-08-2023-0002

**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 Lame Deer Public Schools (Respondent) is a municipality that owns and/or operates the Lame Deer High School Public Water System (System), which provides piped water to the public on the Northern Cheyenne Indian Reservation in Rosebud County, Montana, for human consumption.

4. Respondent is a “person” as that term is defined in the Act. 42 U.S.C. § 300f(12).

5. The System is supplied by a groundwater source accessed via a well (WL01). The water is chlorinated, treated by reverse osmosis, and goes through a calcium filter to prevent corrosion in piping, before entering a 50,000-gallon storage tank (ST01) and the distribution system. The System is operated year-round.

6. The System has one service connection and regularly serves approximately 260 individuals year-round.

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 at 40 C.F.R. part 141 (Part 141).

8. Prior to issuing this Order, the EPA consulted with the System to confirm the facts stated in this Order. Appropriate state and local authorities have not acted to protect health of persons in this instance. In view of the imminence of the endangerment, it has not been practicable for the EPA to consult with all such authorities prior to issuing this Order.

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

10. *E. coli* are bacteria whose presence indicates that the water may have been contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

11. On October 7, 2022, the EPA was notified that a routine total coliform sample collected from the distribution on October 6, 2022, was analyzed as positive for total coliform and *E. coli*. On October 10, 2022, the EPA was notified that only one repeat total coliform sample, instead of the three required, was collected on October 7, 2022. As of October 11, 2022, no triggered source sample has been collected.

12. In addition, a violation of the maximum contaminant level (MCL) for *E. coli* occurs if a system has an *E. coli* positive routine sample and it fails to collect the required repeat samples within 24 hours. These circumstances have occurred at the System, as set forth in paragraph 11, above, and, therefore, Lame Deer Public Schools has violated the *E. coli* MCL. 40 C.F.R. § 141.860.

13. On October 7, 2022, and on October 11, 2022, the EPA provided Respondent with a boil water advisory public notice (public notice) template.

ORDER

INTENT TO COMPLY

14. 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

15. The public notice referenced in paragraph 13, above, shall remain in place until the EPA provides written notification to Respondent that the boil water advisory is no longer needed.

16. 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

17. Using the public notice referenced in paragraph 13, 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 the Respondent receives written notification from the EPA that it is no longer necessary to supply alternative potable water.

18. No later than five days after the effective date of this Order (see paragraph 37, below), Respondent shall provide the EPA with a copy of its public notice to the public indicating that an alternate water supply is available.

CORRECTIVE MEASURES

19. Within 30 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 *E. coli* contamination at the System. The plan shall identify the cause of the contamination referenced in this Order, 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. The schedule must be approved by the EPA before construction or modifications may commence.

20. The approved schedule 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 *E. coli* contamination, the EPA may order further steps.

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

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

22. If not already accomplished, within 24 hours after the effective date of this Order, Respondent shall collect a source water sample. 40 C.F.R. §§ 141.402.
23. Once EPA gives approval, the Respondent shall disinfect and flush the System.
24. Following disinfecting and flushing of the System, beginning on the first date when chlorine residual has returned to normal, Respondent shall collect consecutive daily (one sample per day) “special” purpose (defined in 40 C.F.R. § 141.853(b)) total coliform samples from the System’s distribution system until notified in writing by the EPA that consecutive 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.
25. After Respondent receives written notification from the EPA that they may discontinue consecutive daily “special” total coliform sampling, Respondent shall collect weekly “special” total coliform samples (one sample per week).
26. After Respondent receives written notification from the EPA that it may discontinue weekly “special” total coliform sampling, Respondent shall thereafter resume monthly routine total coliform sampling as required by 40 C.F.R. § 141.854 to determine compliance.
27. Respondent shall collect all routine total coliform samples at sites that are representative of water throughout the System according to the Sample Siting Plan submitted to the EPA by Respondent per 40 C.F.R. § 141.853(a). Additionally, Respondent 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.
28. Respondent 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 total coliform, Respondent shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.
29. The EPA may require Respondent to increase sampling at any time while this Order is in effect.

REPORTING

30. Respondent must give daily updates, which may be submitted via e-mail, to the EPA to include the progress of corrective actions, providing an alternative water source, disinfecting and flushing the System, and monitoring for total coliform and chlorine residual. Updates must be submitted to the EPA daily until the EPA provides written notification to the Respondent that reports may be submitted less frequently or discontinued.

31. Any notices, reports, or updates required by this Order to be submitted to the EPA shall be submitted to:

Christina Carballal
via e-mail: Carballal-broome.christina@epa.gov
Telephone (800) 227-8917, ext. 6046, or (303) 312-6046

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

33. Failure to comply with this Order may result in civil penalties of up to \$26,209 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 87 Fed. Reg. at 1679 (January 12, 2022).

34. 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).

35. 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.

36. 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.

37. Issued and effective this 12th day of October, 2022.

Colleen Rathbone, Branch Manager
Water Enforcement Branch
Enforcement and Compliance Assurance Division