



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 W. 15<sup>TH</sup> STREET, SUITE 3200  
HELENA, MONTANA 59626

Ref: 8MO

January 28, 2009

A. T. "Rusty" Stafne, Chairman  
Fort Peck Tribes Executive Board  
P.O. Box 1027  
Poplar, MT 59255

Re: Docket No. SDWA-08-2009-0027

Emergency Order  
Frazer Water System  
PWS ID # 083090053

Dear Chairman Stafne:

Enclosed is an Emergency Administrative Order (Order or EAO) issued under section 1431 of the Safe Drinking Water Act (SDWA), 40 U.S.C. § 300i. In its current state, the water supplied by the Frazer Water System (System), may present an imminent and substantial endangerment to the health of persons. The Order is based on a loss of pressure in the distribution system, which can 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. Such a system failure may carry with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system. The purpose of the Order is to ensure that, as water service is restored, public health is protected.

The enclosed Order sets forth the actions that you must take to ensure that the people served by the water supply are provided with safe drinking water. The Order requires that the Fort Peck Utilities Commission conducts the following activities: (1) within 24 hours, provide written intent to EPA to comply with the EAO; (2) continue to provide alternative water to all users of the system; (3) inform EPA when necessary repairs are complete and water is being delivered to homes; (4) conduct increased monitoring for total coliform bacteria; and (5) continue to provide public notice that the water is unsafe to drink until notified otherwise by EPA.

EPA is committed to working with you to ensure the safety of Frazer's public water supply. If your staff has questions specific to the elements of the Order, the most knowledgeable people regarding these issues are Eric Finke in the Montana Office, who can be reached at (406) 457-5009, or Amy Swanson, Enforcement Attorney, who can be reached at (303) 312-6906.



Printed on Recycled Paper

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Wardell", written over a horizontal line.

John F. Wardell  
Director

cc: Deb Madison, Director  
Fort Peck Utilities Commission

Tina Magnan, Manager  
Operations and Maintenance  
Fort Peck Utilities Commission

Leonard Youngman, Operator  
Frazer and Fort Kipp Public Water Systems  
Fort Peck Utilities Commission

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF )

Fort Peck Utilities Commission )

Frazer Water System )

PWS ID# 083090053 )

Respondent )

EMERGENCY  
ADMINISTRATIVE  
ORDER

Proceedings under section 1414(g) )

of the Safe Drinking Water Act, )

42 U.S.C. § 300g-3(g) )

Docket No. **SDWA-08-2009-0027**

STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i(a), as properly delegated to the Supervisors of the EPA Montana Office and Legal Enforcement Program of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

JURISDICTION

1. EPA has jurisdiction to issue emergency orders pursuant to section 1431 of the Act, 42 U.S.C. § 300i(a).
2. EPA has primary enforcement responsibility for the Public Water Supply Supervision (PWSS) program under the Safe Drinking Water Act (SDWA) on the Fort Peck Indian Reservation. No other authority has applied for and been approved to administer this program on the Fort Peck Indian Reservation.

FINDINGS

3. The Fort Peck Utilities Commission ("Respondent") is a tribal agency under the laws of the Fort Peck Assiniboiné and Sioux Tribes and is therefore a "person" within the meaning of 40 C.F.R. § 141.2 for purposes of federal enforcement.
4. Respondent operates the Frazer Water System ("System"), located on the Fort Peck Indian Reservation, approximately 22 miles west of Wolf Point, Montana, that provides water for human consumption. The System serves approximately 452 residents year-round through approximately 125 residential service connections.
5. The System is a "public water system" and a "community water system" within the meaning of the Act and the regulations. 40 C.F.R. § 141.2.
6. Respondent operates the System and is therefore a "supplier of water" within the meaning of the Act and the regulations. 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore required to comply with the Act and regulations. 42 U.S.C. § 300g and 40 C.F.R. part 141.
7. The System is supplied solely by groundwater from five (5) community wells.
8. EPA has determined that conditions exist at Respondent's public water system that may present an imminent and substantial endangerment to the health of persons. The current emergency conditions were initiated by a January 24, 2009 event when the System's operator noticed low pressure in the water system and suspected a water line break to be the cause. On the morning of January 27, 2009 the break was located and isolated. Steps were then undertaken to repair the break.
9. Due to the chain of events described above, current emergency conditions exist as a

result of a loss of pressure in the distribution system that occurred on or about January 24, 2009. Loss of pressure 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. Back siphonage is also a condition resulting from low or no pressure. Such system failures carry a high potential that fecal contamination or other disease causing organisms could enter the distribution system. Pressure has not been completely restored as of January 27, 2009.

10. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Act in Indian country.
11. Prior to issuing this Order, EPA consulted with local (Tribal) authorities to confirm the information on which this Order is based and to ascertain the actions which such authorities are taking.
12. EPA has direct implementation authority and is responsible for enforcement of the PWSS program under the Safe Drinking Water Act on the Fort Peck Reservation.

#### FINDINGS OF VIOLATION

13. Respondent is required to consult with EPA as soon as practical, but no later than 24 hours, after the public water supply learns of a situation with significant potential to have serious effects on human health as a result of short-term exposure. 40 C.F.R. § 141.202(b)(2). Respondent did not notify EPA of this event within 24 hours and, therefore, violated this requirement. EPA received notification of the event from the

Montana Department of Environmental Quality during the late afternoon of January 26, 2009.

EMERGENCY ADMINISTRATIVE ORDER

14. Within 24 hours of receipt of this Order, Respondent shall notify EPA in writing of its intention to comply with the terms of this Order. The written response shall include a general plan for compliance with each of the elements of this Order.
15. Within 24 hours of receipt of this Order, Respondent shall notify all water users of Respondent's Water System that an alternative potable water supply is available. The alternative water supply shall be from an EPA regulated drinking water supply that meets the National Primary Drinking Water Regulations or a licensed water distributor, and must be made available at no cost as needed for drinking and cooking until Respondent receives written notification from EPA that alternative water is no longer necessary. Respondent shall provide the alternative water at a central location that is accessible to all persons served by the water system. Respondent shall provide a sufficient quantity of water for reasonable domestic uses, at a minimum, two (2) liters daily per person served by the water system.
16. Respondent shall investigate and report in writing to EPA no later than January 30, 2009 the known or suspected cause of the pressure loss event and what measures will be taken to prevent a reoccurrence of this problem.
17. Within 24 hours of repairing the water line break, Respondent shall clean and flush the system including disinfection of the distribution system and any storage tanks

that are part of the system. When system pressure is restored, Respondent shall maintain a detectable disinfectant residual as measured at the far ends of the distribution system.

18. Respondent shall monitor the disinfectant residual daily at the same time and same location as the total coliform sampling (as required below in paragraphs 20-22) is conducted and report those results by FAX to EPA with the total coliform results. Respondent shall continue monitoring and reporting disinfectant residual until receiving written notice from EPA.
19. Upon the effective date of this Order, Respondent shall comply with the total coliform maximum contaminant level ("MCL") as set forth in 40 C.F.R. § 141.63.
20. When system pressure is restored to normal, Respondent shall collect consecutive daily special purpose total coliform samples of the water to determine compliance with the MCL as set forth in 40 C.F.R. § 141.63. Respondent shall designate one sample as the monthly compliance sample. Respondent shall continue daily total coliform monitoring until receiving written notice from EPA to discontinue daily sampling. Respondent shall report daily total coliform sampling results to EPA by FAX immediately upon receiving the laboratory results.
21. After Respondent receives written notification from EPA to discontinue daily total coliform sampling, Respondent shall conduct weekly bacteriological sampling to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondent shall report weekly total coliform sampling results to EPA by FAX immediately upon receiving the laboratory results.

22. Respondent shall continue weekly bacteriological monitoring until Respondent receives notification from EPA to discontinue weekly bacteriological sampling. Respondent shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.21 to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
23. Respondent shall collect all total coliform samples at sites which are representative of water throughout the distribution system or according to the written sample site plan Respondent previously submitted to EPA pursuant to 40 C.F.R. § 141.21(a).
24. If any one of the designated compliance sample results are total coliform-positive, Respondent shall conduct repeat sampling as required by 40 C.F.R. § 141.21(b) by collecting a minimum of four repeat samples within 24 hours of being notified of the total coliform-positive sample. Furthermore, Respondent shall comply with the requirements of 40 C.F.R. § 141.21(b)(5) by collecting a total of 5 routine total coliform samples the month following a total coliform-positive compliance sample result.
25. Within 24 hours of receipt of this Order, Respondent shall provide public notice in the affected area and shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future National Primary Drinking Water Regulations (“NPDWRs”) violation. This public notice shall be hand delivered to each home and business served by the water system. Respondent shall submit a copy



of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d). The public notice shall include the following information:

- a. All requirements as specified in 40 C.F.R. § 141.205 including:
  - (1) A description of the violation, including the emergency situation and potential contaminants of concern, and (as applicable) the contaminant level;
  - (2) When the violation or situation occurred;
  - (3) Any potential adverse health effects from the violation or situation (see section b. below);
  - (4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
  - (5) Whether alternative water supplies should be used (see section b. below);
  - (6) What actions consumers should take, including when they should seek medical help, if known (see section b. below);
  - (7) What the system is doing to correct the violation or situation;
  - (8) When the water system expects to return to compliance or resolve the situation;
  - (9) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(10) A statement to encourage the notice recipients to distribute the public notice to other persons served.

- b. Mandatory health effects language as specified in 40 C.F.R. §141.205(d)(1), Appendix B to subpart Q of part 141. This language is as follows:

The Frazer Water System experienced a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipes to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure carries with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

UNTIL FURTHER NOTIFICATION, ALL WATER USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, ETC., SHALL BE BOILED UNTIL FURTHER NOTIFICATION FOR AT LEAST ONE (1) MINUTE, AT A ROLLING BOIL BEFORE USE. ALL STORED WATER, DRINKS OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE DISCARDED.

Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Fecal coliforms and E. Coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

26. Respondent shall continue the public notice as set forth in paragraph 25 above until EPA Region 8 provides written notification to discontinue public notice.
27. Respondent shall notify EPA as soon as practicable, but 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, as determined in the regulations or by EPA on a case-by-case basis (40 C.F.R. § 141.202(b)(2)). The Fort Peck Utilities Commission must comply with this regulation in any future water outage event or any similar emergency situation.

28. All reports and notifications herein required shall be submitted to:

Eric Finke  
U.S. Environmental Protection Agency  
10 West 15<sup>th</sup> St., Suite 3200  
Helena, MT 59626  
FAX: (406) 457-5055  
Phone: (406)457-5026

#### GENERAL PROVISIONS

29. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
30. Violation of any term of this Order instituted under section 1431(a) of the Act, 42 U.S.C. § 300i(a), may subject the Respondent to a civil penalty not to exceed \$16,500 for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).
31. Violation of any requirement of the SDWA or its implementing regulations instituted under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$37,500 per day of violation assessed by an

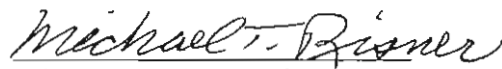
appropriate U.S. District Court under section 1414(b) of the Act,  
42 U.S.C. § 300g-3(b).

32. The effective date of this Order shall be the date of issuance.

Issued this 28<sup>th</sup> day of January, 2009.

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John F. Wardell, Director  
EPA Region 8 Montana Office

  
Michael T. Risner, Director  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

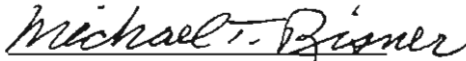
appropriate U.S. District Court under section 1414(b) of the Act,  
42 U.S.C. § 300g-3(b).

32. The effective date of this Order shall be the date of issuance.

Issued this 28th day of January, 2009.



John F. Wardell, Director  
EPA Region 8 Montana Office



Michael T. Risner, Director  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice