



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 W. 15<sup>th</sup> STREET, SUITE 3200  
HELENA, MONTANA 59626

AUG 29 2011

Ref: 8MO

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Edward F. Parisian, Director  
Rocky Mountain Regional Bureau of Indian Affairs  
316 N 26th Street  
Billings, MT 59101

Re: Administrative Order  
Docket No. **SDWA-08-2011-0064**  
Bureau of Indian Affairs  
Crow Agency (TP01)  
Public Water System  
PWS ID #083090011

Dear Mr. Parisian:

Thank you for taking the time to speak with me on July 21, 2011, regarding problems at the Crow Agency water treatment plant. As I mentioned during our discussion, enclosed is an Administrative Order (Order) intended to address significant deficiencies identified during our June 2010 Sanitary Survey.

The enclosed Order is issued by the Environmental Protection Agency (EPA) under the authority of section 1414 of the Safe Drinking Water Act, 42 U.S.C. § 300g-3. Among other things, the Order alleges that the Bureau of Indian Affairs (Respondent) has violated the National Primary Drinking Water Regulations (drinking water regulations). This Order is separate from the Emergency Order issued on May 25, 2011 in response to flooding.

The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If the Bureau of Indian Affairs complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties.

The Order requires you to notify the public of having violated the drinking water regulations. Enclosed please find a public notice template explaining the public notice requirements in more detail.



EPA remains very concerned that funding is inadequate to provide a safe and consistent supply of water for Crow Agency. EPA looks forward to working collaboratively with BIA to address the problems identified during our July 21 discussion. If you would like additional information, please feel free to contact me directly at (800) 457-2690, extension 5025, or (406) 457-5025. If your staff has technical questions, they may contact Sienna Meredith at (800) 457-2690, extension 5026, or (406) 457-5026. If you are represented by an attorney who has questions, please ask the attorney to contact Jean Belille, Enforcement Attorney, at (800) 227-8917, extension 6556, or at (303) 312-6556.

I appreciate any efforts on your part to provide more stability in funding for this important resource.

Sincerely,

  
Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

cc: Cedric Black Eagle, Chairman, Crow Tribe  
Leroy Cummins, Facility Manager, BIA Crow Agency  
Bruce Ward, Engineer, BIA Rocky Mountain Region  
Vianna Stewart, Superintendant, BIA, Crow Agency  
Chris Dillon, Acting Manager Apsalooke Water and Wastewater Authority  
Jim Real Bird, Apsalooke Water and Wastewater Board  
John Doyle, Apsalooke Water and Wastewater Board  
Larry Kindness, Apsalooke Water and Wastewater Board  
Tina Artemis, EPA 8 Regional Hearing Clerk

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

FILED  
EPA REGION VIII  
REGULATORY CLERK

\_\_\_\_\_  
IN THE MATTER OF: )

Bureau of Indian Affairs, )

Respondent. )

) Docket No. **SDWA-08-2011-0064**

) **ADMINISTRATIVE ORDER**

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3, as properly delegated to the undersigned officials.

2. The Bureau of Indian Affairs (BIA or Respondent) is a federal agency that owns and/or operates the Crow Agency Water System (TP01 or the system) which provides piped water to the community of Crow Agency, Montana for human consumption. The system is located within the exterior boundaries of the Crow Indian Reservation.

3. The system is supplied solely by surface water with an intake on the Little Big Horn River. The raw water is treated via a conventional filtration system including coagulation, flocculation, sedimentation, filtration and chlorination.

4. The system has approximately 430 service connections used by year-round residents and regularly serves an average of approximately 1,600 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.

5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (drinking water regulations) at 40 C.F.R. part 141. The drinking water regulations are "applicable requirements" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

**VIOLATIONS**

6. On October 12, 2010, EPA sent Respondent a sanitary survey report, which identified significant deficiencies at the system. According to 40 C.F.R. § 141.723(c), Respondent was required to respond in writing to those significant deficiencies within 45 days of receipt of the report, indicating how and on what schedule Respondent would address the significant deficiencies. Respondent provided an email response to EPA on November 22, 2010, which indicated that three of the five significant deficiencies had been corrected, and that the other two were in the process of being addressed. However, Respondent failed to provide a schedule for the correction of one significant deficiency (lack of continuous chlorine analyzer), and, therefore, violated this requirement.

7. In January of 2011, EPA learned from discussions with the water plant operator that four of the five identified significant deficiencies had not been addressed as indicated in the November 22, 2010 response. This was documented in a letter sent from EPA to the BIA Facilities Manager on February 16, 2011. Respondent therefore failed to correct the significant deficiencies according to the schedule provided by Respondent, in violation of 40 C.F.R. § 141.723(d).

8. In a letter received by EPA on March 21, 2011, BIA stated that steps would be taken to correct the significant deficiencies. However, Respondent failed to include a schedule for the correction of three of the significant deficiencies, as required by 40 C.F.R. § 141.723(c) and, therefore, violated this requirement.

9. Respondent is required to report any failure to comply with any drinking water regulation to EPA within 48 hours (except where the drinking water regulations specify a different time period), 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 6, 7 and 8, above, to EPA and, therefore, violated this requirement.

10. Respondent is required to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. §§ 141.201 *et seq.* Respondent attempted to notify the public on March 11, 2011, however the public notice did not include information on the violations cited in paragraphs 6, 7 and 8, above, and, therefore, violated this requirement.

### **ORDER**

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order:

11. Within 30 days of receipt of this Order, Respondent shall submit to EPA a written corrective action plan and schedule that defines the corrective actions that Respondent will take to address the significant deficiencies, as required by 40 C.F.R. § 141.723(c). Respondent shall thereafter consult with EPA and correct any significant deficiencies in accordance with 40 C.F.R. § 141.723 (c) and (d). The corrective action plan shall include specific tasks and timelines for completion of the following significant deficiencies:

- a) Lack of calibrated and operational influent and effluent flow meters. Without calibrated and operational influent and effluent flow meters, Respondent is unable to calculate compliance with 40 C.F.R. § 141.70(a) or conduct disinfection profiling as required by 40 C.F.R. §§ 141.530 through 141.534.
- b) Lack of a calibrated, continuous chlorine analyzer as required by 40 C.F.R. § 141.74(c)(2) and (a) and a surge protector to prevent future equipment failure due to power surges.
- c) Failure to monitor finished water pH and temperature daily in order to calculate and

document compliance with 40 C.F.R. § 141.70(a) or conduct disinfection profiling as required by 40 C.F.R. §§ 141.530 through 141.534. A copy of the daily disinfection profiling calculations shall be submitted to EPA with each monthly Surface Water Treatment Rule SWTR report.

- d) Lack of calibrated turbidimeters for filtered water as required by 40 C.F.R. § 141.560(b). During a May 5, 2011 phone conversation between EPA and Midwest Assistance Program (MAP), EPA was notified that the turbidimeters had been successfully calibrated. Respondent shall verify in writing if this corrective action has been completed. Calibrations must be performed at least quarterly or per manufacturer's recommendations, and documented on each monthly (SWTR) report.

12. Respondent must complete appropriate actions to correct all significant deficiencies according to the corrective action plan approved by EPA as stated in paragraph 11 above. The approved plan and schedule required will be incorporated into this Order as enforceable requirements.

13. Respondent shall notify EPA within 30 days of completion of the corrective actions. Respondent shall provide evidence to EPA, including photographs and the following certification signed by a person of authority in the system, that the above corrective actions have been completed: "I certify under penalty of perjury that Bureau of Indian Affairs has completed corrective action to address all significant deficiencies, as required by 40 C.F.R. § 141.723(d)."

14. Respondent shall report any violation of the drinking water regulations to EPA within 48 hours of the violation occurring as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or the drinking water regulations, Respondent shall report within that different period.

15. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 6, 7 and 8, above as required by 40 C.F.R. part 141, subpart Q. Thereafter, following any future violation of the drinking water regulations, Respondent shall comply with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to EPA.

#### GENERAL PROVISIONS

16. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

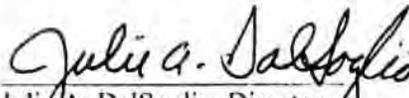
17. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$32,500 per day of violation (as adjusted for inflation). Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$32,500 per day per violation (as adjusted for inflation). 42 U.S.C. §§ 300g-3, 300j-6, 300j-8; 40 C.F.R. part 19.



Issued: Aug. 29, 2011.



Matthew Cohn, Director  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

