



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2017 MAR 29 PM 12:05

FILED
EPA REGION VIII
HEARING CLERK

MAR 29 2017

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Harry Barnes, Chairman
Blackfeet Tribe
P.O. Box 850
Browning, Montana 59417

Mr. Gerald Wagner, Director
Blackfeet Utility Commission
P.O. Box 2029
Browning, Montana 59417

RE: Emergency Administrative Order under Section 1431 SDWA, Babb Water System, PWS ID
#083090001, Docket No. ~~SDWA-08-2017-0012~~

Dear Chairman Barnes and Mr. Wagner:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Blackfeet Utility Commission, under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i. The EPA has determined that conditions exist at the Babb 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 Montana Environmental Laboratory, LLC, that three samples from the System have been analyzed as total coliform positive and one sample from the System has also been analyzed as *E. coli* positive.

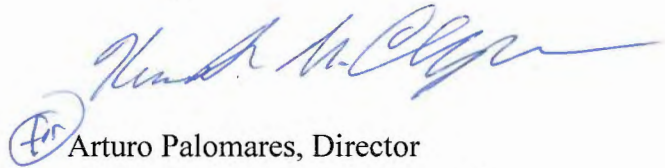
Pursuant to the authority set forth in section 1431 of the Act, 42 U.S.C. § 300i, the EPA is authorized to take actions necessary to protect human health. This Order and its requirements are necessary to ensure adequate protection of public health.

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 Blackfeet Utility Commission to take the following actions: issue a Boil Order and public notice until notified by EPA to discontinue; take any corrective actions identified in an assessment of the System; 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 this Order, please contact Metea Wright at (800) 227-8917 extension 6023 or 303-312-6023, or by email at wright.metea@epa.gov. Any questions from counsel for the Blackfeet Tribe or Blackfeet Utility Commission, should be directed to Amelia Piggott, Enforcement Attorney, at the above 800 number, extension 6410, or at (303) 312-6410, or by email at piggott.amelia@epa.gov.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arturo Palomares", with a circled "AP" monogram to the left.

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

Enclosure

Emergency Administrative Order

cc: Ms. Missy Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2017 MAR 29 PM 12:05

IN THE MATTER OF)
)
Blackfeet Utility Commission,)
)
)
Respondent.)
_____)

Docket No. ~~SDWA-08-2017-0012~~

FILED
EPA REGION VIII
HEARING CLERK

EMERGENCY ADMINISTRATIVE ORDER

AUTHORITY

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.
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 a contaminant which is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of humans, and appropriate state or local authorities have not acted, or do not have the authority to act, to protect human health.
4. The Blackfeet Tribes are a federally recognized Indian Tribe and an “Indian Tribe” as defined in 42 U.S.C. § 300f(14). The EPA has primary enforcement responsibility for the Act’s public water supply protection program on the Blackfeet Reservation. No other governmental authority has applied for and been approved to administer the program on the Reservation.
5. Respondent Blackfeet Utility Commission is a component unit of the Blackfeet Tribes. Respondent is a “municipality” and “person” as those terms are defined in the Act. 42 U.S.C. § 300f(10) and § 300f(12), respectively.
6. Respondent owns and/or operates the Babb Public Water System (System) located on the Blackfeet Reservation, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
7. The System is supplied by a ground water source accessed via one well with no treatment or continuous disinfection provided.
8. 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.

9. The System has approximately 19 service connections used by year-round residents and/or regularly serves an average of approximately 60 year-round residents. Therefore, the System is a “public water system” and a “community water system” as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.

10. Prior to issuing this Order, the EPA consulted with the System to confirm the facts stated in this Order and to confirm that State and local governments are unable to act to protect public health in this instance.

11. 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 13 and 14, below. The EPA has determined that this Order is necessary to protect public health.

12. *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 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.

13. On March 23, 2017, Respondent notified the EPA that a routine bacteriological sample collected on March 21, 2017, was analyzed as positive for total coliform. On March 25, 2017, the Respondent was notified that all three repeat bacteriological samples, collected on March 24, 2017, tested positive for total coliform and one also tested positive for *E. coli*.

14. A violation of the maximum contaminant level (MCL) for *E. coli* occurs if a system has an *E. coli*-positive repeat sample following a routine total coliform positive sample. These circumstances have occurred at the System, as set forth in paragraph 13, above, and therefore, the Respondent has violated the *E. coli* MCL. 40 C.F.R. § 141.860.

15. On March 25, 2017, the EPA provided Respondent with a public notice template for a boil water advisory, and Respondent notified persons served by the System of the contamination on March 25, 2017.

ORDER

INTENT TO COMPLY

16. Within 24 hours of receipt of this Order, Respondent shall notify the EPA in writing of its intent to comply with the terms of this Order. Notification by e-mail to the EPA point of contact identified below is acceptable.

BOIL ORDER AND PUBLIC NOTICE

17. The boil order advisory referenced in paragraph 15 above shall remain in place until the EPA provides written notification to Respondent to lift the boil order. Respondent must carry out the public notice and other notice requirements as required by 40 C.F.R. part 141, subpart Q.

COMPLIANCE AND CORRECTIVE MEASURES

18. Respondent must comply with 40 C.F.R. § 141.859. This includes coordinating with a third party, approved by the EPA, to conduct a Level 2 assessment (as defined in 40 CFR § 141.2 and described further in 40 CFR part 141 subpart Y) that includes all actions required by the EPA.

19. The completed Level 2 assessment form must be submitted to the EPA within 15 days and must describe sanitary defects detected and corrective actions completed to address the cause of contamination.

20. Within 15 days of the effective date of this Order, Respondent shall provide the EPA with a plan and schedule that outlines actions taken or to be taken that will ensure that there is no future *E. coli* contamination at the System. The plan shall identify the cause of the contamination, if possible, and describe the corrective action, including correcting sanitary defects identified in the Level 2 assessment, to prevent a recurrence of contamination in the System. If applicable, 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 EPA's approval of the plan). The schedule must be approved by the EPA before construction or modifications may commence.

21. The schedule required by paragraph 20, 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 *E. coli* contamination, the EPA may order further steps.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

22. Within 24 hours after the source of *E. coli* and fecal contamination has been identified and corrective action is completed, Respondents shall flush and disinfect the System.

23. Within 24 hours after disinfecting and flushing the System as required by paragraph 22, above, Respondent shall collect consecutive daily (one sample per day) special purpose samples (defined in 40 C.F.R. § 141.853(b)) from the System. Respondent shall ensure that each sample is analyzed for total coliform and *E.coli*.

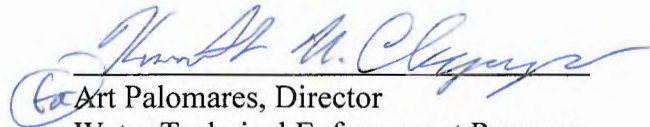
24. After Respondent receives written notification from the EPA that it may discontinue daily total coliform sampling, Respondent must collect weekly bacteriological samples (one sample per week) to determine compliance with the *E.coli* MCL as stated in 40 C.F.R. § 141.860.
25. After Respondent receives written notification from the EPA that it may discontinue weekly total coliform sampling, Respondent shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.855.
26. Respondent shall remain obligated to comply with all applicable requirements of 40 C.F.R. part 141, including, but not limited to, the requirements in 40 § C.F.R. 141.858 to collect three repeat samples within 24 hours of being notified of a total coliform-positive sample result and to collect an additional source water sample. If a repeat sample is total coliform or *E.coli* positive, within 24 hours of being notified of the positive sample, Respondent shall consult with the EPA for further compliance requirements.
27. 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 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.
28. The EPA may require Respondent to increase total coliform sampling at any time while this Order is in effect.

REPORTING

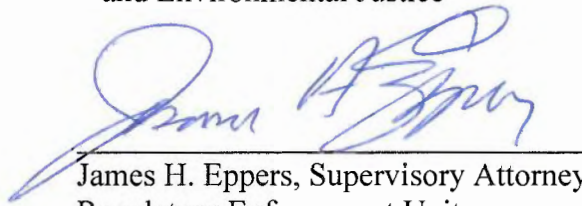
29. Respondent must give updates Monday through Friday to the EPA on the progress of disinfecting and flushing the System, monitoring for total coliform, as well as scheduling Level 2 assessment with EPA-approved third party, as applicable. Updates must be submitted to the EPA until the EPA provides written notification to the Respondents that reports may be discontinued. These reports may be submitted via phone, fax, or e-mail.
30. Any notices or reports required by this Order to be submitted to the EPA shall be submitted to:

Metea Wright, 8ENF-W-SDW
US Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129
Telephone (800)227-8917, ext. 6023, or (303) 312-6023
Fax (303) 312-7518
e-mail: wright.metea@epa.gov

31. This Order does not relieve Respondent from complying with any applicable federal, state, or local law.
32. This Order constitutes final agency action. Respondent may seek federal judicial review of this Order under section 1431 of SWDA, 42 U.S.C. § 300(i), pursuant to section 1448(a) of the SDWA, 42 U.S.C. 300j-7(a).
33. Issued and effective this 29th day of March, 2017.



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



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