



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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2018 JUL 31 PM 12:02

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EPA REGION VIII  
HEARING CLERK

JUL 31 2018

Ref: 8ENF-W-SDW

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

The Honorable Corrina Bow, Chairwoman  
Kanosh Band of the Paiute Indian Tribe of Utah  
476 South 700 West  
Cedar City, Utah 84720

Re: Administrative Order regarding the Kanosh Public Water System, PWS ID 4990006,  
Docket No. **SDWA-08-2018-0030**

Dear Chairwoman Bow:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that the Kanosh Band of the Paiute Indian Tribe of Utah (Band), as owner and/or operator of the Kanosh Public Water System (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any information the Band believes the EPA may not have (for example, monitoring that may have been done but not submitted). If the EPA does not hear from the Band, the EPA will assume the information in the Order is correct.

If the Band 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 and/or a federal court injunction ordering compliance.

If you have any questions regarding this Order, please contact me at (303) 312-6925. If you or your staff would like to submit information or request an informal conference with the EPA, please contact Olive Hofstader at [hofstader.olive@epa.gov](mailto:hofstader.olive@epa.gov) or by phone at (800) 227-8917, extension 6467 or (303) 312-6467. Any questions from your attorney should be directed to Abigail Dean, Enforcement Attorney, who may be reached at [dean.abigail@epa.gov](mailto:dean.abigail@epa.gov), by phone at (800) 227-8917, extension 6106, or (303) 312-6106, or at the above address (with the mailcode 8ENF-L).

I look forward to continued cooperation as we work together to ensure safe drinking water for the System's customers.

Sincerely,



Suzanne J. Bolan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure

cc: Ms. Tamra Borchardt-Slayton, Chairwoman and Environmental Director  
Paiute Indian Tribe of Utah

electronic cc:

Mr. Sheldon Pikyavit, Operator, Kanosh Public Water System  
Mr. Matthew Chadwick, Indian Health Service  
Ms. Kelli Mohler, Indian Health Service  
Mr. Lyle Setwyn, Indian Health Service  
Mr. Dan Wallis, Indian Health Service  
Mr. Dale Roy, EPA Tribal Program Manager  
Ms. Melissa Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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EPA REGION VIII  
HEARING ROOM FRK

IN THE MATTER OF: )  
)  
Kanosh Band of the )  
Paiute Indian Tribe of Utah )  
(Kanosh Water System) )  
)  
Respondent. )

Docket No. ~~SDWA-08-2018-0030~~

ADMINISTRATIVE ORDER

1. This Administrative Order (Order) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. The Kanosh Band of the Paiute Indian Tribe of Utah (Respondent) is a federally recognized tribe that owns and/or operates the Kanosh Public Water System (System), which provides piped water to the public for human consumption in Utah.
3. The System is supplied by a groundwater source accessed via two springs. The water is treated with hypochlorite for disinfection.
4. The System has approximately 15 service connections used by year-round residents and/or regularly serves an average of approximately 36 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 section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. Prior to issuing this Order, the EPA has provided Respondent with extensive technical and compliance assistance to return the System to compliance with the Act and the Drinking Water Regulations.

**VIOLATIONS**

7. Respondent is required to monitor the System’s water monthly for total coliform bacteria. 40 C.F.R. §§ 141.21(a) and 141.855(b). Respondent is required to report total coliform analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results. 40 C.F.R. § 141.31(a). Respondent failed to monitor the System’s water for total coliform bacteria during January, February, and March 2018; and March and December 2017 and, therefore, violated this requirement.
8. Respondent is required to complete corrective action of a significant deficiency in accordance with an EPA approved corrective action schedule or within 120 days of receiving written notification from the EPA of a significant deficiency. 40 C.F.R. § 141.404(a). Respondent is required to notify

the EPA within 30 days of completion of a significant deficiency corrective action. 40 C.F.R. § 141.405(a)(2). Respondent received a letter from the EPA on March 21, 2015, that identified the following significant deficiencies: (1) ensure the Rogers Spring overflow pipe has #24-mesh noncorrodible screen, a freefall of at least 12 inches above ground, and the area is kept free of debris, and (2) obtain and retain a properly certified operator. Respondent failed to correct these significant deficiencies by July 22, 2015, or submit a corrective action schedule to the EPA and, therefore, violated this requirement.

9. Respondent is required to monitor the System's water for synthetic organic contaminants (SOCs) at least once in every three-year compliance period. 40 C.F.R. § 141.24(h). Respondent failed to monitor the System's water for the following required SOC's during the 2014-2016 monitoring period and, therefore, violated this requirement: di2EHA, heptachlor, chlordane, toxaphene, simazine, endrin, methoxychlor, heptachlor, epoxide, HCCP, lasso, atrazine, HCB, BAP, di2EHP, and BHC-gamma (lindane).

10. Respondent is required to deliver a consumer notice of individual lead and copper tap monitoring results to the persons served at each sampled site within 30 days of receiving monitoring results. 40 C.F.R. § 141.85(d). Within 90 days following the end of each monitoring period, Respondent is required to submit to the EPA a sample copy of the consumer notice along with a certification that the notice has been distributed. 40 C.F.R. § 141.90(f)(3). Respondent failed to submit a sample copy of the consumer notice to the EPA following lead and copper sampling completed during the 2015-2017 monitoring period and, therefore, violated this requirement.

11. Respondent is required to prepare and deliver an annual Consumer Confidence Report (CCR) to the System's customers and the EPA by July 1<sup>st</sup> of each year and to certify to the EPA that it has done so by October 1. 40 C.F.R. §§ 141.151-141.155. Among other things, the CCR must include information on drinking water violations that occurred during the year covered by the report. 40 C.F.R. § 141.153. Respondent (1) failed to submit a copy of the 2014 CCR to the EPA by July 1, 2015 (received by the EPA on February 23, 2016) and (2) failed to include the required information on the violation listed in paragraph 9, above, in the 2016 CCR and, therefore, violated these requirements.

12. Respondent is required to notify the public of certain violations of the Drinking Water Regulations and, within 10 days after completing public notice, provide a copy of the public notice to the EPA. 40 C.F.R. §§ 141.201-141.211. Respondent provided public notice of the significant deficiency violations cited in paragraph 8, above, in the System's 2015 and 2016 CCR, but did not provide public notice within 30 days after EPA notified the System of the violations by letter dated May 27, 2015, or quarterly thereafter and, therefore, violated these requirements.

13. Respondent is required to report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation. 40 C.F.R. §§ 141.21(g)(2) and 141.861(a)(4). Respondent failed to report the violations listed in paragraph 7, above, to the EPA and, therefore, violated this requirement.

14. Respondent is required to report any failure to comply with any Drinking Water Regulation to the 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 8 through 11, above, to the EPA 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 (unless a different deadline is specified below):

15. Respondent shall monitor the System's water monthly for total coliform bacteria. 40 C.F.R. § 141.855(b). If a sample is positive for total coliform, Respondent shall collect a set of three repeat samples for each total coliform-positive sample within 24 hours of being notified of the positive result. 40 C.F.R. § 141.858. Respondent shall report total coliform analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.861(a)(4).

16. Within 90 days of receipt of this Order, Respondent shall complete the following corrective actions in response to identified significant deficiencies: (1) ensure the Rogers Spring overflow pipe has #24-mesh noncorrodible screen, a freefall of at least 12 inches above ground, and the area is kept free of debris, and (2) obtain and retain a properly certified operator. Within 30 days after the completion of each corrective action, Respondent shall provide sufficient evidence to the EPA, including photographs of the completed corrective actions and operator certification documents. Thereafter, Respondent shall complete corrective action of significant deficiencies and notify the EPA of their completion as required by 40 C.F.R. §§ 141.403 and 141.405(a)(2).

17. Within 30 days of receipt of this Order, and thereafter as directed by the EPA, Respondent shall monitor the System's water for all SOCs as required by 40 C.F.R. § 141.24(h).

18. Within 30 days of receipt of this Order, Respondent shall submit a sample copy of the lead and copper consumer notice sent regarding the sampling conducted in 2017. Thereafter, Respondent shall submit a copy of the lead and copper consumer notice after each lead and copper sampling event as required by 40 C.F.R. § 141.90(f)(3).

19. Respondent shall prepare an annual CCR for the System by July 1<sup>st</sup> of each year, including all required information, and distribute the CCR to the System's customers and the EPA. No later than three months thereafter, Respondent shall certify to the EPA that the CCR has been distributed to the System's customers and that its information is correct, as required by 40 C.F.R. §§ 141.151-141.155.

20. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7 and 9, above. Public notice templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#pn>. Thereafter, following any future violation of the Drinking Water Regulations,



Respondent shall comply with any 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 the EPA.

21. Respondent shall report any violation of the Drinking Water Regulations to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b), unless a different time period for reporting is specified in this Order or the Drinking Water Regulations.

22. If Respondent contracts with or hires any other person or entity to operate the System, Respondent shall, no later than the date of such contract, provide a copy of this Order to the contractor. No later than 10 days thereafter, Respondent shall notify the EPA in writing of the contract, with such notification to include the name and contact information of the person who has contracted to operate the System. Respondent shall remain obligated to comply with this Order even if Respondent contracts the System to another person or entity or hires another person or entity to operate the System.

23. Respondent shall send all reporting and notifications required by this Order to the EPA by email to: R8DWU@epa.gov AND hofstader.olive@epa.gov.

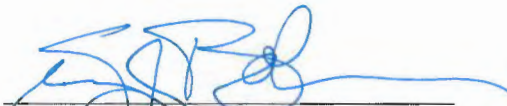
### **GENERAL PROVISIONS**

24. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

25. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$55,907 (as adjusted for inflation) per day of violation and/or a court injunction ordering compliance. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 83 Fed. Reg. at 1193 (January 10, 2018).

26. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: 7/31, 2018.

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