



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

2019 MAR 15 PM 5:39

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EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-W-SDW

**MAR 15 2019**

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
and via email

Mr. Clifford Serawop, Superintendent  
Bureau of Indian Affairs  
P.O. Box 69  
Crow Agency, Montana 59022

Re: Emergency Administrative Order under SDWA Section 1431  
Crow Agency Water System, PWS ID #083090011  
Docket No. **SDWA-08-2019-0012**

Dear Mr. Serawop:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Bureau of Indian Affairs under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i.

The EPA has determined that conditions exist at the Crow Agency Water System 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 the Bureau of Indian Affairs on March 15, 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 System to, among other things, to issue a boil water advisory and provide an alternate source of water until notified by the EPA to discontinue; to provide the EPA with a plan and schedule that outlines actions taken or to be taken to address the pressure loss; to disinfect and flush the System; and to take additional total coliform bacteria samples. The consequences for failing to comply are set forth in the Order.

If you have any questions or wish to discuss the Order, please contact Christina Carballal at (800) 227-8917 extension 6046 or 303-312-6046, or by email at [carballal-broome.christina@epa.gov](mailto:carballal-broome.christina@epa.gov).

Any questions from counsel should be directed to Peggy Livingston, Enforcement Attorney, at the above 800 number, extension 6858, or at (303) 312-6858, or by email at [livingston.peggy@epa.gov](mailto:livingston.peggy@epa.gov).

Sincerely,

Handwritten signature in blue ink that reads "A. Urdiales".

Aaron Urdiales, Acting Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

cc: Alvin Not Afraid, Jr., Chairman, Crow Tribe  
Mr. Cedric Black Eagle, Cabinet Head, Crow Tribe  
Mr. Gerald Pease, Cabinet Head, Crow Tribe  
Tanner Black Eagle, Operator, Crow Tribe  
Connie Howe, Environmental Director, Crow Tribe  
Susan Messerly, Bureau of Indian Affairs  
John Anevski, Bureau of Indian Affairs  
Bruce Ward, Bureau of Indian Affairs  
Ronnie Fisher, Bureau of Indian Affairs  
Melissa Passes, Bureau of Indian Affairs  
Judith Morrison, Bureau of Indian Affairs  
Burke Helmer, Indian Health Service  
Darcy Merchant, Indian Health Service  
James Courtney, Indian Health Service  
Jason Schneider, Indian Health Service  
Roberta Other Medicine, Indian Health Service  
Jim White, Indian Health Service  
Jerry Smith, Indian Health Service  
Deano Yarlott, Indian Health Service  
April Toinetta, Indian Health Service  
Darren Crowe, Indian Health Service

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IN THE MATTER OF )  
 )  
Department of Interior, )  
Bureau of Indian Affairs, )  
Crow Agency Water System (TP01) )  
083090011 )  
 )  
Respondent. \_\_\_\_\_ )

Docket No. **SDWA-08-2019-0012**

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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 officials have 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 EPA has primary enforcement responsibility for the Act's public water supply protection program on the Crow Tribe "Reservation." No other governmental authority has applied for and been approved to administer the program on the Reservation.
4. The Department of Interior, Bureau of Indian Affairs (the BIA or Respondent) is a federal agency that owns and/or operates the Crow Agency Public Water System (System), which provides piped water to the community of the Crow Agency, Montana, for human consumption through pipes or other constructed conveyances. The System is located within the exterior boundaries of the Crow Indian Reservation.
5. The System is supplied by a surface water source accessed via an intake on the Little Big Horn River with treatment provided via a conventional filtration system. The System is operated from year-round.
6. The System has 532 service connections and regularly serves an average of approximately 1300 individuals daily for at least 60 days out of the year.
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 the System to confirm the facts stated in this Order and with tribal and local authorities to confirm that 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 paragraphs 10 and 11, below. The EPA has determined that this Order is necessary to protect public health.

10. Respondent notified the EPA on March 15, 2019, that the System lost pressure due to a water main line break on March 14, 2019.

11. Loss of pressure in a drinking water distribution system may cause a net movement of water from outside the 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 March 15, 2019, the EPA provided Respondent with a public notice template for a boil water advisory.

### **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 ORDER AND PUBLIC NOTICE**

14. The boil order advisory referenced in paragraph 12, above shall be distributed according to the instructions listed in the document and remain in place until the EPA provides written notification to Respondent that the boil order 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. Respondent may 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 until the Respondent receive written notification from the EPA.

17. No later than five days after the effective date of this Order (see paragraph 33, below), Respondent shall provide the EPA with a copy of this notification.

### **CORRECTIVE MEASURES**

18. Within seven days after the effective date of this Order, Respondent shall provide the EPA with a plan and schedule that outlines actions taken or to be taken to identify and address the cause(s) of the pressure loss and to restore 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.

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 loss of pressure, the EPA may order further steps.

20. Within five days of completing the corrective action outlined in the plan and schedule referenced above, Respondent shall notify the EPA in writing of the date corrective action was completed.

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

21. Within 24 hours after completing corrective action outlined in the plan and schedule referenced above, Respondent shall disinfect and flush the System.

22. Following disinfecting and flushing of the System, Respondent shall monitor the chlorine residual in the distribution system and report the results to the EPA daily. Immediately upon receiving notification from the EPA that the System's chlorine residual range has returned to normal, Respondent shall collect consecutive 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)) samples from the System's distribution system. Respondent 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.

23. After Respondent receives written notification from the EPA that it may discontinue daily total coliform sampling, Respondent shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.855.

24. 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 total coliform-positive sample result). If a future repeat sample is positive for total coliform and/or *E. coli*, Respondent shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.

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

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

### REPORTING

27. Respondent must give weekly updates to the EPA on the progress of repairing the line break, disinfecting and flushing the System, and monitoring for total coliform and chlorine residual. Updates must be submitted to the EPA until the EPA provides written notification to the Respondent that reports may be discontinued. These reports may be submitted via phone or e-mail.

28. Any notices or reports 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

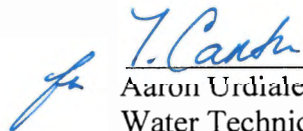
29. This Order does not relieve Respondent from the obligation to comply with any applicable Federal, State, or local law.

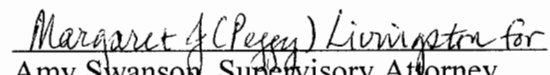
30. Failure to comply with this Order may result in civil penalties of up to \$23,963 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 84 Fed. Reg. 2056, 2059 (January 15, 2019).

31. This Order constitutes final agency action.

32. Pursuant to section 1447(a) of the SDWA, Respondent is subject to and shall comply with all Federal, State, interstate, and local requirements, both substantive and procedural, respecting public water systems in the same manner and to the same extent as any person is subject to such requirements including, but not limited to, administrative orders and all civil and administrative penalties and fines. 42 U.S.C. § 300j-6(a).

33. Issued and effective this 15<sup>th</sup> day of March, 2019.

  
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Aaron Urdiales, Acting Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

  
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Amy Swanson, Supervisory Attorney  
Regulatory Enforcement Unit  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice