



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Ref: 8ENF-W

JUL 3 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Lori Bear, Chairwoman
Skull Valley Band of Goshute Indians
P.O. Box 448
Grantsville, UT 84029

Re: Violation of Emergency Administrative Order
Docket No. SDWA-08-2013-0003
and Violation of the Consent Decree
Case No. 2:09-cv-00617DB
PWS ID #084990008

Dear Chairwoman Bear:

On November 20, 2012, the U.S. Environmental Protection Agency (EPA) issued an Emergency Administrative Order (Order), instructing the Skull Valley Band of Goshute Indians (Respondent) to take actions necessary to protect human health following a loss-of-pressure incident at the Skull Valley Public Water System (System), owned and operated by the Skull Valley Band. The Order was issued under the Safe Drinking Water Act, 42 U.S.C. §§ 300i. The EPA's records indicate that the Respondent is in violation of the Order.

Among other things, the Order included the following requirements (quoted from item 11 on page 3, item 12 on page 4, and item 15 on page 4 of the Order, respectively):

1. Respondent shall monitor the chlorine residual at the same time and location as the total coliform samples and as required in the Order paragraphs 6 through 8 until Respondent receives notification from EPA to discontinue chlorine residual monitoring.

The Respondent did not monitor the chlorine residual along with the total coliform samples collected on November 27, November 29, December 3, December 12, December 17, December 24, and December 31, 2012, as well as on January 7, February 5, March 5, April 1, May 6 and June 4, 2013.

2. Respondent shall continue increased monitoring of total coliform bacteria and chlorine residual as required in paragraphs 6, 7, and 11, of the Order. . . Additionally, Respondent shall report all sampling results to EPA by telephone and email or fax immediately upon receiving the results.

The Respondent did not report chlorine residual sampling results collected, if any were collected on the above total coliform sampling dates, as required.

3. Within 30 days of the effective date of this Order, Respondent shall provide EPA with a plan and schedule that outlines actions to be taken that will ensure there is no future loss of pressure to the System. The plan shall identify the cause of the pressure loss and provide a schedule for resuming water service. The proposed schedule shall include specific milestone dates and a final compliance date. The Respondent may consult with the Indian Health Service on preparing this plan and schedule.

The Respondent has not provided the EPA with a plan and schedule outlining any additional actions to be taken to ensure there is no future loss of pressure to the System, nor provided the EPA with complete information identifying the cause of the pressure loss, as required.

Separately, on September 3, 2009, a Consent Decree (Decree) between the United States and the Skull Valley Band of Goshute Indians was filed in U.S. District Court. Under that Decree, the Skull Valley Band committed itself to various "injunctive relief" requirements aimed at achieving and maintaining continuous, long-term compliance with the Safe Drinking Water Act through its operation of the System. The EPA's records indicate that the Respondent is in violation of the Decree. Among other things, the Decree included the following requirements (quoted from item 14(e) on page 9, item 14(j) on page 11, 14(m) on page 12, and item 16 on page 12 of the Decree, respectively):

4. Upon entry of this Consent Decree, comply with the monitoring requirements for disinfection residuals as stated in 40 C.F.R. § 141.132(c). The Band also shall monitor maximum residual disinfectant (i.e., chlorine residual) at the same time and place as total coliform to determine compliance with the maximum residual disinfectant level, in accordance with 40 C.F.R. § 141.65(a).

In addition to the dates cited in No. 1, above, the Respondent did not monitor the chlorine residual along with the total coliform samples collected on September 20, October 24, November 27, and December 12, 2012, and January 7, February 5, March 5, April 1, May 6, and June 4, 2013, as required.

5. Upon entry of this Consent Decree, properly maintain adequate disinfection and water pressure by: (1) providing continuous disinfection. . . and (2) maintaining a minimum water pressure of 20 pounds per square inch (psi) throughout the distribution system. The Band Shall monitor water pressure weekly at the sampling point closest to the water storage tank that is accessible. Results for all sampling from the previous month shall be included in the monthly progress reports before the 10th of each month as outlined in Section VI, Paragraph 16.

The Respondent has not properly monitored the chlorine residual twice monthly or water pressure weekly, as required, since July 2012.

6. Beginning with the entry of the Consent Decree, employ a System operator(s) and make all reasonable efforts to provide formal and informal operator training for the System operator(s), including certification training provided by a State; in addition, the Band shall

retain a certified operator(s) who is licensed to operate and maintain a community public water system in order to provide backup and emergency assistance for the System.

The Respondent has not had a certified backup operator for the System since at least September 2012, or has not confirmed related arrangements to the EPA since that time.

7. Monthly Reports: Notwithstanding all other applicable federal reporting and record keeping requirements, the Band shall submit to EPA monthly progress reports due on or before the 10th of each month detailing the Band's progress with the Injunctive Relief requirements set forth in the preceding Section V (Injunctive Relief), including but not limited to residual disinfectant concentration and water pressure results, as well as the progress of the operation and maintenance manual. The reports are required until the Consent Decree is terminated but may, upon written notice from EPA, be changed to quarterly submissions.

The Respondent has not submitted to the EPA the required monthly report since the report for July 2012.

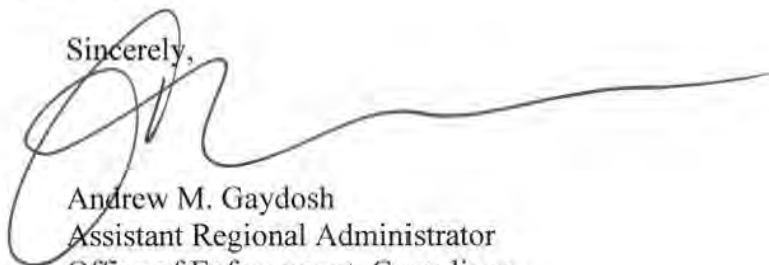
The EPA is considering additional enforcement action as a result of the Skull Valley Band's non-compliance with the Emergency Administrative Order and with the Consent Decree. Failure to comply with an emergency administrative order may result in civil penalties of up to \$16,500 per day. Stipulated penalties for violations of the Consent Decree are detailed on pages 17 through 19 of the Decree, and can reach \$100 per day per action item from the due date.

If the EPA's information appears incorrect and/or you have any questions, please contact Mario Mérida at 1-800-227-8917, extension 6297, or (303) 312-6297. The Skull Valley Band's attorney may contact Amy Swanson, Enforcement Attorney, with any questions, at 1-800-227-8917, extension 6906, or (303) 312-6906, or at the following address:

Amy Swanson, Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

Sincerely,



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

cc: Tina Artemis, EPA Regional Hearing Clerk
Capt. George Pringle, District Engineer, Reno OEHE, Indian Health Service (IHS)
Lt. Julia Majkrzak, Field Engineer, Utah OEHE / U & O Service Unit, IHS
Heidi Hoffman, US Department of Justice