



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

Ref: 8ENF-W-SD

AUG 02 2019

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
and via email

Timothy Davis, Chairman  
Blackfeet Tribe  
PO Box 850  
Browning, Montana 59417-0850

Mr. Alvin Yellow Owl Jr., Director  
Two Medicine Water Company  
PO Box 1529  
Browning, Montana 59417

Re: Emergency Administrative Order under Section 1431 of the Safe Drinking Water Act,  
Town of Browning, PWS ID #083090091 Docket No. **SDWA-08-2019-0035**

Dear Chairman Davis:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency to the Two Medicine Water Company (TMWC) and the Blackfeet Tribe (Tribe), under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i.

The EPA has determined that conditions exist at the Town of Browning 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 Town of Browning on August 1, 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 TMWC and Tribe to, among other things, take the following actions: issue a boil water advisory and provide an alternate source of water until notified by the EPA to discontinue; submit a plan and schedule to resolve the pressure loss; 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 the Order, please contact Steven Latino at (800) 227-8917 extension 6440 or 303-312-6440, or by email at [latino.steven@epa.gov](mailto:latino.steven@epa.gov). Any questions from counsel should be directed to Matthew Castelli, Assistant Regional Counsel, (800) 227-8917, extension 6491, or at (303) 312-6491, or by email at [castelli.matthew@epa.gov](mailto:castelli.matthew@epa.gov).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne J. Bohan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division

Enclosures

cc: Alvin Yellow Owl, Two Medicine Water Director (ayowl65@yahoo.com)  
Derek Kline, Attorney (kline.blackfeetlegal@gmail.com)  
Gerald Bechel, Water Plant Superintendent (gerald.bechel@gmail.com)  
Josh Bechel, Operator (josh.bechel@gmail.com)  
Jim White, Director, SFC (jim.white@ihs.gov)  
Jason Schneider, Utility Consultant (jason.schneider@ihs.gov)  
James Courtney, Utility Consultant (james.courtney@ihs.gov)  
Dennis Fitzpatrick, Siyeh Corporation (d.fitzpatrick5@yahoo.com)  
Melissa Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2019 AUG -2 PM 2: 25

IN THE MATTER OF )  
 )  
Blackfeet Tribe and Two Medicine Water )  
Company, )  
Town of Browning Public Water System )  
PWS ID# 083090091 )  
 )  
Respondents: )

Docket No. SDWA-08-2019-0085

FILED  
EPA REGION VIII  
HEARING OFFICE

**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 Blackfeet Tribe (Tribe) is a federally recognized Indian tribe and is a "person" within the meaning of 42 U.S.C. § 300f(10) and § 300f(12), for purposes of federal enforcement under the Act.
4. The Two Medicine Water Company (TMWC) is a tribal agency organized under the laws of the Tribe and therefore is a "person" as that term is defined in the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
5. The Tribe and the TMWC (Respondents) own and/or operate the Town of Browning Public Water System (System) located within the exterior boundaries of the Blackfeet Indian Reservation, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
6. The System is a consecutive system that receives treated surface water via the Two Medicine Public Water System.
7. The System is supplied by a surface water purchased source with treatment provided. The System is operated year round.

8. The System has 1700 service connections and regularly serves 4500 individuals daily for at least 60 days out of the year.

9. 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 Regulation (NPDWR) at 40 C.F.R. part 141.

10. 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 ascertain they have not acted to protect the health of persons 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 public health.

12. On July 30, 2019, the EPA was notified that the components of the System lost pressure. The System believed that pressure was being restored but continued use by the community added stress on the System. Pressure was completely lost in some areas and dropped below 20 psi in other areas.

13. Loss of pressure in a drinking water distribution system may cause a net movement of water from outside of a 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.

14. On August 1, 2019, the EPA provided Respondents with a public notice template for a boil water advisory, and Respondents notified persons served by the System of the contamination on August 1, 2019.

### **ORDER**

#### **INTENT TO COMPLY**

15. Within 24 hours of receipt of this Order, Respondents 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**

16. The boil order advisory referenced in paragraph 14, above, shall remain in place until the EPA provides written notification to Respondents that the boil order is no longer needed.

17. Respondents 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. Using the public notice referenced in paragraph 14, above, Respondents 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. Respondents 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. The alternate water supply shall be made available until the Respondents receive written notification from the EPA that it is no longer necessary to supply it.

19. No later than five days after the effective date of this Order (see paragraph 36, below), Respondents shall provide the EPA with a copy of its notification concerning an alternate water supply is available.

#### **CORRECTIVE MEASURES**

20. Within 15 days after the effective date of this Order, Respondents shall provide the EPA with a plan and schedule that outlines corrective actions taken and/or to be taken to prevent future loss of 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.

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 loss of pressure, the EPA may order further steps.

22. Respondents shall notify the EPA in writing within 24 hours after completing corrective action.

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

23. Within 24 hours after providing the notification required by paragraph 14, above, Respondents shall disinfect and flush the System.

24. Following disinfecting and flushing of the System, Respondents shall monitor the chlorine residual daily in the distribution system. Beginning on the first date when chlorine levels returned to normal, Respondents shall collect consecutive daily (two samples per day, one

taken in the North area of Browning and one taken in the South area of Browning, which experienced pressure loss below 20 psi) special purpose (defined in 40 C.F.R. § 141.853(b)) samples from the System's distribution system until notified by the EPA that consecutive daily sampling may be discontinued. Respondents shall ensure that each sample is analyzed for free chlorine, total coliform and *E. coli* and shall email each result to the EPA upon receipt of the analysis from the laboratory.

25. After Respondents receive written notification from the EPA that they may discontinue daily coliform sampling, Respondents shall thereafter resume monthly total coliform sampling as required by 40 C.F.R. § 141.855.

26. Respondents 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 routine total coliform-positive sample result). If a future repeat sample is positive for coliform, Respondents shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.

27. Respondents shall collect all routine coliform samples at sites that are representative of water throughout the System according to the Sample Siting Plan submitted to the EPA by Respondents. Additionally, Respondents shall report all sampling results to the EPA by email 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 Respondents to increase coliform sampling at any time while this Order is in effect.

### REPORTING

29. Respondents must give daily updates to the EPA on the progress of the loss of pressure, disinfecting and flushing the System, and monitoring for coliform and chlorine residual. Updates must be submitted to the EPA daily until the EPA provides written notification to the Respondents that reports may be submitted less frequently or discontinued. These reports may be submitted via e-mail.

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

Steven Latino  
via e-mail: [latino.steven@epa.gov](mailto:latino.steven@epa.gov)  
Telephone (800) 227-8917, ext. 6440, or (303) 312-6440

31. This Order does not relieve Respondents from obligations to comply with any applicable federal, tribal or local law.

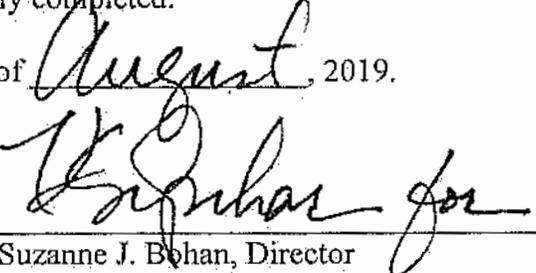
32. Failure to comply with this Order may result in civil penalties of up to \$23,963 per day. 42 U.S.C. § 300i(b); 40 C.F.R. part 19; 84 Fed. Reg. 2056, 2059 (February 6, 2019) and 84 Fed. Reg. 5955 (February 25, 2019).

33. This Order constitutes final agency action. Respondents may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. 300j-7(a).

34. The EPA may modify this Order. The EPA will communicate any modification(s) to Respondent in writing and they shall be incorporated into this Order.

35. The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from the EPA that Respondent has demonstrated, to the satisfaction of EPA, that the terms of this Order have been satisfactorily completed.

36. Issued and effective this 2<sup>nd</sup> day of August, 2019.

  
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Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202

**CERTIFICATE OF SERVICE**

I certify that the foregoing Emergency Administrative Order was sent or delivered on this day as follows:

Original and one copy hand delivered to:

Melissa Haniewicz  
Regional Hearing Clerk  
U.S. Environmental Protection Agency (8ORC)  
Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

and

Copy by certified mail, return receipt requested (no. 7005 0390 0000 4848 4378), and email to:

Timothy Davis, Chairman  
Blackfeet Tribe  
PO Box 850  
Browning, Montana 59417-0850  
Tdavis@blackfeetnation.com

Mr. Alvin Yellow Owl Jr., Director  
Two Medicine Water Company  
PO Box 1529  
Browning, Montana 59417  
ayowl65@yahoo.com

8/2/19

Date

By: Joan Dettly