UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO   80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

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EPA REGION VIII
HEARING CLERK

AUG 0 2 2019

Ref: 8ENF-W-NW

CERTIFIED MAIL NO.
RETURN RECEIPT REQUESTED

James Dabney, Mayor
Town of Lodge Grass
P. O. Box 255
Lodge Grass, Montana 59050

> Re: Town of Lodge Grass Wastewater Treatment Facility, Administrative Order for Compliance
> under Section 309(a) of the Clean Water Act, Docket No. CWA-08-2019-0004

Dear Mayor Dabney:

This letter concerns the compliance status of the Town of Lodge Grass (Town) with its National
Pollutant Discharge Elimination System (NPDES) permit for discharges from the Town's wastewater
treatment facility. The U.S. Environmental Protection Agency Region 8 has determined that the Town
has been out of compliance with its NPDES permit requirements for submission of discharge monitoring
reports (DMRs) since July 2017. These requirements include the electronic submittal of DMRs. The
EPA has been working with the Town since 2017 to offer assistance in returning to compliance,
including several phone conversations and a Warning Letter dated November 7, 2018.

Enclosed is an Administrative Order for Compliance (Order) issued by the EPA to the Town under the
authority of section 309(a) of the Clean Water Act (the Act), 33 U.S.C. § 1319(a), for violations of its
NPDES permit, which implements section 301(a) of the Act, 33 U.S.C. § 1311(a). Please read the Order
carefully. It identifies violations of the NPDES permit and requires the Town to take actions to ensure
the violations are corrected. The Order contains specific requirements and deadlines, and compliance
with the Order by the Town is mandatory. Your attention is directed to **Paragraphs 17-19** of the Order,
which detail specific compliance actions to correct violations and to document and report such
corrections. The Order is effective immediately upon your receipt.

The Act authorizes the EPA to take appropriate enforcement actions necessary to secure prompt
compliance. Section 309 of the Act, 33 U.S.C. § 1319, authorizes the EPA to seek civil judicial penalties
against persons violating an order issued under section 309(a) of the Act. The Act authorizes a variety of
possible enforcement actions for violations, including civil actions and administrative penalty actions.
Please be advised that issuance of the Order does not preclude any civil lawsuit or administrative penalty
assessment for the violations cited in the Order or for any other violations.

If you have any questions relating to technical issues raised in the Order, please contact Mr. Michael Boeglin at (303) 312-6250 or by email at boeglin.michael@epa.gov. Any questions relating to legal issues should be directed to Ms. Abigail Dean at (303) 312-6106 or by email at dean.abigail@epa.gov. Thank you for your attention to this matter.

Sincerely,

Suzanne J. Bohan, Director
Enforcement and Compliance Assurance Division

Enclosure

electronic cc:
      Alvin Not Afraid, Jr., Chairman – Crow Tribe
      Connie Howe, Environmental Director – Crow Tribe
      Melissa Holds the Enemy, Tribal Attorney – Crow Tribe
      Jason Schneider, Indian Health Service

IN THE MATTER OF:)   Docket No. **CWA-08-2019-0004**
)
THE TOWN OF LODGE GRASS   )   **ADMINISTRATIVE ORDER**
)
)
)   Proceeding under section 309(a) of the
                    Respondent.)   Clean Water Act, 33 U.S.C. § 1319(a)

AUTHORITY

1.   This Administrative Order (Order) is issued to the Town of Lodge Grass (Respondent)

        under the authority vested in the Administrator of the U.S. Environmental Protection

        Agency (EPA) by section 309(a)(3) of the Clean Water Act (CWA), 33 U.S.C.

        § 1319(a)(3), as delegated to the undersigned official.

STATUTORY AND REGULATORY BACKGROUND

2.   The objective of the CWA is to restore and maintain the chemical, physical, and

        biological integrity of the Nation's waters. 33 U.S.C. § 1251(a).

3.   The CWA prohibits any person from discharging any pollutant, unless authorized by

        certain other provisions of the CWA. 33 U.S.C. § 1311(a).

4.   The EPA may issue permits authorizing discharges of pollutants, subject to terms and

        conditions. Permits issued under section 402 of the CWA, 33 U.S.C. § 1342, are known

        as National Pollutant Discharge Elimination System (NPDES) permits.

FINDINGS

5.   Respondent is a "municipality" as defined by section 502(4) of the CWA, 33 U.S.C.

        § 1362(4), and 40 C.F.R. § 122.2.

6.   Respondent is a "person" as defined in section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

7.   Respondent owns and operates the Town of Lodge Grass Wastewater Treatment Facility (Facility), which includes a sanitary sewer collection system and a multi-cell wastewater treatment lagoon serving the Town of Lodge Grass and an adjacent tribal housing complex.

8.   The Town of Lodge Grass is incorporated pursuant to the laws of the State of Montana and is located within the exterior boundaries of the Crow Reservation.

9.   The Crow Tribe does not own, manage, or control the Facility.

10.   Effective May 1, 2017, and pursuant to section 402 of the Act, 33 U.S.C. § 1342, the EPA issued NPDES Permit No. MT0021890 (Permit) to Respondent, authorizing Respondent to discharge wastewater from the Facility to an unnamed slough of the Little Bighorn River, in accordance with the Permit's terms and conditions.

11.   The Permit requires Respondent to submit Discharge Monitoring Reports (DMRs) to the EPA on a monthly basis, with DMRs to include specified monitoring data from specified outfalls. Permit, part 2.4.

12.   The Permit requires DMRs to be submitted electronically using *NetDMR*, unless it has received an electronic reporting waiver from EPA Region 8. Permit, part 2.4.

13.   For the following months, Respondent did not submit any DMRs to the EPA:

Month	DMR Due Date	Outfall(s)
January 2018	February 28, 2018	001
July 2018	August 28, 2018	001
August 2018	September 28, 2018	001
September 2018	October 28, 2018	001
October 2018	November 28, 2018	001
November 2018	December 28, 2018	001
December 2018	January 28, 2019	001 and 002

January 2019	February 28, 2019	001 and 002
February 2019	March 28, 2019	001 and 002
March 2019	April 28, 2019	001 and 002

14. For the following months, Respondent did not submit a complete DMR to the EPA:

Month	DMR Due Date	Outfall	Pollutant(s) Not Reported
July 2017	August 28, 2017	001	*E. coli* Visible oil sheen, floating solids, or foam Total Phosphorus Nitrate + Nitrite as N Total Nitrogen
September 2017	October 28, 2017	001	*E. coli* Visible oil sheen, floating solids, or foam Total Phosphorus Nitrate + Nitrite as N Total Nitrogen
November 2017	December 28, 2017	001	*E. coli* Visible oil sheen, floating solids, or foam Total Ammonia as N
December 2017	January 28, 2018	001	*E. coli* Visible oil sheen, floating solids, or foam
February 2018	March 28, 2018	001	*E. coli* Visible oil sheen, floating solids, or foam Total Ammonia as N
March 2018	April 28, 2018	001	*E. coli* Visible oil sheen, floating solids, or foam Total Ammonia as N
April 2018	May 28, 2018	001	*E. coli* Visible oil sheen, floating solids, or foam Total Ammonia as N
May 2018	June 28, 2018	001	*E. coli* Visible oil sheen, floating solids, or foam Total Ammonia as N
June 2018	July 28, 2018	001	*E. coli* Visible oil sheen, floating solids, or foam Total Ammonia as N

15. Each month in which Respondent failed to submit a complete DMR to the EPA

constitutes a violation of the Permit.

16. Upon a finding that any person is in violation of any limitation or condition of a permit issued under section 402 of the CWA, the EPA is authorized to issue an order requiring compliance with that condition or limitation. 33 U.S.C. § 1319(a)(3).

ORDER

17. No later than 30 days following the effective date of this Order (see paragraph 24, below) Respondent shall submit a complete DMR for each month for which paragraph 13, above, indicates no DMR was submitted. Each DMR shall contain all information required by the Permit and be submitted using *NetDMR*, pursuant to part 2.4 of the Permit.

18. No later than 30 days following the effective date of this Order (see paragraph 24, below) Respondent shall submit a complete DMR for each month for which paragraph 14, above, indicates an incomplete DMR was submitted. Each DMR shall contain all information required by the Permit and be submitted using *NetDMR*, pursuant to part 2.4 of the Permit.

19. Within five days of submitting each DMR required in paragraphs 17 and 18, Respondent shall submit a notification to the EPA at the address below stating the date each DMR required by this Order was submitted.

Michael Boeglin, NPDES and Wetlands Enforcement Section
U.S. EPA Region 8 8ENF-W-NW
1595 Wynkoop Street
Denver, CO 80202-1129
or
boeglin.michael@epa.gov

GENERAL PROVISIONS

20. Respondent shall fully implement each requirement of this Order. Any failure by Respondent to implement all requirements of this Order in the manner and time period
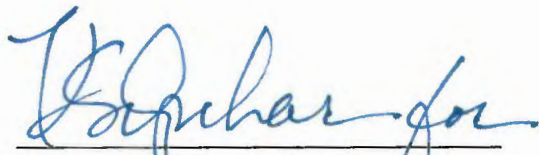
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required shall be deemed a violation of this Order and may subject Respondent to penalties as provided under section 309 of the CWA, 33 U.S.C. § 1319.

21.   This Order does not constitute a waiver, suspension, or modification of any requirement of the CWA, any regulation implementing the CWA, or the Permit. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

22.   Nothing in this Order shall be construed to preclude further action by the EPA under section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order. Nor shall this Order relieve Respondent from responsibilities, liabilities, or penalties established or authorized pursuant to any applicable law or regulation.

23.   Respondent may seek federal judicial review of this Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

24.   This Order shall be effective upon receipt by Respondent.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 8

Date: 8/2/2019

Suzanne J. Bohan, Director
Enforcement and Compliance
Assurance Division

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