



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8, MONTANA OFFICE

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DENVER, COLORADO 80202-1129
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2016 DEC 23 PM 1:38

DEC 23 2016

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W-SDW

SENT VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Harlan Baker, Chairman
Chippewa- Cree Tribe
PO Box 544
Rocky Boy Route
Box Elden, Montana 59521

Re: Emergency Administrative Order, Rock Boy's Rural Water Supply System,
Docket No. **SDWA-08-2017-0006**

Dear Chairman Baker:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) to the Chippewa- Cree Tribe pursuant to section 1431 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300i, in response to conditions at the Rock Boy Rural Water System (System) that may present an imminent and substantial endangerment to human health. The Order sets forth the actions the Chippewa-Cree Tribe must take to ensure that the people served by the water supply are provided with safe water.

On December 22, the System reported to the EPA a loss of pressure resulting in approximately 115 homes and various commercial buildings being without water. An on-going investigation attributes a line break to the pressure loss. 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 also is 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, posing a potential imminent and substantial endangerment to human 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, in part: provision of an alternate water supply to customers; repair the line breaks to restore pressure in the System; disinfect and flush the System; and, take additional total coliform bacteria samples, among other steps. The penalties for failing to comply are set forth in the Order.

The EPA appreciates the work performed by the System operators to find and restore the loss of pressure and voluntarily provide safe drinking water to its users. This Order is intended to support these efforts and further ensure that the necessary steps are taken to safely restore the System's water supply.

If your staff has technical questions, they may contact Metea Wright (800) 227-8917, extension 6023, or (303) 312-6023. If you are represented by an attorney or have legal questions, please contact Amy Swanson, Enforcement Attorney, at (800) 227-8917, extension 6906, or at (303) 312-6906.

Sincerely,

A handwritten signature in black ink, appearing to read 'Arturo Palomares', with a small 'F.S.' written below the signature.

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

Enclosure

cc: Mr. Dustin White, Water Resources and Environmental Director
Chippewa-Cree Tribe

Missy Haniewicz, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2016 DEC 23 PM 1:39

IN THE MATTER OF)
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Chippewa- Cree Tribe,)
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Respondent.)
_____)

Docket No. SDWA-08-2017-0006

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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 (the 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 \$22,537 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 81 Fed. Reg. 43091-43096 (July 1, 2016).
3. The EPA may issue an order pursuant to section 1431(a) of the Act, 42 U.S.C. § 300i(a), when certain conditions exist which may present an imminent and substantial endangerment to the health of humans, and other state or local authorities have not acted, or do not have the authority to act, to protect human health.
4. The EPA has primary enforcement responsibility for the Act's public water supply protection program on the Rocky Boy's Reservation. No other governmental authority has applied for and been approved to administer the program on the Reservation.
5. Respondent is a "person" as that term is defined in the Act. 42 U.S.C. § 300f(2).
6. Respondent owns and/or operates the Rocky Boy's Rural Water Public Water System (System) located on the Rocky Boy's Reservation, approximately 11 miles southeast of Box Elder, Montana, that provides water to the public for human consumption.
7. 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.
8. The System is supplied by twelve ground water sources accessed via groundwater wells: one well with no treatment, one well with reverse-osmosis treatment and continuous disinfection, and ten wells with continuous disinfection provided.
9. The System has approximately 477 service connections and/or regularly serves an average of approximately 1,966 year-round residents. The System is, therefore, a "public water

system” as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2. The System is also a “community water system” as defined in 40 C.F.R. § 141.2.

10. Prior to issuing this Order, the EPA consulted with the System, Indian Health Service and Tribal governmental authorities to confirm the facts stated in this Order and to confirm that the Tribe is 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 12 and 13 below. The EPA has determined that this Order is necessary to protect human health.

12. 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 that fecal contamination or other disease causing organisms could enter a distribution system.

13. On December 21, 2016, Respondent became aware of several waterline breaks due to extremely cold temperatures, high winds, electrical outages and a subsequent warming pattern. This caused at least eight residential water lines to freeze and break, and three main water lines to break. These main waterline breaks depleted the System's storage capacity by draining the Newtown, Three-mile and Bonneau water storage tanks. Approximately 115 homes, Rocky Boy's Head Start, Stone Child College, the Justice Center and Tribal Water Resources Division currently are without water pressure and service. Circumstances contributing to the difficulty in recovering from the outage include suspected additional breaks (that cannot be located due to lack of water pressure); low producing wells; and lack of funds to repair electrical and equipment problems at several sources including the Box Elder Pumphouse and Northern Winz Treatment Plant.

14. On December 22, 2016, Respondent notified the EPA Office of the pressure loss.

15. On December 22, 2016, the EPA provided Respondent with a template for a boil water advisory. The EPA has been advised that Respondent notified customers of the loss of pressure and provided bottled water to the homes impacted by the pressure loss.

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 is acceptable.

BOIL ORDER AND PUBLIC NOTICE

17. Upon receipt of this Order, Respondent shall continue to provide information to all users of the System of the situation described in this Order and notify users that a boil water advisory is still in effect for all homes served by the System. The boil water advisory, referenced in paragraph 15 above, will continue until the System's well pump is replaced, monitoring of the water is conducted, and the EPA provides written notification to Respondent that the public notice may be discontinued. Respondent shall submit a copy of the notice to EPA within 24 hours of its distribution. 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

18. Upon receipt of this Order, Respondent shall continue to notify the public that an alternate potable water supply is available. 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 also opt to 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 NPDRWs. In that case, the alternate water supply shall be made available at no cost to all users of the System as needed for drinking and cooking until water service is restored to affected users of the System.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

19. Within 48 hours of restoring normal pressure in the water distribution system, Respondent shall properly disinfect and flush the System's storage tank and distribution system.

20. Within 24 hours after flushing and disinfecting the System as required by paragraph 19, above, Respondent shall collect consecutive daily (one sample per day) 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*.

21. 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* maximum contaminant level as stated in 40 C.F.R. § 141.63.

22. 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.

23. 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.

24. Respondent shall collect all total coliform sampling at sites that are representative of water throughout the System's distribution system. Additionally, Respondent shall report all sampling results to the EPA by telephone or fax immediately upon (i.e., as soon as practicable, and in no event more than 24 hours after) receiving the results.

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

CORRECTIVE MEASURES

26. Respondent shall, within 15 days of receipt of this Order, provide the EPA with a written plan and schedule to repair the System and restore pressure. 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.

27. The schedule required by paragraph 26, 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 pressure loss, the EPA may order further steps.

REPORTING

28. Respondent must give weekly updates to the EPA on the progress of its corrective actions. Weekly updates must be submitted to the EPA until the EPA notifies the System that reports may be discontinued. These reports may be submitted via phone, fax, or e-mail.

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

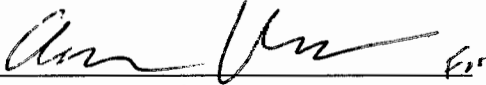
Metea Wright, 8ENF-W
US Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129
Telephone (800)227-8917, ext. 6023, or (303) 312-6023
Fax (303) 312-7518
e-mail: wright.metea@epa.gov

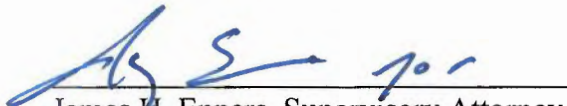
30. This Order does not relieve Respondent from complying with any applicable federal, state, or local law.

Emergency Administrative Order
Rocky Boy's Rural Public Water System
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31. This Order constitutes final agency action. Respondent may seek federal judicial review of this Order under section 1431 of the SDWA, 42 U.S.C. § 300(i), pursuant to section 1448(a) of the SDWA, 42 U.S.C. 300j-7(a).

32. Issued and effective this 23rd day of December, 2016.


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