



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

APR 15 2009

Ref: 8MO

Shawna Rothwell, President  
East Bay Landowner's Association  
1117 7<sup>th</sup> Street South  
Great Falls, MT 59405

Re: Docket No. SDWA-08-2009-0044  
Emergency Administrative Order  
East Bay Subdivision Water System  
PWS ID # 083090303

Dear Ms. Rothwell:

Enclosed is an Emergency Administrative Order (Order or EAO) issued under section 1431 of the Safe Drinking Water Act (SDWA), 40 U.S.C. § 300i. In its current state, the water supplied by the East Bay Subdivision Water System (System), may present an imminent and substantial endangerment to the health of persons. The Order is based on a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure may carry with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system. The purpose of the Order is to ensure that, as water service is restored, public health is protected.

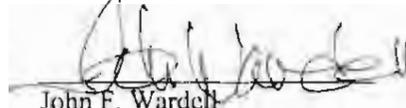
The enclosed Order sets forth the actions that you must take to ensure that the people served by the water supply are provided with safe drinking water. The Order requires that the East Bay Landowner's Association conduct the following activities: (1) within 24 hours, provide written intent to EPA to comply with the EAO; (2) provide EPA with a report on what caused the loss of pressure; (3) conduct increased monitoring for total coliform bacteria; (4) flush and disinfect the system; and (5) continue to provide a modified public notice using the language contained here, that the water is unsafe to drink until notified otherwise by EPA.

EPA is committed to working with you to ensure the safety of East Bay Subdivision's public water supply. I appreciate the quick actions your Operator took and continues to take to correct this situation. I have arranged to have an EPA contractor visit the system when your water tank is ready to be restored to use, to provide technical assistance. If the Association has questions specific to the elements of the Order, the most knowledgeable people regarding these



issues are Barbara Burkland in the Montana Office, who can be reached at (406) 457-5009, or Marc Weiner, Enforcement Attorney, who can be reached at (303) 312-6913.

Sincerely,



John F. Wardell  
Director

cc: Shirley Harrison, Operator  
Montana Health Water, LLC  
shirley@montanahealthywater.com

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2009 APR 15 2:17 PM

IN THE MATTER OF )  
 )  
East Bay Subdivision Landowner's Association )  
East Bay Subdivision Public Water Supply )  
PWS ID# 083090303 )  
 )  
Respondent )  
 )  
 )  
Proceedings under section 1431 )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )  
 )

EMERGENCY  
ADMINISTRATIVE  
ORDER

Docket No. **SDWA-08-2009-0044**

STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i(a), as properly delegated to the Supervisors of the EPA Montana Office and Legal Enforcement Program of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

JURISDICTION

1. EPA has jurisdiction to issue emergency orders pursuant to section 1431 of the Act, 42 U.S.C. § 300i(a). EPA may issue such orders when certain conditions exist which may present an imminent and substantial endangerment to human health, and other state or local authorities have not acted to protect human health.  
42 U.S.C. § 300i(a).
2. EPA has primary enforcement responsibility for the Public Water Supply

Supervision (PWSS) program under the Safe Drinking Water Act (SDWA) on the Flathead Indian Reservation. No other authority has applied for and been approved to administer this program on the Flathead Indian Reservation.

#### FINDINGS

3. The East Bay Subdivision Landowner's Association (Respondent) is an association and is therefore a "person" within the meaning of 40 C.F.R. § 141.2 for purposes of federal enforcement.
4. Respondent operates the East Bay Subdivision Public Water Supply System (System), a privately-owned water system located on the Flathead Indian Reservation, near Polson, Montana, that provides water for human consumption. The System serves approximately 22 residents year-round and as many as 100 people in the summer, through approximately 16 residential service connections.
5. The System is a "public water system" and a "transient non-community water system" within the meaning of the Act and the regulations. 40 C.F.R. § 141.2.
6. Respondent operates the System and is therefore a "supplier of water" within the meaning of the Act and the regulations. 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore required to comply with the Act and regulations. 42 U.S.C. § 300g and 40 C.F.R. part 141.
7. The System is supplied solely by groundwater from one (1) well.
8. EPA has determined that conditions exist at Respondent's public water system that may present an imminent and substantial endangerment to the health of

persons. The current emergency conditions were initiated by an April 8, 2009 event when the System's contractor accidentally cut the electrical line to the pump house while working on the storage tank. Pressure was lost in the System for six hours. The System's Operator immediately notified EPA. While the tank is undergoing repairs, system pressure is being maintained by two pressure tanks with a total capacity of 60 gallons. The system has had long standing problems with low pressure in parts of the system, particularly during high demand times.

9. Due to the chain of events described above, current emergency conditions exist as a result of a loss of pressure in the distribution system that occurred early in the day on April 8, 2009. Loss of pressure may cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Back siphonage is also a condition resulting from low or no pressure. Such system failures carry a high potential that fecal contamination or other disease causing organisms could enter the distribution system. Pressure was restored late in the day on April 8, 2009.
10. Staff from the EPA Montana office inspected the System on August 22, 2008 and determined that some homes on the System have water and sewer lines located in the same trench, posing a high potential for cross connection contamination.
11. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Act in Indian country.

12. Prior to issuing this Order, EPA consulted with local (Tribal) authorities to confirm the information on which this Order is based and to ascertain the actions which such authorities are taking.
13. EPA has direct implementation authority and is responsible for enforcement of the PWSS program under the Safe Drinking Water Act on the Flathead Reservation.

EMERGENCY ADMINISTRATIVE ORDER

14. Within 24 hours of receipt of this Order, Respondent shall notify EPA in writing of its intention to comply with the terms of this Order. The written response shall include a general plan for compliance with each of the elements of this Order.
15. Respondent shall investigate and report in writing to EPA no later than April 30, 2009 the known or suspected cause of this pressure loss event and the measures that will be taken to prevent a reoccurrence of these problems.
16. Prior to restoring use of all components of the distribution system, the Respondent shall disinfect and flush the system.
17. System pressure was restored on April 8, 2009 and special total coliform samples were collected on April 9, 10, 13 and 14. Respondent shall continue daily total coliform monitoring until receiving written notice from EPA to discontinue daily sampling. Respondent shall report daily total coliform sampling results to EPA by FAX immediately upon receiving the laboratory results.
18. If a chemical disinfectant is being added to the system, Respondent shall monitor the disinfectant residual daily at the same time and same location as the total

coliform sampling (as required above) and report those results by FAX to EPA with the total coliform results.

19. After Respondent receives written notification from EPA to discontinue daily total coliform sampling, Respondent shall conduct weekly bacteriological sampling. Respondent shall report weekly total coliform sampling results to EPA by FAX immediately upon receiving the laboratory results.
20. Respondent shall continue weekly bacteriological monitoring until Respondent receives notification from EPA to discontinue weekly bacteriological sampling. Respondent shall then conduct monthly total coliform sampling and shall report the monthly total coliform sampling results to EPA by FAX immediately upon receiving the laboratory results. Respondent shall designate one of the monthly total coliform samples as the quarterly compliance sample to determine compliance with the maximum contaminant level (MCL) for total coliform.  
40 C.F.R. § 141.63.
21. Respondent shall continue monthly bacteriological monitoring until Respondent receives notification from EPA to discontinue monthly bacteriological sampling. Respondent shall thereafter resume quarterly total coliform sampling as required by 40 C.F.R. § 141.21 to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

22. If daily or weekly coliform samples are positive for total coliform bacteria, EPA may require the installation of temporary continuous disinfection until the System's regular disinfection system is restored to service.
23. Respondent shall collect all total coliform samples at sites which are representative of water throughout the distribution system or according to the written sample site plan Respondent previously submitted to EPA pursuant to 40 C.F.R. § 141.21(a).
24. If any one of the designated compliance sample results are total coliform-positive, Respondent shall conduct repeat sampling as required by 40 C.F.R. § 141.21(b) by collecting a minimum of four repeat samples within 24 hours of being notified of the total coliform-positive sample. Furthermore, Respondent shall comply with the requirements of 40 C.F.R. § 141.21(b)(5) by collecting a total of 5 routine total coliform samples the month following a total coliform-positive compliance sample result.
25. Upon the effective date of this Order, Respondent shall comply with the total coliform MCL as set forth in 40 C.F.R. § 141.63.
26. Within 24 hours of receipt of this Order, Respondent shall provide public notice in the affected area and shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future National Primary Drinking Water Regulations (NPDWRs) violation. This public notice shall be hand delivered to each home and business served by the water system. Respondent

shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d). The public notice shall include the following information:

- a. All requirements as specified in 40 C.F.R. § 141.205 including:
  - (1) A description of the violation, including the emergency situation and potential contaminants of concern, and (as applicable) the contaminant level;
  - (2) When the violation or situation occurred;
  - (3) Any potential adverse health effects from the violation or situation;
  - (4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
  - (5) Whether alternative water supplies should be used and locations where such supplies are provided for public use;
  - (6) What actions consumers should take, including when they should seek medical help, if known (see section b. below);
  - (7) What the system is doing to correct the violation or situation;
  - (8) When the water system expects to return to compliance or resolve the situation;
  - (9) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(10) A statement to encourage the notice recipients to distribute the public notice to other persons served.

b. Mandatory health effects language as specified in 40 C.F.R.

§141.205(d)(1), Appendix B to subpart Q of part 141. This language is as follows:

The East Bay Subdivision Water System experienced a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipes to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure carries with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

UNTIL FURTHER NOTIFICATION, ALL WATER USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, ETC., SHALL BE BOILED UNTIL FURTHER NOTIFICATION FOR AT LEAST ONE (1) MINUTE, AT A ROILING BOIL BEFORE USE. ALL STORED WATER, DRINKS OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE DISCARDED.

Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

27. Respondent shall continue the public notice as set forth in paragraph 26 above until EPA Region 8 provides written notification to discontinue public notice.

28. All reports and notifications herein required shall be submitted to:

Barbara Burkland  
U.S. Environmental Protection Agency  
10 West 15<sup>th</sup> St., Suite 3200  
Helena, MT 59626  
FAX: (406) 457-5055  
Phone: (406)457-5026

#### GENERAL PROVISIONS

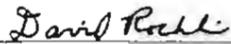
29. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
30. Violation of any term of this Order instituted under section 1431(a) of the Act, 42 U.S.C. § 300i(a), may subject the Respondent to a civil penalty not to exceed \$16,500 for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).
31. Violation of any requirement of the SDWA or its implementing regulations instituted under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$37,500 per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

32. The effective date of this Order shall be the date of issuance.

Issued this 15 day of April, 2009.



John F. Wardell, Director  
EPA Region 8 Montana Office



David Rochlin, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

32. The effective date of this Order shall be the date of issuance.

Issued this 15 day of April, 2009.

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John F. Wardell, Director  
EPA Region 8 Montana Office

David Rochlin  
David Rochlin, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice