

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2014 SEP 23 AM 11:07

IN THE MATTER OF: )  
 )  
U.S. Department of the Interior, )  
Bureau of Indian Affairs, )  
 )  
(Crow Agency (TPO1) Public Water System )  
PWS ID #083090011), )  
 )  
 )  
Respondent. )

Docket No. SDWA-08-2014-0047  
EPA REGION VIII  
HEARING CLERK  
**COMPLAINT AND NOTICE OF  
OPPORTUNITY FOR HEARING**

In this Complaint and Notice of Opportunity for Hearing (Complaint), the United States Environmental Protection Agency (EPA) proposes to assess a civil administrative penalty against the United States Department of the Interior, Bureau of Indian Affairs, Crow Agency (Respondent).

**JURISDICTIONAL ALLEGATIONS**

This Complaint is issued under the authority vested in the Administrator of the EPA by sections 1414(g)(3)(B) and 1447(b) of the Safe Drinking Water Act (the SDWA), 42 U.S.C. §§ 300g-3(g)(3)(B) and 300j-6(b). The undersigned EPA official has been duly authorized to institute this action.

This proceeding is subject to the EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits, 40 C.F.R. part 22. (See Complainant's Exhibit 1.)

**GENERAL ALLEGATIONS**

The following general allegations apply to each count of this Complaint:

1. The Respondent is a federal agency as defined in section 1401(11) of the SDWA, 42 U.S.C. § 300f(11), and, therefore, is a "person" as defined in section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
2. The Respondent owns and/or operates a system, the Crow Agency TP01 public water system (the System), located in Bighorn County, Montana, within the exterior boundaries of the Crow Indian Reservation for the provision of water for human consumption to the public through pipes or constructed conveyances.
3. The source of the System's water is surface water from the Little Big Horn River. The System serves approximately 1,600 year-round residents through 430 service connections.
4. Because the System has at least 15 service connections used by year-round residents and/or regularly serves at least 25 year-round residents, the System is a "public water system" and a "community water system" as those terms are defined in 40 C.F.R. § 141.2 and section 1401 of the SDWA, 42 U.S.C. § 300f.
5. As an owner and/or operator of a public water system, the Respondent is a "supplier of water" as defined in section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. The Respondent, therefore, is subject to 40 C.F.R. part 141 (also known as the National Primary Drinking Water Regulations or NPDWRs), each of which is an "applicable requirement" as defined in section 1414(i) of the SDWA, 42 U.S.C. § 300g-3(i).
6. Pursuant to section 1447(a) of the SDWA, Respondent is subject to and shall comply with all Federal, State, interstate, and local requirements, both substantive and procedural, respecting public water systems in the same manner and to the same extent as any person is

subject to such requirements including, but not limited to, administrative orders and all civil and administrative penalties and fines. 42 U.S.C. § 300j-6(a).

7. On August 29, 2011, in accordance with section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1), the EPA issued the Respondent an Administrative Order, Docket No. SDWA-08-2011-0064, citing significant deficiencies based on a June 2010 sanitary survey. (*See Complainant's Exhibit 2.*)

8. The EPA issued the Respondent an Amended Administrative Order on April 17, 2012. In addition to addressing an outstanding significant deficiency from the previous order, the Amended Administrative Order requires the Respondent, in part, to monitor continuously individual filter turbidity (IFT) and record results for each of the two filters at least every 15 minutes. The Amended Administrative Order requires the Respondent to keep IFT records for at least 3 years. These requirements arose from a site visit conducted March 14-16, 2012, at which time the Respondent was unable to produce consistent and legible IFT turbidity records from the System's two filters at least every 15 minutes for the last 3 years.

9. In addition, the Amended Administrative Order orders the Respondent to report to the EPA by the 10<sup>th</sup> of the following month the filter number(s), corresponding date(s), and the turbidity value(s) which exceed 1.0 nephelometric turbidity units (NTU) during the month, and the cause, if known, for the exceedance(s) when two consecutive measurements exceed 1.0 NTU. During the March 14-16, 2012 site visit, Respondent sent water to the clearwell immediately after backwashing one of the two filters causing the turbidity to reach as high as 2.0 NTU for more than 40 minutes. The System did not report individual filter readings exceeding

1.0 NTU for more than 15 minutes to the EPA by the 10<sup>th</sup> of the following month.

10. The Amended Administrative Order also requires the Respondent to continuously monitor the residual disinfectant concentration in the water entering the System's distribution system using a calibrated, online unit meeting the requirements of 40 C.F.R. § 141.74(a), and to record the lowest value each day. In the event of a failure in the continuous monitoring equipment, the Amended Administrative Order requires the Respondent to take 3 grab samples every 4 hours per day. During the March 14-16, 2012 site visit, the online chlorine analyzer was inoperable and the Respondent was unable to monitor the residual disinfectant concentration in the water entering the System's distribution system. The Respondent further failed to monitor and accurately report the System's residual disinfectant level with the required minimum number of grab samples per day during March 2012. (*See* Complainant's Exhibit 3.)

11. The Respondent submitted a compliance plan dated May 15, 2012, in response to the EPA's Amended Administrative Order, including an update regarding the installation of new chart recorders and a commitment to perform specific action items in accordance with the Amended Administrative Order.

12. By letter dated June 29, 2012, the EPA notified the Respondent that it was in violation of the Amended Administrative Order. In part, the Respondent failed to report to the EPA by the 10<sup>th</sup> of the following month when 2 consecutive IFT readings exceeded 1.0 NTU on April 30 and May 8, 2012. The Respondent also did not report to the EPA the lowest measurement of residual disinfectant entering the distribution or the date and duration of each period when the residual

disinfectant fell below 0.2 milligram per liter (mg/L) on April 30 and May 23, 2012. (*See* Complainant's Exhibit 4.)

13. The EPA issued the Respondent an Addendum to the Amended Administrative Order on July 18, 2012, incorporating the Respondent's May 15, 2012 compliance plan. (*See* Complainant's Exhibit 5.)

14. By letter dated September 5, 2012, the EPA notified the Respondent a second time that it was in violation of the Amended Administrative Order. In part, the Respondent failed to notify the EPA within 24 hours when the chlorine residual was below 0.2 mg/L for more than 4 hours on July 22, 2012. The Respondent also did not correctly report the lowest chlorine residual for July 22, 2012, on the July 2012 monthly Surface Water Treatment Rule (SWTR) report. (*See* Complainant's Exhibit 6.)

15. By letter dated October 17, 2012, the EPA notified the Respondent a third time that it was in violation of the Amended Administrative Order. Among other violations, the Respondent failed to report to the EPA by the 10<sup>th</sup> of the following month when 2 consecutive IFT readings exceeded 1.0 NTU on August 23, 2012. (*See* Complainant's Exhibit 7.)

16. By letter dated November 28, 2012, the EPA notified the Respondent a fourth time that it was in violation of the Amended Administrative Order. The Respondent failed to report several required actions described in Appendix A to the Amended Administrative Order regarding the IFT for filters 1 and 2, the combined filter effluent, and chlorine analyzer charts. (*See* Complainant's Exhibit 8.)

17. The EPA simultaneously issued the Respondent a 2<sup>nd</sup> Amendment to the Administrative Order and Amended Administrative Order Addendum (Amended Addendum) on February 22, 2013, due to upgrades and changes to the treatment system affecting the System's monitoring, reporting and other compliance requirements. The Amended Addendum specifically revised Paragraph 22 of the Amended Administrative Order by omitting the requirement to submit weekly circular charts rendered obsolete by changes to the System's treatment plant. The Amended Addendum approved the BIA's proposed actions, deadlines and completion dates included in the table set forth therein. (*See* Complainant's Exhibit 9.)

18. The 2<sup>nd</sup> Amendment to the Administrative Order included and incorporated by reference Appendix A. Appendix A summarizes the requirements of the Administrative Order, Amended Administrative Order, 2<sup>nd</sup> Amendment to the Administrative Order, Addendum and Amended Addendum (collectively referred to as the "Orders"). The 2<sup>nd</sup> Amendment to the Administrative Order also included violations of the SWTR. (*See* Complainant's Exhibit 10.)

19 By letter May 21, 2014, the EPA notified the Respondent a fifth time that it was in violation of the Orders, specifically items 1, 2 and 8 of Appendix A. (*See* Complainant's Exhibit 11.)

20. Item number 1 of Appendix A (also set forth in the Amended Addendum) requires the Respondent to submit the comma separated values (CSV) data in excel format weekly to EPA beginning February 2013, until notified otherwise by the EPA. The Report shall include raw water intake, raw water pump status, effluent valve status on each individual filter, turbidity

levels for each individual filter, backwash pump status, filter to waste status, combine filter effluent turbidity levels, and combine filter effluent chlorine levels.

21. The Respondent failed to submit weekly CSV data to the EPA in a timely manner from January 1, 2014, to April 1, 2014, in violation of item 1 of Appendix A and the Amended Addendum.

22. The Respondent failed for the months of July, September and November 2013, and January 2014, to timely submit monthly SWTR reports and, therefore, failed to submit the 15 minute-interval IFE turbidity results for each of the two filters for the same timeframe by the 10<sup>th</sup> of the following month, in violation of item number 2 of Appendix A (and paragraph 25 of the 2<sup>nd</sup> Amendment to the Administrative Order).

23. The Respondent failed to report to the EPA the lowest value each day of the residual disinfectant concentration of the water entering the distribution system for the months of July, September and November 2013, and January 2014, because it failed to submit timely monthly SWTR reports, in violation of item 8 of Appendix A and paragraphs 30 and 31 of the 2<sup>nd</sup> Amendment to the Administrative Order.

#### **PROPOSED PENALTY**

This Complaint proposes that the EPA assess an administrative penalty against the Respondent. The EPA is authorized to assess a Federal Agency an administrative penalty according to sections 1414(g)(3)(B) and 1447(b)(2) of the SDWA, 42 U.S.C. §§ 300g-3(g)(3)(B) and 300j-6(b)(2), for violation(s) of an administrative order issued under section 1414(g) of the SDWA. The amount of the administrative penalty may not exceed \$32,500 per violation per

day, occurring after January 12, 2009. (The original statutory amount of \$25,000 has been adjusted for inflation pursuant to 40 C.F.R. part 19. See 74 Fed. Reg. 626, January 7, 2009.)

The EPA has determined the proposed penalty amount in accordance with section 1414 of the SDWA, 42 U.S.C. § 300g-3. Taking into account the seriousness of the violations, the population at risk, and other appropriate factors, including the Respondent's degree of willfulness and/or negligence, history of noncompliance, and ability to pay, as known to the EPA at this time, the EPA proposes to assess an administrative civil penalty of **\$3,132** against the Respondent for violating requirement 1 of the Appendix to the 2<sup>nd</sup> Amendment to the Administrative Order and the Amended Addendum.

#### **OPPORTUNITY TO REQUEST A HEARING**

As provided in sections 1414(g)(3)(B) and 1447(b)(3), 42 U.S.C. §§ 300g-3(g)(3)(B) and 300j-6(b)(3), the Respondent has the right to request a hearing on the record to contest any material fact alleged in this Complaint, to contest the appropriateness of the proposed penalty, and/or to assert that it is entitled to judgment as a matter of law.

If the Respondent wishes to request a hearing, the Respondent must file a written answer in accordance with 40 C.F.R. § 22.15 within thirty (30) calendar days after this Complaint is served. If this Complaint is served by mail, the Respondent has an additional five (5) calendar days, pursuant to 40 C.F.R. § 22.7(c), in which to file its answer.

If the Respondent requests a hearing in its answer, the procedures provided in 40 C.F.R. part 22, subpart I, will apply to the proceedings and the Regional Judicial Officer will preside. However, the Respondent has the right under the SDWA to elect a hearing on the record in

accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. § 551 et seq. For the Respondent to exercise this right, the answer must include a specific request for a hearing on the record in accordance with 5 U.S.C. § 554. Upon such request, the Regional Hearing Clerk will place new captions on the pleadings and documents in the record as necessary. (See 40 C.F.R. § 22.42.) Pursuant to such a request, subpart I will not apply to the proceedings and an administrative law judge from Washington, D.C. will preside.

The answer must be in writing. An original and one copy of the answer must be sent to:

Tina Artemis, Regional Hearing Clerk  
U.S. EPA Region 8 (8RC)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

A copy of the answer must also be sent to:

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

#### **FAILURE TO FILE AN ANSWER**

**If the Respondent does not file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this Complaint, the Respondent may be subject to a default order requiring payment of the full penalty proposed in this Complaint.**

The EPA may obtain a default order according to 40 C.F.R. § 22.17.

#### **REQUIREMENTS FOR ANSWER**

The answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which the Respondent has any knowledge.

The answer must state (1) any circumstances or arguments the Respondent alleges to constitute grounds of defense, (2) any facts the Respondent disputes, (3) whether and on what basis the Respondent opposes the proposed penalty, and (4) whether the Respondent requests a hearing.

**Failure to admit, deny, or explain any material factual allegation contained in this Complaint shall constitute an admission of that allegation.**

### **OPPORTUNITY TO CONFER**

Pursuant to section 1447(b)(2) and (3) of the SDWA, 42 U.S.C. §§ 300j-6(b)(2) and (3), the Administrator shall provide the agency an opportunity to confer before an administrative penalty order issued under this subsection becomes final. This opportunity to confer with the Administrator will occur after exhaustion of the Part 22 proceedings described above, including filing an appeal with the Environmental Appeals Board (EAB) pursuant to 40 C.F.R. 22.30. Within 30 days of service of the EAB's final decision, the Secretary of the Department of the Interior must file a written request addressed to the Administrator if he wishes to confer. If no written request to confer is filed within the 30-day timeframe, this Complaint is final under the terms of section 1447(b)(3) of the Act, 42 U.S.C. § 300j-6(b)(3).

### **QUICK RESOLUTION**

The Respondent may resolve this action by paying the proposed penalty in full pursuant to 40 C.F.R. § 22.18. If such payment is made within thirty (30) calendar days of receipt of this Complaint, the Respondent need not file an answer. Alternatively, as allowed by 40 C.F.R. § 22.18(b), the Respondent may file a statement with the Regional Hearing Clerk within thirty

(30) days of receipt of this Complaint agreeing to pay the full assessed penalty and may make the penalty payment within sixty (60) days of receiving this Complaint.

The payment shall be made by remitting a check or making a wire transfer or on-line payment in the amount of \$3,132. The check or other payment shall designate the name and docket number of this case and be payable to "Treasurer, United States of America."

**If remitted by regular U.S. mail:**

U.S. Environmental Protection Agency / Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

**If remitted by any overnight commercial carrier:**

U.S. Bank  
Cincinnati Finance Center Box 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, Missouri 63101

**If remitted by wire transfer:** Any wire transfer must be sent directly to the Federal Reserve Bank in New York City using the following information:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

**Automated Clearinghouse payments to EPA can be made through the US Treasury using the following information:**

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 – checking  
Physical location of US Treasury Facility:  
5700 Rivertech Court  
Riverdale, MD 20737

US Treasury Contact Information:  
Randolph Maxwell: 202-874-3420  
Remittance Express (REX): 1-866-234-5681

**On Line Payment is available through the US Treasury** using the following information:

Visa, Mastercard, American Express & Discover are accepted. You may also pay with banking information for direct debit from your account.

[www.pay.gov](http://www.pay.gov)

Enter "sfo 1.1" (without the quotation marks) in the "Search Public Forms" field.

Click on the first link to open the form, complete required fields, and then click on "Submit Data" button at bottom of form.

At the time of payment, a copy of the check (or notification of other type of payment) shall also be sent to:

Sienna Meredith, Enforcement Officer  
U.S. EPA Region 8, Montana Office (8MO)  
Federal Building, 10 W. 15<sup>th</sup> Street, Suite 3200  
Helena, Montana 59626

and

Tina Artemis, Regional Hearing Clerk (8RC)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

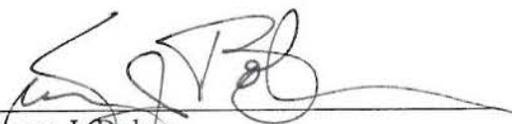
Payment of the penalty in this manner does not relieve the Respondent of the obligation to comply with the requirements of the SDWA and its implementing regulations. Payment of the penalty in this manner does, however, constitute consent by the Respondent to the assessment of the proposed penalty and a waiver of the Respondent's right to a hearing on this matter.

**SETTLEMENT CONFERENCE**

The EPA encourages exploring settlement possibilities through informal settlement negotiations. **However, failing to file an answer may lead to a default order, even if settlement negotiations occur.** The parties may simultaneously pursue settlement and proceed with administrative litigation. If a settlement is reached, its terms shall be expressed in a written consent agreement to be signed by the parties and incorporated into a final order signed by the Regional Judicial Officer. Any request for settlement negotiations should be directed to the attorney for the EPA, who can be reached by telephone at (303) 312-6906 or email at [swanson.amy@epa.gov](mailto:swanson.amy@epa.gov).

Dated this 23<sup>rd</sup> day of September, 2014.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**  
Complainant

  
\_\_\_\_\_  
Suzanne J. Bohan  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Exhibits were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent to the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED:

Vianna Stewart, Superintendent  
Bureau of Indian Affairs, Crow Agency  
P.O. Box 69  
Crow Agency, MT 59022

Daryl LaCounte, Acting Regional Director  
Bureau of Indian Affairs, Rocky Mountain Region  
2021 4<sup>th</sup> Avenue North  
Billings, MT 59101

Date: SEP 23 2014

By: Gayle Aldinger

40 CFR Ch. I (7-1-10 Edition)

**PART 22—CONSOLIDATED RULES  
OF PRACTICE GOVERNING THE  
ADMINISTRATIVE ASSESSMENT OF  
CIVIL PENALTIES AND THE REV-  
OCATION/TERMINATION OR SUS-  
PENSION OF PERMITS**

**Subpart A—General**

- Sec.
- 22.1 Scope of this part.
  - 22.2 Use of number and gender.
  - 22.3 Definitions.
  - 22.4 Powers and duties of the Environ-  
mental Appeals Board, Regional Judicial  
Officer and Presiding Officer; disquali-  
fication, withdrawal, and reassignment.
  - 22.5 Filing, service, and form of all filed  
documents; business confidentiality  
claims.
  - 22.6 Filing and service of rulings, orders and  
decisions.
  - 22.7 Computation and extension of time.
  - 22.8 *Ex parte* discussion of proceeding.
  - 22.9 Examination of documents filed.

**Subpart B—Parties and Appearances**

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

**Subpart C—Prehearing Procedures**

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alter-  
native dispute resolution.
- 22.19 Prehearing information exchange; pre-  
hearing conference; other discovery.
- 22.20 Accelerated decision; decision to dis-  
miss.

**Subpart D—Hearing Procedures**

- 22.21 Assignment of Presiding Officer;  
scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of per-  
suasion; preponderance of the evidence  
standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and  
order.

**Subpart E—Initial Decision and Motion to  
Reopen a Hearing**

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

STANDARD  
OFFICE OF THE  
GENERAL COUNSEL

IN THE MATTER OF:	)	
	)	Docket No. <b>SDWA-08-2011-0064</b>
Bureau of Indian Affairs,	)	
	)	<b>ADMINISTRATIVE ORDER</b>
<u>Respondent.</u>	)	

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.

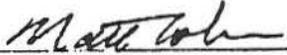
#### GENERAL PROVISIONS

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.

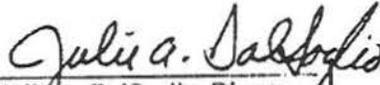
17. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$32,500 per day of violation (as adjusted for inflation). Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$32,500 per day per violation (as adjusted for 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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF: )  
Bureau of Indian Affairs, ) Docket No.  
Respondent ) Acknowledgement of Hand  
Delivered Document

I, Sienna Meredith, US Environmental Protection Agency Employee, verify by my signature below that I personally delivered the Administrative Order in the above named case to: Emily Rideshorse respondent's representative, on the 30 day of August, 2011. The address where it was delivered was: Building # 2 Weaver Drive Crow Agency, MT

It was delivered at approximately 3:10 pm am.

  
Sienna Meredith

I, Emmia Rideshorse, the undersigned representative of Respondent, acknowledge receipt of the hand delivered Administrative Order in the above named case. The address which it was delivered to is: Building # 2 Weaver Drive Crow Agency, MT

It was hand delivered to me on the 30 day of August, 2011.

  
Representative of Respondent

2012 APR 17 AM 8:08

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

FILED  
EPA REGION VIII  
APR 17 2012

\_\_\_\_\_  
IN THE MATTER OF: )  
 )  
Bureau of Indian Affairs, )  
 )  
\_\_\_\_\_  
Respondent. )

Docket No. SDWA-08-2011-0064

**AMENDED ADMINISTRATIVE  
ORDER**

1. This Amended Administrative 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 Crow Agency Water 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 § 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. As required by 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 the Respondent will 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 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 the information on the violations cited in paragraphs 6, 7 and 8, above, and, therefore, violated this requirement.

11. Respondent is required to record the turbidity of the individual filter turbidity (IFT) of a system using a surface water source and conventional filtration at least once every 15 minutes (40 C.F.R. § 141.560(c)). During a site visit on March 14 – 16, 2012, representatives of EPA and the Indian Health Service requested these records, but respondent was unable to provide consistent and legible records for turbidity results recorded at least every 15 minutes, as required, and, therefore, violated this requirement.

12. Respondent is required to keep records of individual filter turbidity (IFT) for at least 3 years (40 C.F.R. § 141.571(a)). During a site visit on March 14 – 16, 2012, representatives of EPA and the Indian Health Service requested these records. Consistent and legible records of IFT turbidity from the System's two filters could not be provided for the last 3 years. The Respondent, therefore, violated this requirement.

13. Respondent is required to report to EPA by the 10<sup>th</sup> of the following month the filter number(s), corresponding date(s), and the turbidity value(s) which exceeded 1.0 NTU during the month, and the cause (if known) for the exceedance(s) when two consecutive measurements exceed 1.0 NTU. 40 C.F.R. § 141.570(b)(2). During the March 14 - 16, 2012 site visits, Respondent was observed sending water to the clearwell immediately after backwashing one of the two filters; the turbidity reached as high as 2 NTU for more than 40 minutes. The System has not reported individual filter readings exceeding 1.0 NTU for more than 15 minutes to EPA by the 10<sup>th</sup> of the month, and the Respondent, therefore, violated this requirement.



14. Respondent is required to monitor continuously the residual disinfectant concentration in the water entering the System's distribution system and to record the lowest value each day. Monitoring must be continuous with a calibrated, online unit meeting the requirements of 40 C.F.R. § 141.74(a). Alternatively, if there is a failure in the continuous monitoring equipment, the System must take at least three grab samples, every 4 hours, per day (40 C.F.R. § 141.74(c)(2)). During the March 14 – 16, 2012 site visits, the online chlorine analyzer was inoperable, and Respondent was unable to monitor the residual disinfectant concentration in the water entering the System's distribution system. Further, the Respondent failed to monitor and accurately report the System's residual disinfectant level with the required minimum number of grab samples per day during March 2012 and, therefore, violated this requirement.

15. Respondent is required to monitor the system's water and report the results for disinfection byproduct precursors, taking quarterly paired samples of total organic carbon (TOC) in source water and treated water, with an alkalinity sample of the source water to be taken at the same time. 40 C.F.R. § 141.132(d) and 40 C.F.R. § 141.134(d). Respondent failed to monitor and report the System's water for disinfection byproduct precursors during the fourth quarter of 2011 and the first quarter of 2012 and, therefore, violated these requirements.

#### ORDER

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

16. 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.
17. Respondent must complete appropriate actions to correct all significant deficiencies according to the corrective action plan approved by EPA as stated in paragraph 16 above. The approved plan and schedule required will be incorporated into the Order as enforceable requirements.
18. 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). EPA was onsite on August 29, 2011 and was able to acquire photo documentation of the corrective actions listed in paragraph 11 above. On September 15, 2011, the system provided EPA with an email describing how and when each item in paragraph 11 above was corrected which was approved by EPA.
19. Upon receipt of this of this Order, Respondent shall monitor continuously individual filter turbidity and record results for each of the two filters at least once every 15 minutes, and keep these records for at least 3 years, as required by 40 C.F.R. § 141.560(c) and §141.571(a). Copies of each month's individual filter turbidity records must be submitted to EPA within the first 10 days following the end of the month in which those records were collected, until notified otherwise by EPA.
20. Upon receipt of this Order, Respondent shall report the filter number, the date, and the cause (if known) to EPA by the 10<sup>th</sup> of the following month whenever 2 consecutive individual filter turbidity (IFT) turbidity readings (at 15 minute intervals) exceed 1.0 NTU (40 C.F.R § 141.570(b)(2)).
21. Respondent shall continuously monitor the residual disinfectant concentration of the water entering the System's distribution system. If Respondent's continuous monitoring equipment fails, Respondent must substitute 3 grab samples per day, taken no more than four hours apart. The lowest value from either the continuous analyzer record or the three daily grab samples must be recorded that day, as required by 40 C.F.R. § 141.74(c)(2). Within 10 days after the end of each month Respondent shall report each day's lowest value to the EPA, as required by 40 C.F.R. § 141.75(b)(2). Copies of continuous or grab samples will be made available to EPA upon request.



22. Within 30 days after receipt of this Order, the respondent shall provide EPA with a written compliance plan (Plan) on how the system will remain in compliance with these requirements (in paragraphs 19-20, above). Among other things the Plan should include:

- a. A schedule on how the chlorine monitoring equipment will be calibrated and maintained, and how the chlorine values will be recorded and the lowest daily value determine and reported to EPA( in paragraph 21, above).
- b. A schedule for how the individual filter turbidity (IFT) turbidity readings (at 15 minute intervals) measurements will be determined and recorded, how instrumentation will be maintained, and how values will be reported appropriately to EPA (in paragraph 20, above).
- c. A schedule of how and when the two circular IFT chart recorders were fixed, how they will be maintained, and how the daily IFT records will be legible and clearly labeled to show the chart span (maximum NTU) so that the turbidity values can be understood. The individual filter turbidity chart recorders must be maintained in operational order and the daily IFT records must clearly show correlation with each filter's status (e.g., operational or not, sending filtered water to waste, or sending water to the clearwell) by filter number, to document valid turbidity readings of water sent to the distribution system (in paragraph 19, above).

23. Respondent shall monitor the System's water each quarter for disinfection byproduct precursors, as required by 40 C.F.R. § 141.132(d). Within the first 10 days after the end of each quarter, Respondent shall report analytical results, including its calculation of the TOC removal percentage and all other information required by 40 C.F.R. § 141.134(d), to the EPA, as required by 40 C.F.R. § 141.132(d).

24. 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.

25. Within 30 days after receipt of this Order, Respondent notify the public of the violations cited in paragraphs 6, 7, 8, 11 ,12 ,13, 14 and 15, 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

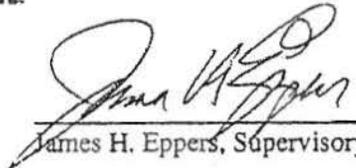
#### GENERAL PROVISIONS

26. 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.

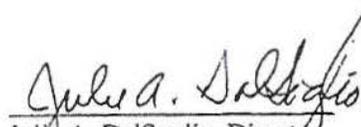


27. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$32,500 per day of violation (as adjusted for inflation). Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$32,500 per day per violation (as adjusted for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

Issued: APR 17 2012

  
James H. Eppers, Supervisory Attorney

Regulatory Enforcement Unit  
Office of Enforcement, Compliance  
and Environmental Justice

  
Julie A. DalSoglio, Director  
EPA Region 8 Montana Office





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

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

Dear Regional Director Parisian:

On April 18, 2012, the US Environmental Protection Agency (EPA) issued an Amended Administrative Order (Order) to the Administrative Order issued on August 29, 2011, Docket No. SDWA-08-2011-0064, ordering the Bureau of Indian Affairs (BIA or Respondent) to comply with various regulations issued by EPA under the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300f et seq.

Our records indicate that you BIA is in violation of the Amended Order. Among other things, the Amended Order included the following requirements (quoted from items 20 and 21 of the "Order" section on page 4 of the Order).

1. Respondent shall report the filter number, the date, and the cause (if known) to EPA by the 10<sup>th</sup> of the following month whenever 2 consecutive individual filter turbidity (IFT) turbidity readings (at 15 minute intervals) exceed 1.0 NTU (40 C.F.R. § 141.570(b)(2)).

Respondent did not report to EPA when 2 consecutive individual filter turbidity readings exceeded 1.0 NTU on April 30, 2012 and May 8, 2012, by the 10<sup>th</sup> of the following month.

2. Respondent shall continuously monitor the residual disinfectant concentration of the water entering the System's distribution system. If Respondent's continuous monitoring equipment fails, Respondent may substitute 3 grab samples per day, taken at different times. The lowest value from either the continuous analyzer record or the three daily grab samples must be recorded that day, as required by 40 C.F.R. § 141.74(c)(2). Within 10 days after the end of each month Respondent shall report results to the EPA, as required by 40 C.F.R. § 141.75(b)(2).

Complainant's Exhibit 4



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Respondent did not report the lowest measurement of residual disinfectant entering the distribution nor the date and duration of each period when the residual disinfectant fell below 0.2mg/L on April 30, 2012 and May 23, 2012 to EPA.

In addition, the Amended Order required the Respondent to provide EPA with a written compliance plan (Plan) on how the system will remain in compliance. Our records indicate that you are not in compliance with the Plan submitted by Respondent on May 15, 2012. This Plan included the following commitments:

1. Under item 20: Water Treatment Plant operators must, within 24 hours, notify EPA if combined filter effluent turbidity of 1 NTU or greater is recorded.

Respondent did not notify EPA within 24 hours when the combined filter effluent turbidity exceeded 1 NTU on May 8, 2012. This is a violation of the Plan and 40 C.F.R. § 141.203(b)(3).

2. Under item 21: If water with chlorine residual below 0.2 mg/L is sent out to distribution, EPA must be notified within 24 hours.

Respondent did not notify EPA within 24 hours when the chlorine residual at the point of entry to the distribution dropped below 0.2 mg/L on April 30, 2012 and May 23, 2012. This is a violation of the Plan and 40 C.F.R. § 141.75(b)(3)(iii).

EPA is considering additional enforcement action as a result of the non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$37,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Sienna Meredith at 1-866-457-2690, extension 5026 or (406) 457-5026. If you are represented by an attorney who has questions, please ask your attorney to contact Jean Belille, Enforcement Attorney, at 1-800-227-8917, extension 6556 or (303) 312-6556 or at the following address:

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

We urge your prompt attention to this matter.

---

Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

cc: Cedric Black Eagle, Chairman  
Leroy Cummins, Facility Manager, BIA Crow Agency  
Bruce Ward, Engineer, BIA Rocky Mountain Region  
Vianna Stewart, Superintendent, BIA  
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



Facilities

# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Crow Indian Agency

PO Box 69

Crow Agency, Montana 59022

May 15, 2012



United States Environmental Protection Agency  
Region 8 Montana Office  
Federal Building, 10 W. 15<sup>th</sup> Street, Suite 3200  
Helena, MT 59626

**RE: Amended Administrative Order**  
**Docket No. SDWA-08-2011-0064**  
**Bureau of Indian Affairs**  
**Crow Agency (TP01)**  
**Public Water System**  
**PWS ID #83090011**

The following include Crow Indian Agency's response in chronological order to the "Amended Administrative Order" referenced above that was issued April 17<sup>th</sup>, 2012 by United States Environmental Protection Agency, Region 8 Montana Office.

**Item 19:**

New chart recorders have been installed and are operating. The charts will be submitted weekly to EPA until notified otherwise by EPA.

**Item 20:**

Water Treatment Plant operators will indicate on each monthly SWTR report, due to EPA by the 10<sup>th</sup> of the following month, if the turbidity from an individual filter exceeded 1.0 NTU or 2.0 NTU for 15 minutes or greater, and report the filter #, the date, and the cause (if known) to EPA. If the chart recorded for that day does not indicate that the water was being sent to waste, it shall be presumed that the high turbidity water was sent to the clearwell and thus EPA must be notified in the monthly report. Also, Water Treatment Plant operators must within 24 hours notify EPA if combined filter effluent turbidity of 1 NTU or greater is recorded.

**Item 21:**

Water Treatment Plant operators will monitor chlorine residuals and keep at or above 1.0 for adequate disinfection. If water with chlorine residual below 0.2 mg/L is sent out to distribution, EPA must be notified within 24 hours. If this lasts more than 4 hours, EPA must again be notified as this is a treatment technique violation. If the chlorine recorder does not indicate that the plant was shut off during a recording of low chlorine residual, it shall be presumed that the low chlorine water was sent to distribution system.

**Item 22:**

a. The water plant operators will monitor the chlorine analyzer, compare results with grab sample chlorine results each month, and if necessary re-calibrate it monthly, and maintain equipment on or before the 10<sup>th</sup> of each month. The lowest chlorine value recorded each day shall be

reported to EPA by the 10<sup>th</sup> of the following month as the daily lowest value (see preceding paragraph).

b. New chart recorders have been installed and operating. If any chart recorder fails, operators will notify BIA administration and EPA immediately. Data will be collected and recorded manually, as required by regulations until repairs are completed.

c. schedule

March 16, 2012; The 2 circular IFT chart recorders were purchased and ordered from USA Blue Book over the phone.

March 22, 2012; Chart recorders and pens arrive without charts.

March 23, 2012; Chart recorders installed with assistance from Dave Shultz of Indian Health Service and wrong charts arrived.

March 28, 2012; Correct charts are installed and Filter 1 is calibrated.

March 29, 2012; Filter 2 is calibrated.

The IFT's will be calibrated on or before the 10<sup>th</sup> of each month and the correct flow rate through the turbidimeter maintained (300-400 mls/min). The charts for the IFTs will be marked to clearly show correlation with each filter's status as operating or not. The chart will show notes with exact times when backwashing, sending water to waste, or to the clear well by filter number. All Plant start up and shut down times will be marked on all charts. Also the maximum (span) value shall be recorded on each chart.

23. The TOC sample will be taking every quarter from now on without fail.

Sincerely,



Superintendent



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

2012 SEP -5 AM 9:04

REC'D  
REGION 8  
SEP 5 2012

Ref: 8MO

SEP 05 2012

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

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

Re: 2<sup>nd</sup> Violation of Amended  
Administrative Order  
Docket No. SDWA-08-2011-0064  
Bureau of Indian Affairs  
Crow Agency (TP01)  
Public Water System  
PWS ID #083090011

Dear Regional Director Parisian:

On August 29, 2011, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order, Docket No. SDWA-08-2011-0064, ordering the Bureau of Indian Affairs (BIA or Respondent) to comply with various regulations issued by the EPA under the Safe Drinking Water Act (Act), 42 U.S.C. § 300f et seq. On April 18, 2012, the EPA issued an Amended Administrative Order requiring the Respondent, among other things, to provide the EPA with a written compliance plan on how the Respondent will return the system to compliance. On May 16, 2012, the EPA received a compliance plan letter from Vianna Stewart, BIA Superintendent, on behalf of the BIA. On July 18, 2012, the EPA issued an Administrative Order Addendum (Order) which incorporated the compliance plan into the Order, making it enforceable.

Our records indicate that the Respondent is not in compliance with the Order. The Order included the following requirements:

- I. Operators will notify EPA within 24 hours if the water's chlorine residual is below 0.2 mg/L and it lasts more than 4 hours (this is a treatment technique violation). If the chlorine daily chart recording does not indicate that the plant was shut off during a recording of low chlorine residual, it shall be presumed that the low chlorine water was sent to the distribution system. (40 C.F.R. §§ 141.72(b)(2)).

Respondent failed to notify EPA within 24 hours when the chlorine residual was below 0.2 mg/L for more than four hours (from approximately 2:00 p.m. until 7:15 p.m.), on July 22, 2012.



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2. Operators will record the lowest chlorine residual value each day and report it to EPA on the monthly SWTR report as the daily lowest value. (40 C.F.R. §§ 141.74 (c)(2)).

Respondent failed to correctly report the lowest chlorine residual on the July 2012, monthly Surface Water Treatment Rule report (specifically for July 22, 2012).

3. Respondent shall report any violation of the National Primary Drinking Water Regulations (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.

Respondent failed to report the above violations in items 1 and 2 to EPA within 48 hours of the violation occurring.

4. Respondent failed to accurately report several required actions in the Order regarding the individual filter turbidity (IFT) for filters 1 and 2, the combined filter effluent (CFE), and chlorine analyzer charts.

These Order requirements and violations are detailed in the attached Appendix A.

5. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in the Order, 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.

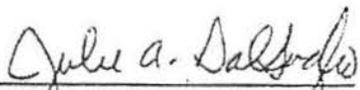
If public notice has not been completed, please do so immediately and submit a copy to EPA. If public notice has been conducted, please provide EPA a copy.

**EPA is considering additional enforcement action as a result of the non-compliance with the Order.** Violating an Administrative Order may lead to (1) a penalty of up to \$32,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Sienna Meredith at 1-866-457-2690, extension 5026 or (406) 457-5026. If you are represented by an attorney who has questions, please ask your attorney to contact Jean Belille, Enforcement Attorney, at 1-800-227-8917, extension 6556 or (303) 312-6556 or at the following address:

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

We urge your prompt attention to this matter.

  
Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

Enclosure: Appendix A: Violations of the Order

cc: Cedric Black Eagle, Chairman  
Leroy Cummins, Facility Manager, BIA Crow Agency  
Bruce Ward, Engineer, BIA Rocky Mountain Region  
Vianna Stewart, Superintendent, BIA  
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  
Karen Dunnigan, Department of Interior, Solicitor's Office (via email)

**Appendix A: Violations of the Order**

Requirement	Filter 1 (IFT)	Filter 2 (IFT)	Finished Water (CFE)	Chlorine
<p>Operators will indicate on each daily chart whether the water was being sent to waste or the clearwell during a high turbidity event. If the chart recorded for that day does not clearly indicate when the water is being sent to waste, it shall be presumed that the high turbidity water was sent to the clearwell. If high turbidity water is sent to the clearwell, EPA must be notified in the monthly report.</p> <p>Respondent failed to clearly indicate on each daily chart whether the water was being sent to waste or the clearwell during a high turbidity event for these dates:</p>	<p>7-29-2012 7-30-2012 7-31-2012 8-6-2012 8-7-2012 8-8-2012 8-9-2012</p>	<p>7-31-2012</p>	<p>NA</p>	<p>NA</p>
<p>The Operators will clearly mark IFT charts to show the correlation with each filter's status as operating or not.</p> <p>Respondent failed to clearly mark the IFT charts to show each filter's status for the following dates:</p>	<p>7-21-2012 7-23-2012 7-24-2012 7-29-2012 7-30-2012 8-6-2012 8-7-2012 8-8-2012</p>	<p>7-23-2012 7-24-2012 7-28-2012 7-29-2012 7-30-2012 7-31-2012 8-8-2012 8-9-2012 8-10-2012</p>	<p>NA</p>	<p>NA</p>
<p>The Operators will clearly mark the IFT charts to show notes with exact times when backwashing, sending water to waste, or to the clear well by filter number.</p> <p>Respondent failed to clearly mark the IFT charts to show the exact times when each filter was backwashing, sending water to waste or sending water to the clearwell for the following dates:</p>	<p>7-21-2012 7-22-2012 7-24-2012 7-25-2012 7-26-2012 7-27-2012 7-28-2012 7-29-2012 7-30-2012 7-31-2012 8-1-2012 8-2-2012 8-3-2012 8-6-2012 8-7-2012 8-8-2012 8-9-2012 8-10-2012</p>	<p>7-22-2012 7-24-2012 7-25-2012 7-26-2012 7-28-2012 7-29-2012 7-30-2012 7-31-2012 8-1-2012 8-2-2012 8-3-2012 8-6-2012 8-7-2012 8-8-2012 8-9-2012 8-10-2012</p>	<p>NA</p>	<p>NA</p>

<p>The Operators will mark all charts to show plant start-up and shut off times.</p> <p>Respondent failed to clearly mark all charts to indicate plant start-up and shut off times on the following dates:</p>	NA	NA	<p>July 10, 2012 through August 10, 2012</p>	<p>7-22-2012 7-25-2012 7-27-2012 7-29-2012 7-30-2012 8-8-2012 8-9-2012 8-10-2012</p>
<p>The Operators will record the maximum (span) value on each chart.</p> <p>Respondent failed to record the maximum value on each chart on the following dates:</p>	<p>July 10, 2012 through August 10, 2012</p>	<p>July 10, 2012 through August 10, 2012</p>	<p>July 10, 2012 through August 10, 2012</p>	<p>July 10, 2012 through August 10, 2012</p>
<p>Operators will submit the continuous chlorine analyzer chart, both individual filter turbidity recording charts, and the combined effluent turbidity recording chart weekly to EPA until notified otherwise by EPA.</p>	<p>EPA received the Filter 1 charts for each week from July 10, 2012 through August 10, 2012.</p>	<p>EPA received the Filter 2 charts for each week from July 10, 2012 through August 10, 2012.</p>	<p>EPA received the finished water (combined filter) charts for each week from July 10, 2012 through August 10, 2012.</p>	<p>8-6-2012 (chart submitted was not dated nor a daily chart)</p>



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

2012 OCT 19 AM 8:03

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OCT 19 2012  
REGION 8  
HELENA MONTANA

Ref: 8MO

OCT 17 2012

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

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

Re: 3<sup>rd</sup> Violation of Amended  
Administrative Order  
Docket No. SDWA-08-2011-0064  
Bureau of Indian Affairs  
Crow Agency (TP01)  
Public Water System  
PWS ID #083090011

Dear Regional Director Parisian:

On August 29, 2011, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order (Order) to the Bureau of Indian Affairs (BIA) ordering compliance with various regulations promulgated under the Safe Drinking Water Act (Act), 42 U.S.C. § 300f *et seq.* [Docket No. SDWA-08-2011-0064]. On April 18, 2012, the EPA amended the Order and among other things, directed BIA to submit a written Compliance Plan, identifying those actions BIA would take to re-establish compliance with regulatory requirements. On May 16, 2012, the EPA received a Compliance Plan from BIA. On July 18, 2012, the EPA issued an addendum to the Order, which adopted the Compliance Plan into the Order. This made the terms and conditions in the Compliance Plan enforceable obligations of the BIA.

Our records indicate that BIA has failed to comply with the Order. The Order includes the following requirements:

1. BIA shall report the filter number, the date, and the cause (if known) to the EPA by the 10<sup>th</sup> of the following month whenever 2 consecutive individual filter turbidity (IFT) readings (at 15 minute intervals) exceed 1.0 NTU (40 C.F.R § 141.570(b)(2)).

BIA failed to report to the EPA when 2 consecutive individual filter turbidity readings exceeded 1.0 NTU on August 23, 2012 by the 10<sup>th</sup> of the following month.

2. As a community system serving fewer than 10,000 persons, the System is required to develop a disinfection profile as described in 40 C.F.R. §§141.530-141.536. (40 C.F.R. § 141.503). The System is required to maintain a copy of the disinfection profile in its records indefinitely. 40 C.F.R.

§ 141.571. The Order required the System to submit a copy of the weekly disinfection profiling calculations to the EPA with each monthly Surface Water Treatment Rule (SWTR) report.

BIA has failed to submit their disinfection profiling calculations with their monthly SWTR report since June 2011. **If the System has the disinfection profile, please submit the information to the EPA as soon as possible. If BIA does not have this information, please consult with EPA to determine next steps.**

3. BIA shall report any violation of the National Primary Drinking Water Regulations (Drinking Water Regulations) to the EPA within 48 hours of the violation occurring as required by 40 C.F.R. §141.31(b).

BIA failed to report the above violations in Items 1 and 2 above to the EPA within 48 hours of the violation occurring.

4. BIA failed to accurately report several actions required by the Order regarding the individual filter turbidity (IFT) for filters 1 and 2, the combined filter effluent (CFE), and chlorine analyzer charts.

These Order requirements and violations are detailed in the attached Appendix A.

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

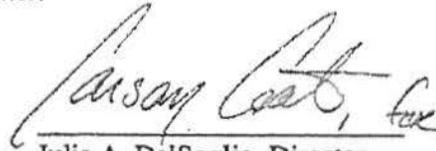
BIA has notified the EPA that the appropriate public notices have been issued; however, it has failed to provide a copy of the public notice and certification of issuance to the EPA. **If public notice has been completed, please provide the EPA a copy as soon as possible. If public notice has not been completed, please do so immediately and submit a copy to the EPA. For your convenience, EPA has provided a public notice template for your use.**

**The EPA is considering additional enforcement action as a result of the non-compliance with the Order.** Violating an Administrative Order may lead to (1) a penalty of up to \$32,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with the EPA, you may contact Sienna Meredith at 1-866-457-2690, extension 5026 or (406) 457-5026. If you are represented by an attorney who has questions, please ask your attorney to contact Dana Stotsky, Enforcement Attorney, at 1-800-227-8917, extension 6905 or (303) 312-6905 or at the following address:

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

We urge your prompt attention to this matter.



Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

Enclosure: Appendix A: Violations of the Order  
Public Notice

cc: Cedric Black Eagle, Chairman  
Leroy Cummins, Facility Manager, BIA Crow Agency  
Bruce Ward, Engineer, BIA Rocky Mountain Region  
Vianna Stewart, Superintendant, BIA  
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  
Karen Dunnigan, Department of Interior, Solicitor's Office (via email)

**Appendix A: Violations of the Order**

<b>Requirement</b>	<b>Filter 1 (IFE)</b>	<b>Filter 2 (IFE)</b>	<b>Finished Water (CFE)</b>	<b>Chlorine</b>
Operators will indicate on each daily chart whether the water was being sent to waste or the clearwell during a high turbidity event. If the chart recorded for that day does not clearly indicate when the water is being sent to waste, it shall be presumed that the high turbidity water was sent to the clearwell. If high turbidity water is sent to the clearwell, EPA must be notified in the monthly report.	8-20-2012 8-21-2012 8-23-2012 8-27-2012	8-20-2012 8-21-2012 8-22-2012 8-23-2012 8-27-2012	NA	NA
The Operators will clearly mark IFT charts to show the correlation with each filter's status as operating or not.	All	All	NA	NA
The Operators will clearly mark the IFT charts to show notes with exact times when backwashing, sending water to waste, or to the clear well by filter number.	8-13-2012 8-14-2012 8-15-2012 8-16-2012 8-17-2012 8-20-2012 8-21-2012 8-22-2012 8-23-2012 8-27-2012 8-28-2012	8-13-2012 8-14-2012 8-15-2012 8-16-2012 8-17-2012 8-20-2012 8-21-2012 8-22-2012 8-23-2012 8-27-2012	NA	NA
The Operators will mark all charts to show plant start-up and shut off times.	8-13-2012 through 8-27-2012, and 8-30-2012 through 9-07-2012	8-13-2012 through 8-27-2012 and 9-01-2012 through 9-07-2012	All	8-13-2012 through 8-26-2012 and 9-01-2012 through 9-06-2012
The Operators will record the maximum (span) value on each chart.	All	All	All	All

<b>LEGEND</b>	
ALL	8-13-2012 through 9-7-2012
BW	Backwash
FTCW	Filter to Clear Well
FTW	Filter to Waste
NA	Not Applicable



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 W. 15<sup>TH</sup> STREET, SUITE 3200  
HELENA, MONTANA 59626

2012 NOV 28 AM 8:11

NOV 28 2012

EPA REGION VIII  
HEARING CLERK

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: 4th Violation of Amended  
Administrative Order  
Docket No. SDWA-08-2011-0064  
Bureau of Indian Affairs  
Crow Agency (TP01)  
Public Water System  
PWS ID #083090011

Dear Regional Director Parisian:

On August 29, 2011, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order (Order), Docket No. SDWA-08-2011-0064, requiring the Bureau of Indian Affairs (BIA) to comply with various regulations under the Safe Drinking Water Act (Act), 42 U.S.C. § 300f et seq. On April 18, 2012, the EPA amended the Order and among other things, directed the BIA to submit a written compliance plan identifying those actions BIA would take to re-establish compliance with the regulatory requirements. On May 16, 2012, the EPA received a compliance plan from BIA. On July 18, 2012, the EPA issued an addendum to the Order which incorporated the compliance plan into the Order, making it enforceable.

Our records indicate that the BIA is not in compliance with the Order. Specifically, BIA is violation of the following requirements:

1. BIA failed to accurately report several actions required by the Order regarding the individual filter turbidity (IFT) for filters 1 and 2, the combined filter effluent (CFE), and chlorine analyzer charts (please see attached Appendix A).
2. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in the Order, 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.



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BIA has notified the EPA that the appropriate public notices have been issued; however, it has failed to provide a copy of the public notice and certification of issuance to EPA, as required by the regulations. **If public notice has been completed, please provide the EPA a copy as soon as possible. If public notice has not been completed, please do so immediately and submit a copy to EPA.**

**EPA is considering additional enforcement action as a result of the non-compliance with the Order.** Violating an Administrative Order may lead to (1) a penalty of up to \$32,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Sienna Meredith at 1-866-457-2690, extension 5026 or (406) 457-5026. If you are represented by an attorney who has questions, please ask your attorney to contact Dana Stotsky Enforcement Attorney, at 1-800-227-8917, extension 6905 or (303) 312-6905 or at the following address:

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

We urge your prompt attention to this matter.

  
Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

Enclosure: Appendix A: Violations of the Order

cc: Darrin Old Coyote, Chairman  
Leroy Cummins, Facility Manager, BIA Crow Agency  
Bruce Ward, Engineer, BIA Rocky Mountain Region  
Vianna Stewart, Superintendent, BIA  
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  
Karen Dunnigan, Department of Interior, Solicitor's Office (via email)

**Appendix A: Violations of the Order**

<b>Requirement</b>	<b>Filter 1 (IFE)</b>	<b>Filter 2 (IFE)</b>	<b>Finished Water (CFE)</b>	<b>Chlorine</b>
The Operators will clearly mark the IFT charts to show notes with exact times when backwashing, sending water to waste, or to the clear well by filter number.	9-13-2012 9-17-2012 9-18-2012 9-19-2012 9-20-2012		NA	NA
The Operators will mark all charts to show plant start-up and shut off times.			9-14-2012	
The Operators will record the maximum (span) value on each chart.	ALL	ALL	ALL	ALL

<b>LEGEND</b>	
ALL	9-10-2012 through 10-19-2012
BW	Backwash
FTCW	Filter to Clear Well
FTW	Filter to Waste
NA	Not Applicable



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

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Ref: 8MO

FEB 22 2013

UNITED STATES POSTAL SERVICE  
 REGION VIII  
 BILLINGS, MONTANA

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Edward F. Parisian, Director  
 Rocky Mountain Regional Bureau of Indian Affairs  
 316 N 26th Street  
 Billings, MT 5910

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

Dear Regional Director Parisian:

Paragraph 22 of the Amended Administrative Order issued on April 18, 2012, to the Bureau of Indian Affairs (BIA) regarding the Crow Agency water treatment plant (System) required the BIA to provide the EPA with a written compliance plan (Plan) on how the system will remain in compliance with the requirements therein. The EPA's July 18, 2012 letter (Administrative Order Addendum) approved and incorporated the BIA's May 15, 2012, plan and schedule into the Order. The BIA has made several upgrades and changes to the treatment system at Crow Agency and therefore this Amended Administrative Order Addendum (Amended Addendum) is being provided in order to update the compliance requirements. **The EPA has omitted requirements to submit weekly circular charts which are no longer applicable and noted changes to existing requirements in bold font.** This letter constitutes the written approval by the EPA of the BIA's schedule as indicated in the chart below. In addition to serving as approval for the schedule, this letter serves to incorporate it into the 2<sup>nd</sup> Amendment to the Administrative Order (Order), meaning each deadline and required action in the schedule will be an enforceable part of the Order.

<u>Action</u>	<u>Deadline</u>	<u>Completion Date</u>
Operators will submit the comma separated values (CSV) data in excel format weekly to EPA until notified otherwise by EPA. It shall include raw water intake, raw water pump status, effluent valve status on each individual filter, turbidity levels for each individual filter, backwash pump status, filter to waste status, combine filter effluent turbidity levels, and <b>combine filter effluent chlorine levels.</b>	<b>Beginning 2/1/2013</b>	<b>Ongoing Weekly until further notice</b>
Operators will notify EPA within 24 hours if water with chlorine residual below 0.2 mg/L is sent out to the distribution system.	<b>Beginning 5/15/2012</b>	<b>On-going</b>

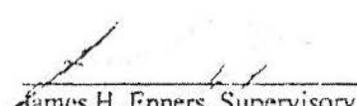
Operators will notify the EPA within 24 hours if the water's chlorine residual is below 0.2 mg/L and it lasts more than 4 hours (This is a treatment technique violation).	Beginning 5/15/2012	On-going
Operators will monitor the chlorine analyzer, compare results with grab sample chlorine results each month, and if necessary, re-calibrate the analyzer monthly.	Beginning 5/15/2012	On-going
Operators will maintain equipment on or before the 10 <sup>th</sup> of each month.	Beginning 5/15/2012	On-going
Operators will record the lowest chlorine residual value each day and report it to EPA on the monthly SWTR report as the daily lowest value.	Beginning 5/15/2012	Due to EPA by the 10 <sup>th</sup> day of the following month
The Operators will calibrate the turbidimeters for measuring individual filter turbidity (IFT) on or before the 10 <sup>th</sup> of each month. The correct flow rate through the turbidimeter shall be maintained at 300-400 mls/min.	Beginning March 29, 2012	IFT calibrated on or before the 10 <sup>th</sup> of each month On-going
The Operators will take TOC samples each quarter.	Beginning 5/15/2012	On-going

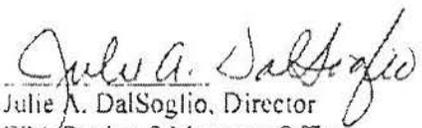
Please be advised that the BIA is required to comply with all provisions of the Order and this Amended Administrative Order Addendum. Penalties for failing to comply are set forth in the Order. Please contact Sienna Meredith at 1-866-457-2690, extension 5026 or (406) 457-5026. If you are represented by an attorney who has questions, please ask your attorney to contact Dana Stotsky, Enforcement Attorney, at 1-800-227-8917, extension 6905 or (303) 312-6905 or at the following address:

Dana Stotsky  
 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,

  
 James H. Eppers, Supervisory Attorney  
 Legal Enforcement Program  
 Office of Enforcement, Compliance  
 and Environmental Justice

  
 Julie A. DalSoglio, Director  
 EPA Region 8 Montana Office

## Appendix A

### Crow Agency BIA Treatment Plant Order Requirements:

Item Number	Order Requirement:	Due date
1	Submit the CSV data in excel format weekly to EPA. The report should include raw water intake, raw water pump status, effluent valve status on each individual filter, turbidity levels for each individual filter, backwash pump status, filter to waste status, combined filter effluent turbidity levels, and combined filter effluent chlorine levels.	Weekly until notified by EPA otherwise.
2	BIA must monitor individual filter turbidity continuously and record results for each of the two filters at least once every 15 minutes, and keep these records for at least 3 years. Copies of each month's individual filter turbidity records must be submitted to EPA until notified otherwise by EPA.	This information is reported to EPA by the 10 <sup>th</sup> of the following month using the Surface Water Treatment Rule (SWTR) report.
3	Whenever 2 consecutive individual filter turbidity (IFT) turbidity readings (at 15 minute intervals) exceed 1.0 NTU BIA must report the filter number, the date, and the cause to EPA.	This information is reported to EPA by the 10 <sup>th</sup> of the following month using the SWTR report.
4	BIA must ensure the combined filter effluent turbidity at no time exceeds 1 NTU.	On-going.
5	BIA must report the date and value of any combined filter effluent turbidity measurement which exceeds the maximum turbidity values.	This information is reported to EPA by the 10 <sup>th</sup> of the following month using the SWTR report.
6	BIA must consult with EPA any time the combined filter effluent turbidity exceedances 1 NTU. If BIA fails to consult with EPA within 24 hours, BIA is required to issue a Tier 1 Public Notice notice of violation within the next 24 hours.	Following a combined filter effluent turbidity exceedance, consult with EPA as soon as practical, but no later than 24 hours. If consultation does not take place, issue a Tier 1 public notice within the next 24 hours and provide a copy and certification of issuance to EPA.
7	BIA will calibrate the turbidimeters for measuring individual filter turbidity (IFT) on or before the 10 <sup>th</sup> of each month. The correct flow rate through the turbidimeter shall be maintained at 300-400 mls/min.	On-going.

Item Number	Order Requirement:	Due date
8	BIA must continuously monitor the residual disinfectant concentration of the water entering the System's distribution system. The lowest value each day must be recorded and reported to EPA. The residual disinfectant concentration in water entering the System's distribution system may never be less than 0.2 mg/l for more than 4 hours.	This information is reported to EPA by the 10 <sup>th</sup> of the following month using the SWTR report.
9	BIA must notify EPA within 24 hours if 1) water with a chlorine residual below 0.2 mg/L is sent out to the distribution system or 2) if the water's chlorine residual is below 0.2 mg/L and it lasts more than 4 hours.	On-going.
10	BIA will monitor the chlorine analyzer, compare it to grab samples each month, and if necessary, re-calibrate the analyzer monthly.	On-going.
11	BIA will maintain all equipment on or before the 10 <sup>th</sup> of each month.	On-going.
12	Respondent shall monitor the System's water each quarter for disinfection byproduct precursors and report analytical results, including its calculation of the TOC removal percentage and all other information to EPA.	This information is reported to EPA by the 10 <sup>th</sup> of the following month of the end of the monitoring period using Form 4.
13	BIA must report any violation of the drinking water regulations to EPA within 48 hours of the violation unless otherwise specified in the Order.	Within 48 hours of a violation.
14	BIA must notify the public of all future violations and submit a copy of the public notice with certification of its issuance to EPA within 10 days after providing public notice. EPA can assist BIA with the proper public notice templates if requested.	On-going.



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

2013 FEB 22 AM 11:04

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FEB 22 2013

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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

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

Re: 2<sup>nd</sup> Amendment to the Administrative Order and  
Amended Administrative Order Addendum  
Docket No. SDWA-08-2011-0064  
Bureau of Indian Affairs  
Crow Agency (TP01)  
Public Water System  
PWS ID #083090011

Dear Regional Director Parisian:

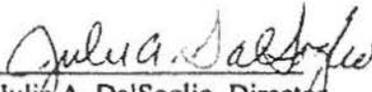
Enclosed is the 2<sup>nd</sup> Amendment to the Administrative Order (Order) and an Amended AO Addendum (Amended Addendum) which are being issued to the Bureau of Indian Affairs (Respondent) by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f *et seq.* The EPA is amending the Order and the Addendum to reflect changes in monitoring and reporting requirements that are due to upgrades and changes to the treatment system at the Crow Agency BIA public water system. Additionally, the EPA is amending the Order to include Surface Water Treatment Rule (SWTR) violations for not maintaining the minimal residual disinfectant concentration to the distribution system in July 2012, for exceedances of the combined filter effluent maximum allowable turbidity limit of 1 NTU in August 2012 and for failure to notify the EPA within 24 hours of the turbidity exceedances. This Order's changes are noted in bold font. This 2<sup>nd</sup> Amendment to the Administrative Order includes an "Appendix A" which outlines all requirements included in these revised documents. Appendix A is being provided as a courtesy and to provide the Respondent with a concise list of all Order requirements.

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



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 or have legal questions, please contact Dana Stotsky, Enforcement Attorney, at (800) 227-8917, extension 6905, or at (303) 312-6905.

Sincerely,

  
Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

Enclosures:

2<sup>nd</sup> Amendment to the Administrative Order  
Amended Administrative Order Addendum  
Appendix A

cc: Darin Old Coyote, Chairman  
Leroy Cummins, Facility Manager, BIA Crow Agency  
Bruce Ward, Engineer, BIA Rocky Mountain Region  
Vianna Stewart, Superintendant, BIA  
Christian Bends, Administrative Manager  
David Evans, 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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

IN THE MATTER OF:	)	
	)	Docket No. SDWA-08-2011-0064
	)	
Bureau of Indian Affairs,	)	
	)	<b>2<sup>nd</sup> AMENDMENT to the</b>
	)	<b>ADMINISTRATIVE ORDER</b>
Respondent.	)	

1. This 2<sup>nd</sup> Amendment to the Administrative Order (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 Crow Agency Water 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 § 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).
6. On August 29, 2011, EPA issued an Administrative Order to the Bureau of Indian Affairs which was amended on April 17, 2012. On July 18, 2012, EPA issued an Addendum to the Administrative Order. This Order's changes are noted in bold font.

VIOLATIONS

7. On October 12, 2010, EPA sent Respondent a sanitary survey report, which identified significant deficiencies at the system. As required by 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 the Respondent will 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 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.

8. 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).

9. 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.

10. 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 7, 8 and 9, above, to EPA and, therefore, violated this requirement.

11. 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 the information on the violations cited in paragraphs 7, 8 and 9, above, and, therefore, violated this requirement

12. Respondent is required to continuously monitor and record at least once every 15 minutes the turbidity of the individual filter effluent (IFT) of a system using a surface water source and conventional filtration. 40 C.F.R. § 141.560(c). During a site visit on March 14 – 16, 2012, representatives of EPA and the Indian Health Service requested these records, but respondent was unable to provide consistent and legible records for turbidity results recorded at least every 15 minutes, as required, and, therefore, violated this requirement.

13. Respondent is required to keep records of individual filter turbidity (IFT) for at least 3 years. 40 C.F.R. § 141.571(a). During a site visit on March 14 – 16, 2012, representatives of EPA and the Indian Health Service requested these records. Consistent and legible records of IFT turbidity from the System's two filters could not be provided for the last 3 years. The Respondent, therefore, violated this requirement.

14. Respondent is required to report to EPA by the 10<sup>th</sup> of the following month the individual filter number(s), corresponding date(s), and the turbidity value(s) which exceeded 1 Nephelometric Turbidity Unit (NTU) during the month, and the cause (if known) for the exceedance(s) when two consecutive measurements exceed 1 NTU. 40 C.F.R. § 141.570(b)(2). During the March 14 - 16, 2012 site visits, Respondent was observed sending water to the clearwell immediately after backwashing one of the two filters, with the water sent to the clearwell having turbidity as high as 2 NTU for more 40 minutes. The System did not report the March individual filter readings exceeding 1 NTU for more than 15 minutes to EPA by the 10<sup>th</sup> of the following month. **Additionally, the System did not report to EPA by the 10<sup>th</sup>**



of the following month that the individual filter readings exceeded 1 NTU for more than 15 minutes on April 30, 2012, May 8, 2012 and August 23, 2012 and therefore, the Respondent violated this requirement.

**15. The System's combined filter effluent turbidity may at no time exceed 1 NTU. 40 C.F.R. § 141.551(b). The System's water exceeded 1 NTU on August 9, 2012 and August 23, 2012 and Respondent, therefore, violated this requirement.**

**16. Respondent is required to report, by the 10<sup>th</sup> of the following month, the date and value of any combined filter effluent turbidity measurements taken during the month which exceed the maximum turbidity value. 40 C.F.R. § 141.570(a)(3). Respondent did not report the violations of the maximum turbidity limit, as stated in paragraph 15 above, on the August 2012 monthly report to EPA.**

**17. Respondent is required to consult with the primacy agency as soon as practical but no later than 24 hours after learning of a combined filter effluent turbidity exceedance of 1 NTU, per 40 C.F.R. § 141.551(b). 40 C.F.R. § 141.203 (b)(3). The respondent did not notify EPA of the August 9, 2012 and August 23, 2012 maximum turbidity exceedances within 24 hours, and therefore, violated this requirement.**

**18. When consultation does not take place within the 24-hour period, the Respondent must distribute a Tier 1 notice of the violation within the next 24 hours (i.e., no later than 48 hours after the system learns of the violation), following the requirements under 40 C.F.R. §§ 141.202(b) and (c). Respondent did not distribute Tier 1 public notice for the turbidity exceedance violations on August 9, 2012 and August 23, 2012 following the failure to consult with EPA, and therefore, violated this requirement.**

**19. Respondent is required to monitor continuously the residual disinfectant concentration in the water entering the System's distribution system and to record the lowest value each day. Monitoring must be continuous with a calibrated, online unit meeting the requirements of 40 C.F.R. § 141.74(a). Alternatively, if there is a failure in the continuous monitoring equipment, the System may take at least three grab samples, at different times (every 4 hours), per day (40 C.F.R. § 141.74(c)(2)). During the March 14 – 16, 2012 site visits, the online chlorine analyzer was inoperable, and Respondent was unable to monitor the residual disinfectant concentration in the water entering the System's distribution system. Further, the Respondent failed to monitor and accurately report the System's residual disinfectant level with the required minimum number of grab samples per day during March 2012 and, therefore, violated this requirement.**

**20. Respondent is required to maintain a residual disinfectant level in the water entering the System's distribution system. This level may not be less than 0.2 milligrams per liter (mg/l) for any period of more than four hours. 40 C.F.R. § 141.72(b)(2). On July 22, 2012, the disinfectant level in the System was less than 0.2 mg/l for four hours or longer, and therefore, Respondent**



**violated this requirement.**

21. Respondent is required to monitor and report the System's water for disinfection byproduct precursors, taking quarterly paired samples of total organic carbon (TOC) in source water and treated water, with an alkalinity sample of the source water to be taken at the same time. 40 C.F.R. § 141.132(d) and 40 C.F.R. § 141.134(d). Respondent failed to monitor and report the System's water for disinfection byproduct precursors during fourth quarter 2011 and, therefore, violated these requirements. At the time of this Order, the EPA had not yet received the same above mentioned results for a first quarter 2012 sample, which are due by April 10, 2012.

**ORDER**

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

22. 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 weekly 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 weekly 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.

**[On November 22, 2010 EPA received an email from Leroy Cummins, on behalf of the BIA, that**



**these items had been corrected.]**

23. Respondent must complete appropriate actions to correct all significant deficiencies according to the corrective action plan approved by EPA as stated in paragraph 22 above. The approved plan and schedule required will be incorporated into the Order as enforceable requirements.

24. 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). **[EPA was onsite on August 29, 2011 and was able to acquire photo documentation of the corrective actions listed in paragraph 22 above. On September 15, 2011, the system provided EPA with an email describing how and when each item in paragraph 22 above was corrected which was approved by EPA.]**

25. Respondent shall monitor continuously individual filter turbidity and record results for each of the two filters at least once every 15 minutes, and keep these records for at least 3 years, as required by 40 C.F.R. § 141.560(c) and § 141.571(a). Copies of each month's individual filter turbidity records must be submitted to EPA within the first 10 days following the end of the month in which those records were collected, until notified otherwise by EPA.

26. Respondent shall report the filter number, the date, and the cause (if known) to EPA by the 10<sup>th</sup> of the following month whenever 2 consecutive individual filter turbidity (IFT) turbidity readings (at 15 minute intervals) exceed 1 NTU (40 C.F.R § 141.570(b)(2)).

**27. Respondent shall ensure the combined filter effluent turbidity at no time exceeds 1 NTU. 40 C.F.R. § 141.551(b).**

**28. Respondent shall report, by the 10<sup>th</sup> of the following month, the date and value of any combined filter effluent turbidity measurement which exceeds the maximum turbidity values. 40 C.F.R. § 141.570(a)(3).**

**29. Respondent is required to consult with EPA as soon as practical, but no later than 24 hours, after learning of a combined filter effluent turbidity exceedance of 1 NTU. 40 C.F.R. § 141.203(b)(3). If Respondent fails to consult with EPA within 24 hours, Respondent is required to issue a Tier 1 notice of violation within the next 24 hours (i.e., no later than 48 hours after the system learns of the violation), following the requirements under 40 C.F.R. § 141.202(b) and (c). 40 C.F.R. § 141.203(b)(3).**

30. Respondent shall continuously monitor the residual disinfectant concentration of the water entering the System's distribution system. If Respondent's continuous monitoring equipment fails, Respondent may substitute 3 grab samples per day, taken no more than four hours apart. The lowest value from either the continuous analyzer record or the three daily grab samples must be recorded that day, as



required by 40 C.F.R. § 141.74(c)(2). Within 10 days after the end of each month, Respondent shall report results to the EPA, as required by 40 C.F.R. § 141.75(b)(2).

**31. Respondent shall ensure that the residual disinfectant concentration in water entering the System's distribution system is not less than 0.2 mg/l for more than 4 hours, as required by 40 C.F.R. § 141.72(b)(2).**

32. Respondent shall provide EPA with a written compliance plan (Plan) on how the system will remain in compliance with these requirements. Among other things the Plan shall include:

- a. A schedule on how the chlorine monitoring equipment will be calibrated and maintained, and how the chlorine values will be recorded and the lowest daily value determined and reported to EPA.
- b. A schedule for how the individual filter turbidity (IFT) measurements (at 15 minute intervals) will be determined and recorded, how instrumentation will be maintained, and how values will be reported appropriately to EPA.
- c. A schedule of how and when the two circular IFT chart recorders were fixed, how they will be maintained, and how the daily IFT records will be legible and clearly labeled to show the chart span (maximum NTU) so that the turbidity values can be understood. The individual filter turbidity chart recorders must be maintained in operational order and the daily IFT records must clearly show correlation with each filter's status (e.g., operational or not, sending filtered water to waste, or sending water to the clearwell) by filter number, to document valid turbidity readings of water sent to the distribution system.

**[On May 16, 2012, EPA received a compliance plan in accordance with paragraph 32 above. On July 18, 2012, EPA approved the plan and incorporated the plan and schedule into the Order.]**

33. Respondent shall monitor the System's water each quarter for disinfection byproduct precursors, as required by 40 C.F.R. § 141.132(d). Within the first 10 days after the end of each quarter, Respondent shall report analytical results, including its calculation of the TOC removal percentage and all other information required by 40 C.F.R. § 141.134(d), to the EPA, as required by 40 C.F.R. § 141.132(d).

34. 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.

35. Respondent shall notify the public of the violations cited in paragraphs 7 through 20, 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.



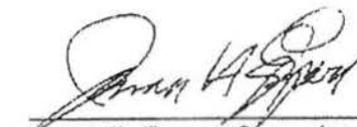
the notice to EPA. [Respondent has issued the required public notice for paragraphs 7 through 20 above.] Respondent shall issue public notice and provide certification of its issuance to EPA following all future violations of the drinking water regulations.

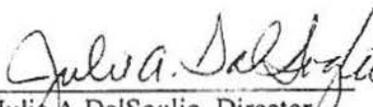
GENERAL PROVISIONS

36. 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.

37. 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: \_\_\_\_\_, 2013.

  
James H. Eppers, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

  
Julie A DalSoglio, Director  
EPA Region 8 Montana Office



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

Ref: 8MO

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Darryl LaCounte, Acting Regional Director  
Bureau of Indian Affairs, Rocky Mountain Region  
2021 4<sup>th</sup> Avenue N.  
Billings, MT 59101

Re: 5th Violation of Amended Administrative Order and Amended Administrative Order Addendum,  
Docket No. SDWA-08-2011-0064, BIA Crow Agency (TP01) Public Water System,  
PWS ID #083090011

Dear Mr. LaCounte:

On February 22, 2013, the U.S. Environmental Protection Agency (EPA) issued the Bureau of Indian Affairs (BIA) a 2<sup>nd</sup> Amendment to the Administrative Order (Order) and Amended Administrative Order Addendum (Addendum), Docket No. SDWA-08-2011-0064, requiring the BIA to comply with various regulations under the Safe Drinking Water Act (Act), 42 U.S.C. § 300f et seq, at the BIA owned and operated Crow Agency (TP01) Public Water System (System).

Our records indicate that the BIA is not in compliance with the Order. Specifically, the BIA is in violation of the following requirements (summarized from items 1, 2 and 8 of Appendix A of the Addendum):

1. Submit the Comma Separated Values (CSV) data in excel format weekly to the EPA. The report should include raw water intake, raw water pump status, effluent valve status on each individual filter, turbidity levels for each individual filter, backwash pump status, filter to waste status, combined filter effluent turbidity levels, and combined filter effluent chlorine levels weekly until notified otherwise by the EPA.

BIA failed to submit weekly CSV data to the EPA in a timely manner from January 1, 2014 to April 1, 2014.

2. BIA must monitor Individual Filter Effluent (IFE) turbidity and record results for each of the two filters at least once every 15 minutes, and keep these records for at least 3 years. Copies of each month's IFE records must be submitted to the EPA by the 10<sup>th</sup> of the following month using the Surface Water Treatment Rule (SWTR) report, until notified otherwise.

BIA failed to submit the monthly SWTR report in a timely manner for the months of July, September, and November 2013, and January 2014.

3. BIA must continuously monitor the residual disinfectant concentration of the water entering the System's distribution system. The lowest value each day must be recorded and reported to the EPA by the 10<sup>th</sup> of the following month using the SWTR report.

BIA failed to submit the monthly SWTR report in a timely manner for the months of July, September, and November 2013, and January 2014.

The EPA is discouraged by these continuing reporting violations, prompting a fifth violation letter of the administrative order issued in 2011, and subsequent amendments and addendums. While the BIA has made great strides to improve the safety of the Crow Agency water supply and otherwise comply with the order, the timeliness and consistency of the data reported to the EPA remains a problem. At this juncture, there is no additional assistance or incentive that the EPA can offer the BIA to improve its compliance with the monitoring requirements. In addition, the System failed to obtain a certified operator as planned by the end of March 2014. The next step to obtain compliance with the reporting requirements and outstanding significant deficiency and protect the health of those served by the system is to assess penalties or obtain a court injunction ordering compliance. The EPA will prepare to escalate enforcement over the next few months for recent reporting violations. The EPA may consider additional actions in the future, absent an immediate and sustained return to compliance with all requirements of the order.

If you have any questions or wish to have an informal conference with the EPA, you may contact Sienna Meredith at 1-866-457-2690, extension 5026 or (406) 457-5026. If you are represented by an attorney who has questions, please ask your attorney to contact Amy Swanson, Enforcement Attorney, at 1-800-227-8917, extension 6906, (303) 312-6906 or [swanson.amy@epa.gov](mailto:swanson.amy@epa.gov). We urge your prompt attention to this matter.

Sincerely,



Julie A. DalSoglio, Director  
EPA Region 8 Montana Office

cc: Darrin Old Coyote, Chairman  
Leroy Cummins, Lead Operator, BIA Crow Agency  
Vianna Stewart, Superintendent, BIA  
Christian Bends, Administrative Manager, BIA  
Alvin Not Afraid, Cabinet Head, Apsalooke Water and Wastewater Board