



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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2019 JUN -5 PM 4:31

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EPA REGION VIII  
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JUN 05 2019

Ref: 8ENF-W-SD

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
and via email

The Honorable Alvin Not Afraid, Jr., Chairman  
Crow Tribe of Montana  
P.O. Box 129  
Crow Agency, Montana 59022

Mr. Cedric Black Eagle, Director  
Apsáalooke Water and Waste Water Authority  
P.O. Box 520  
Crow Agency, Montana 59022

Re: Emergency Administrative Order under Section 1431 of the Safe Drinking Water Act,  
Wyola Water System, PWS ID #083090014, Docket No. **SDWA-08-2019-0024**

Dear Chairman Not Afraid, Jr. and Mr. Black Eagle:

Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency to the Apsáalooke Water and Waste Water Authority (AWWWA) and the Crow Tribe of Montana (Tribe), under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i.

The EPA has determined that conditions exist at the Wyola Public Water System (System) that may present an imminent and substantial endangerment to the persons served by the System. The EPA has made this determination based on notification from AWWWA on June 4, 2019, that the System has an *E. coli* maximum contaminant level exceedance.

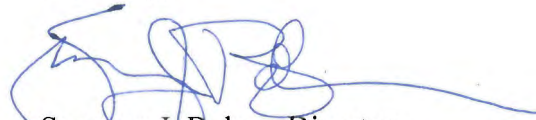
Pursuant to the authority set forth in section 1431 of the Act, 42 U.S.C. § 300i, the EPA is authorized to take actions necessary to protect human health. The Order and its requirements are necessary to ensure adequate protection of public health.

The enclosed Order sets forth the actions that must be taken to ensure that the people served by the System are provided with safe drinking water. The Order requires the AWWWA and the Tribe to, among other things, take the following actions: issue a boil water advisory and provide an alternate source of water until notified by the EPA to discontinue; submit a plan and schedule for any corrective actions identified to prevent bacteriological contamination of the System; disinfect and flush the System; and take additional total coliform bacteria samples.

The penalties for failing to comply are set forth in the Order. If you have any questions or wish to discuss the Order, please contact Jill Minter at (800) 227-8917 extension 6084 or (303) 312-6084, or by email at [minter.jill@epa.gov](mailto:minter.jill@epa.gov). Any questions from counsel should be directed to Matthew Castelli, Assistant Regional Counsel, (800) 227-8917, extension 6491, or at (303) 312-6491, or by email at [castelli.matthew@epa.gov](mailto:castelli.matthew@epa.gov).

Thank you for your attention to this matter.

Sincerely,



Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division

Enclosures

cc: Mr. Gerald Pease, Cabinet Head, Crow Agency  
Mr. Dion Killsback, Tribal Counsel, Crow Agency  
Ms. Connie Howe, Environmental Director, Crow Tribe  
Ms. Vianna Stewart, CFO, Crow Tribe  
Mr. Tanner Black Eagle, Operator, Apsalooke Utility Authority  
Mr. James Courtney, Utility Consultant, IHS  
Mr. Jason Schneider, Utility Consultant, IHS  
Mr. Jim White, Director, SFC, IHS  
Ms. Susan Messerly, Acting Director Montana Office, BIA  
Mr. Mike Black, Director, Great Plains Regional Director, BOR  
Ms. Melissa Haniewicz, Regional Hearing Clerk, U.S. EPA Region 8

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

2019 JUN -5 PM 4: 16

IN THE MATTER OF )  
)  
The Crow Tribe, Owner, and )  
Apsáalooke Water and Wastewater )  
Authority, Operator, )  
Wyola Public Water System )  
PWS ID # 083090014 )  
)  
Respondents. )

Docket No. SDWA-08-2019-0024

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**EMERGENCY  
ADMINISTRATIVE ORDER**

**AUTHORITY**

1. This Emergency Administrative Order (Order) is issued by the U.S. Environmental Protection Agency (EPA) pursuant to the authority of section 1431(a) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i(a). The undersigned officials have been properly delegated this authority.
2. The EPA may issue an order under section 1431(a) of the Act, 42 U.S.C. § 300i(a), when a contaminant that is present in or is likely to enter a public water system may present an imminent and substantial endangerment to the health of persons, and appropriate state and local authorities have not acted to protect the health of such persons.

**FINDINGS**

3. The Crow Tribe of Montana (Tribe) is a federally recognized Indian tribe and therefore is a “municipality” and a “person” within the meaning of 42 U.S.C. § 300f(10) and § 300f(12), respectively, for purposes of federal enforcement under the Act.
4. The Apsáalooke Water and Wastewater Authority is a tribal agency organized under the laws of the Tribe and therefore is a “person” as that term is defined in the Act. 42 U.S.C. § 300f(12).
5. The Tribe and the Apsáalooke Water and Wastewater Authority (Respondents) own and/or operate the Wyola Public Water System (System) located within the exterior boundaries of the Crow Tribe, Montana. The System provides water to the public for human consumption through pipes or other constructed conveyances.
6. The System is supplied by a groundwater source accessed via two wells, Well 1 and Well 2, with treatment provided. The System is operated year-round.
7. The System has 58 service connections and regularly serves 261 individuals daily for at least 60 days out of the year.

8. The System is a “public water system” as defined in 40 C.F.R. § 141.2 and section 1401(4) of the Act, 42 U.S.C. § 300f(4), and, therefore, is subject to the requirements of the Act and the National Primary Drinking Water Regulation (NPDWR) at 40 C.F.R. part 141.

9. Prior to issuing this Order, the EPA consulted with Respondents to confirm the facts stated in this Order and with tribal and local authorities to ascertain they have not acted to protect the health of persons in this instance.

10. The EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to the health of persons, based on the facts indicated in paragraph 12, below. The EPA has determined that this Order is necessary to protect public health.

11. *E. coli* are bacteria whose presence indicates that the water may have been contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

12. On June 1, 2019, the EPA was notified that a routine bacteriological sample collected on May 30, 2019, from the Pryor Public Water System, was analyzed as positive for total coliform and *E. coli*. On June 3, 2019, the EPA was notified and confirmed that the sample which was positive for total coliform and *E. coli* was actually collected from the Wyola Public Water System. On June 3, 2019, the operator and an Indian Health Service engineer traveled to Wyola to collect the repeat and triggered source samples. They discovered that the chlorination and UV treatment systems were not operating correctly in the automatic setting and they shut off Well 1. One of three repeat bacteriological samples (see 40 C.F.R. § 141.858), and the triggered source sample from Well 1 (see 40 C.F.R. § 141.402), collected on June 3, 2019, tested positive for total coliform and *E. coli*. On June 4, 2019, five additional source samples were collected from Well 1.

13. In addition, a violation of the maximum contaminant level (MCL) for *E. coli* occurs if a system has any combination of a total coliform positive and *E. coli* positive routine and repeat samples. These circumstances have occurred at the System, as set forth in paragraph 12, above, and, therefore, Respondents have violated the *E. coli* MCL. 40 C.F.R. § 141.860.

14. On June 4, 2019, the EPA provided Respondents with a public notice template for a boil water advisory, and Respondents notified persons served by the System of the contamination by distributing the public notice on June 4, 2019.

**ORDER**

**INTENT TO COMPLY**

15. Within 24 hours of receipt of this Order, Respondents shall notify the EPA in writing of their intent to comply with this Order. Notification by e-mail to the EPA point of contact identified below is acceptable.

**BOIL ORDER AND PUBLIC NOTICE**

16. Within 24 hours of receipt of this Order, Respondents shall submit a copy of the boil order advisory referenced in paragraph 14, above, to the EPA. Respondents shall continue providing the public notice until the EPA provides written notice that public notice may be discontinued.

17. Respondents must carry out the public notice and other notice requirements as required by 40 C.F.R. part 141, subpart Q.

**ALTERNATE WATER SUPPLY**

18. Using the public notice referenced in paragraph 14, above, Respondents shall, no later than 24 hours after receipt of this Order, notify the public that an alternative potable water supply is available at no cost to all users of the System as needed for drinking, cooking, maintaining oral hygiene, and dish washing. Respondents shall provide at least two liters of potable water daily per person at a central location that is accessible to all persons served by the System. The alternate water supply shall be made available until the Respondents receive written notification from the EPA that it is no longer necessary to provide an alternative water supply.

19. No later than five days after the effective date of this Order (see paragraph 37, below), Respondents shall provide the EPA with a copy of their notification concerning an alternate water supply is available.

**CORRECTIVE MEASURES**

20. Within 15 days after the effective date of this Order, Respondents shall provide the EPA with a plan and schedule that outlines corrective actions taken and/or to be taken to prevent future *E. coli* contamination at the System. The plan shall identify the cause of the contamination referenced in paragraph 12, if possible, and include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project. The proposed schedule shall include specific milestone dates and a final completion date (to be within three months from the date of the EPA's approval of a schedule). The schedule must be approved by the EPA before construction or modifications may commence.

21. The schedule required by paragraph 20, above, will be incorporated into this Order as an enforceable requirement upon written approval by the EPA. If implementation of the plan fails to correct and/or prevent *E. coli* contamination, the EPA may order further steps.
22. Respondents shall notify the EPA in writing within 24 hours after completing corrective action.

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

23. Within 24 hours after providing the notification referenced in paragraph 14, above, Respondents shall disinfect and flush the System.
24. Following disinfecting and flushing of the System, beginning on the first date when chlorine residual returns to normal operating levels, Respondents shall collect consecutive daily (one sample per day) special purpose (defined in 40 C.F.R. § 141.853(b)) samples from the System's distribution system until notified by the EPA that consecutive daily sampling may be discontinued. Respondents shall ensure that each sample is analyzed for total coliform and *E. coli* and shall email each result to the EPA upon receipt of the analysis from the laboratory. These daily samples should be labeled as "special" samples and will not count towards monthly compliance.
25. After Respondents receive written notification from the EPA that they may discontinue daily coliform sampling, Respondents shall collect weekly bacteriological samples (one sample per week) to determine compliance with the *E. coli* MCL as stated in 40 C.F.R. § 141.860.
26. After Respondents receive written notification from the EPA that they may discontinue weekly total coliform sampling, Respondents shall resume monthly total coliform sampling as required by 40 C.F.R. § 141.855.
27. Respondents shall remain obligated to comply with the requirements in 40 C.F.R. §§ 141.402 (to collect additional source water samples) and 141.858 (to collect three repeat samples within 24 hours of being notified of a total coliform-positive sample result). If a future repeat sample is positive for total coliform, Respondents shall, within 24 hours of being notified of the positive sample result, consult with the EPA for appropriate responsive actions.
28. Respondents shall collect all total coliform samples at sites that are representative of water throughout the System according to the Sample Siting Plan submitted to the EPA by Respondents. Additionally, Respondents shall report all sampling results to the EPA by email immediately upon (i.e., as soon as practicable, and in no event more than 24 hours after) receiving the results.

29. The EPA may require Respondents to increase total coliform sampling at any time while this Order is in effect.

### REPORTING

30. Respondents must give daily updates to the EPA on the progress of scheduling a Level 2 Assessment (see 40 C.F.R. §§ 141.2 and 141.851-141.861) by an EPA-approved third party, disinfecting and flushing the System, and monitoring for total coliform and chlorine residual. Updates must be submitted to the EPA daily until the EPA provides written notification to the Respondents that reports may be submitted less frequently or discontinued. These reports may be submitted via e-mail.

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

Jill Minter  
via e-mail: [minter.jill@epa.gov](mailto:minter.jill@epa.gov)  
Telephone (800) 227-8917, ext. 6084, or (303) 312-6084

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

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

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

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

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

37. Issued and effective this 5<sup>th</sup> day of June, 2019.

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