



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140

OCT 9 2018

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-201

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Mike LaPlante
Regional Facilities Manager
Bureau of Indian Affairs
911 Northeast 11th Avenue
Portland, Oregon 97232

Re: Emergency Administrative Order to Address Imminent Substantial Endangerment to Persons Served by the Bureau of Indian Affairs North Idaho Water System, PWS ID #101612108

Dear Mr. LaPlante:

Enclosed please find an Administrative Order (Order) issued to the Bureau of Indian Affairs (BIA) by the U.S. Environmental Protection Agency, Region 10 (EPA). Pursuant to its authority under Section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i, EPA is requiring BIA to take actions that will ensure the protection of human health.

EPA has determined that conditions exist at the BIA North Idaho Water System (System) on the Nez Perce Reservation that may present an imminent and substantial endangerment to the persons served by the System. The EPA made this determination, in part, based on the deteriorated condition of the System, and the notification from BIA on August 2, 2018, that a pipe ruptured at the System and pressure was lost for an unspecified time. Additionally, the potential for additional pipe leaks leading to loss of pressure events, or even catastrophic rupture causing bacteriological contamination in the water supplied to customers is unacceptable, particularly considering that BIA does not, and has not, staffed this System in years.

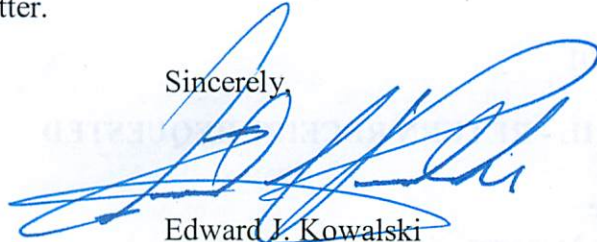
EPA is providing BIA with an opportunity to confer with the Director of the Office of Compliance and Enforcement of EPA Region 10 regarding this Order. If BIA would like to confer, BIA must notify EPA in accordance with the terms of the Order. If no conference is requested, the Order will become effective four business days after issuance of this Order. BIA's request for a conference shall be submitted via email to both contacts listed below. If a conference occurs, the Order will become effective no later than three business days after a conference is held, unless a different date is set by EPA.

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. Failure to comply with the requirements set forth in the Order may result in penalties and/or additional enforcement.

If you have any questions or wish to discuss this Order, please contact Jenna Manheimer at (206) 553-1189 or Manheimer.Jennifer@epa.gov. If you have legal questions, please contact Clarke Thurmon at (206) 553-2585 or Thurmon.Clarke@epa.gov.

Thank you for your attention to this matter.

Sincerely,



Edward J. Kowalski
Director

Enclosure

1. Emergency Administrative Order

cc: The Honorable Shannon Wheeler
Nez Perce Tribe

Laddie Folster
Indian Health Service

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

In the Matter of:)	
)	
Bureau of Indian Affairs,)	
)	
<u>Respondent</u>)	Docket No. SDWA-10-2019-0016
)	
Bureau of Indian Affairs North Idaho)	
Public Water System)	
(ID# 101612108))	EMERGENCY ADMINISTRATIVE
)	ORDER
Facility)	
_____)	

I. AUTHORITY

1.1. This Emergency Administrative Order (“Order”) is issued pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 1431(a) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300i(a). The Administrator has delegated this authority to the Regional Administrator, Region 10, who in turn delegated this authority to the Director of the Office of Compliance and Enforcement.

1.2. The EPA has primary enforcement responsibility for the SDWA public water supply protection program on the Nez Perce Reservation. No other governmental authority has applied for or been approved to administer the SDWA public water supply protection program on the Nez Perce Reservation.

1.3. The EPA may issue an order pursuant to Section 1431(a) of SDWA, 42 U.S.C. § 300i(a) when a contaminant is present in a public water system (“PWS”) or is likely to enter a PWS and may present an imminent and substantial endangerment to the health of persons,

and appropriate local authorities have not taken action.

1.4 Each department, agency, and instrumentality of the federal government that owns or operates a PWS is subject to and must comply with all Federal, State, and local requirements pursuant to Section 1447(a) of the SDWA, 42 U.S.C. § 300j-6(a).

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

2.1. Respondent is the owner and operator of the BIA North Idaho Public Water System (System) located on the Nez Perce Reservation that provides water for human consumption.

2.2. Respondent is a "Federal agency" within the meaning of 42 U.S.C. §300f(11) and Section 1401(11) of the SDWA, and is a "person" within the meaning of Section 1401(12) of SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, for purposes of enforcement under the SDWA.

2.3. The System serves approximately 240 persons including 46 residential and nine non-residential connections serving office buildings, a day care, and an elementary school.

2.4. The System is a public water system within the meaning of Section 1401(4) of SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2.

2.5. The System regularly serves at least 25 year-round residents and is therefore a "community water system" within the meaning of Section 1401(15) of SDWA, 42 U.S.C. § 300f(15), and 40 C.F.R. § 141.2.

2.6. Respondent is the owner and operator of the System and therefore is a "supplier of water" within the meaning of Section 1401(5) of SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is subject to the requirements of Part B of the SDWA, 42 U.S.C.

§ 300g, and its implementing regulations, 40 C.F.R. Part 141.

2.7. The System is solely supplied by a groundwater source.

2.8. State and local authorities have not acted to protect public health and address the imminent and substantial endangerment.

2.9. On June 25, 2013, the EPA notified Respondent of multiple significant deficiencies identified during a sanitary survey conducted by Indian Health Service (“IHS”) on May 22, 2013. These significant deficiencies included a severely corroded pipe inside the System’s pumphouse that appeared to be near failure.

2.10. On October 24, 2016, the EPA again notified Respondent of multiple significant deficiencies, including a severely corroded pipe inside the pumphouse, found during a sanitary survey conducted by IHS on June 14, 2016.

2.11. On April 3, 2018, EPA issued a SDWA § 1414 Unilateral Administrative Order (“UAO”) to Respondent that required the Respondent to address the significant deficiencies found during the Sanitary Survey that had not been corrected to return the System to compliance. The UAO required the Respondent to provide a corrective action plan (“CAP”) for EPA’s approval within 60 days of the effective date of the UAO and address the significant deficiencies in accordance with that CAP. Respondent submitted a CAP as required, but the EPA did not approve the CAP because it contained an inadequate Emergency Response Plan and the proposed timeline to address the significant deficiencies was inadequate given the severity of risk to the consumers of the drinking water provided by the System. The EPA remained in dialogue with the Respondent to resolve these issues.

2.12. On August 2, 2018, BIA contractors excavated a drinking water conveyance pipe just downstream of the pumphouse. During the excavation, the BIA contractor made

contact with a buried, severely corroded pipe and created a pencil-sized, 60 pounds-per-square-inch leak, and BIA took the well offline. The BIA contractor provided a temporary repair to the broken section of corroded pipe with a fiberglass sleeve, which is not a long-term repair, and the duration of its effectiveness is unknown. The lowest pressure reached in the System and the total length of time the well was offline during the time when the corroded pipe was leaking is unknown.

2.13. Due to the high risk of backflow from pressure loss resulting from the pipe rupture, BIA issued a boil water notice on August 3, 2018, that remained in effect until August 21, 2018. Water samples collected on August 9 and 13, 2018, both tested positive for total coliform bacteria, which is an indicator that *E. coli* bacteria may be present. These samples were not tested for chlorine residuals. The boil water notice was terminated after water samples tested negative for total coliform bacteria and showed a trace amount of chlorine residual.

2.14. Notwithstanding the temporary repair for a small section of the piping, the severe deterioration of the System and corrosion of the System's piping could result in the development of additional leaks or a catastrophic rupture at any time. The resultant loss of pressure could then expose persons consuming or otherwise using the System's water to *E. coli* and other contaminants.

2.15. *E. coli* are bacteria whose presence indicates that water may have been contaminated with human or animal wastes. Pathogens 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, the elderly, and people with severely compromised immune

systems¹.

2.16. Loss of pressure in a drinking water distribution system may cause a net movement of water from outside the pipe to the inside through cracks, breaks, or loose joints, common in all distribution systems. Backsiphonage occurs when pressure is lost in pipes, creating a negative pressure and a partial vacuum, which pulls water from a contaminated source into the treated, potable water. This creates a high potential for bacteriological contamination and other disease-causing organisms to enter the water distribution system.

2.17. EPA 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 above. EPA has determined that the actions specified in this Order are necessary to protect human health.

III. ORDER

INTENT TO COMPLY

3.1. Within one (1) business day of the effective date of this Order, Respondent shall notify the EPA in writing of its intent to comply with terms of the Order. Notification by e-mail to the EPA point of contact identified in Paragraph 3.10 below is acceptable.

CORRECTIVE MEASURES

3.2. No later than 45 days after the effective date of this Order, Respondent shall provide EPA with a plan, for approval, that includes a schedule outlining the actions taken or actions Respondent plans to take to address the corroded piping at risk of imminent failure in the System's pumphouse as well as the buried, corroded pipe discussed in Paragraph 2.12 that is

¹ World Health Organization (WHO) *2004 Guidelines for Drinking-water Quality 3rd ed. Volume 1, Recommendations* WHO: Geneva.

currently repaired with a temporary fiberglass sleeve. Additionally, the plan Respondent provides to EPA shall include a scope of work outline and schedule for conducting an engineering assessment, performed by a qualified engineer, that evaluates the entire distribution system for pipe integrity. The scope of work for the engineering assessment shall include recommendations and a schedule for actions to be taken based on priority of need to prevent future pipe ruptures and loss of pressure.

3.3. The engineering assessment shall be submitted to EPA no later than 120 calendar days after the effective date of this Order.

3.4. The replacement of the corroded pipe in the System's pumphouse shall be completed and documentation provided to EPA no later than 6 months after the effective date of this Order.

3.5. The replacement of the buried, corroded pipe with the temporary fiberglass sleeve, discussed in Paragraph 2.12, shall be completed and documentation provided to EPA no later than 6 months after the effective date of this Order.

3.6. No later than 10 months after the effective date of this Order, Respondent shall move any and all chlorine feed equipment and chemical storage to a room that is separate from exposed drinking water system piping. The new separate storage room housing the chlorine feed equipment and chemical storage shall have adequate ventilation. Respondent shall provide EPA with documentation, including photos, that this has occurred.

3.7 Respondents may be required to provide an alternate water supply or issue Boil Water Notices to the consumers of this System, if EPA determines circumstances require these, or any other necessary, additional actions.

INCREASED OPERATION AND MAINTENANCE

3.8. Until such time as the Respondent can execute the schedule required by Paragraph 3.2, the Respondent shall take the following actions to provide safeguards for the System and earlier detection of anomalous conditions that may suggest a loss of pressure event. Respondent may increase monitoring of any item below at any point, and EPA may require Respondent to increase monitoring for the below items at any time while this Order is in effect:

A. Within 48 hours of the effective date of this Order, Respondent shall begin monitoring total coliform once every two weeks, rotating monitoring sites as defined in the Water Quality Management Plan (Attachment A).

B. Within 48 hours of the effective date of this Order, Respondent shall begin monitoring for and record, in a log, chlorine residuals five (5) days per week at both entry point and locations at terminus of distribution lines.

C. Within five (5) business days of the effective date of this Order, Respondent shall begin monitoring and recording, in a log, pressure in the distribution system five (5) days per week. Respondent shall utilize these data to assess the System for possible loss of pressure events due to leaks or other distribution system issues.

D. Within five (5) business days of the effective date of this Order, Respondent shall begin measuring water production and recording this metric weekly, in a well pump log.

E. Within five (5) business days of the effective date of this Order, Respondent shall begin measuring and recording, in a log, water levels in storage tank five (5) days per week.

F. Within five (5) business days of the effective date of this Order, Respondent shall begin measuring and recording, in a log, the levels in chemical solution tank and amount of disinfectant used five (5) days per week. Respondent shall also verify proper function of disinfectant chemical solution pumps five (5) days per week and record this step and the outcome in a log.

G. Respondent shall purchase and maintain on site an adequate quantity of disinfectant for use in the System.

H. Within five (5) business days of the effective date of this Order, Respondent shall begin maintaining, a log, a description of equipment repaired as well as the location and time of any repair performed. For any pipe repair or replacement, Respondent shall flush and disinfect per AWWA Standards². Respondent shall also provide notice to affected parties as described in the EPA approved Emergency Response Plan (Attachment B).

I. Respondent shall respond to all customer complaints regarding the System within 48 hours. Additionally, within 24 hours of the effective date of the Order, Respondent shall begin maintaining a log of all customer complaints regarding the System. The customer complaint log shall include the nature of the complaints, the date and time received, any actions taken to respond to the complaints, the date the actions are taken, the effectiveness of the action to address the complaint, and recommendations for future actions, including a timeline, to address any unresolved complaints.

J. Respondent shall make all appropriate equipment repairs to the System and

² American Water Works Association, 2014. AWWA C651-14 Disinfecting Water Mains.

any ancillary equipment as necessary. Respondent must include a list of issues discovered at the System in its weekly update report to EPA pursuant to Paragraph 3.9. The list provided must include the issue, date the issue was discovered, date of planned repair, and justification for the planned action.

REPORTING

3.9. Within five (5) business days the effective date of this Order, Respondent must submit weekly updates to the EPA on the progress for all corrective measures and increased operation and maintenance procedures required above.

3.10. Notices or reports required by this Order shall be submitted by email to manheimer.jennifer@epa.gov or in hardcopy to the address below:

U.S. EPA – Region 10
Office of Compliance and Enforcement – OCE-201
Attn: Jenna Manheimer
1200 Sixth Avenue Suite 155
Seattle, WA 98101-3140

OTHER APPLICABLE LAWS

3.11. This Order does not relieve Respondent from its obligation to comply with applicable federal, state, or local law.

ENFORCEMENT; PENALTIES FOR NONCOMPLIANCE

3.12. Any violation of this Order, or failure or refusal to comply with this Order, may subject the Respondent to:

a. an action under Section 1447(b) of the SDWA, 42 U.S.C. § 300j-6(b), for civil penalties of up to \$38,954 for each day in which such violation occurs or failure to comply continues; or

b. a citizen's civil action under Section 1449, 42 U.S.C. § 300j-8.

ANTI-DEFICIENCY ACT

3.13. Nothing in this Order shall require the Respondent to violate the Anti-Deficiency Act.

RESERVATION OF RIGHTS BY EPA

3.14. EPA reserves all rights against the Respondent and all other persons to take any further civil, criminal, or administrative enforcement action pursuant to any available legal authority, including the right to seek injunctive relief; the recovery of money expended or to be expended (plus interest); monetary penalties; criminal sanctions; and/or punitive damages regarding: (i) any violation of this Order; or (ii) any actual or potential threat to human health or welfare or the environment. Nothing in this Order shall preclude EPA from taking any additional enforcement actions, including modification of this Order or issuance of additional Orders, and/or additional actions as EPA may deem necessary, and/or from requiring Respondent in the future to perform additional activities pursuant to SDWA or any other applicable law.

3.15. EPA further expressly reserves the right both to disapprove work performed by the Respondent and to request or order the Respondent to perform tasks in addition to those detailed in the Order.

3.16. Notwithstanding any other provision of this Order, EPA shall retain all of its information gathering, entry, inspection, and enforcement authorities and rights under any applicable law, regulation, or permit.

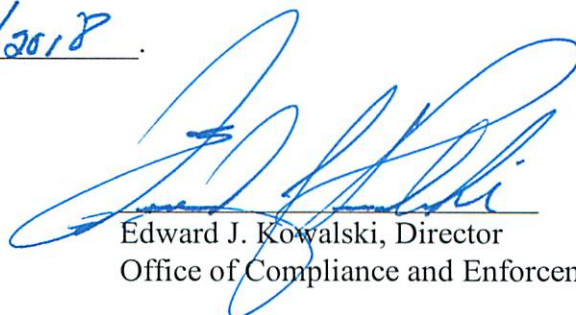
OPPORTUNITY TO CONFER

3.17. Within three (3) business days of issuance of this Order, the Respondent may request an opportunity to confer with the Director of the Office of Compliance and Enforcement for EPA Region 10 to be held no later than five (5) business days after the Respondent's request, unless a different date is set by EPA. Request for a conference must be submitted via email to both Jenna Manheimer at Manheimer.Jennifer@epa.gov and Clarke Thurmon at Thurmon.Clarke@epa.gov.

3.18. The purpose and scope of the conference shall be to discuss the issue(s) which Respondent would like the Director of the Office of Compliance and Enforcement for EPA Region 10 to consider in connection with this Order. Respondent may submit any appropriate information regarding the issue(s) to be discussed. At any conference to be held pursuant to this Section, the Respondent may participate in person, by phone, or videoconference, and may be represented by attorney or other representative.

3.19. This Order will become effective four (4) business days after issuance, if no conference is requested by Respondent. If a conference is requested, this Order will become effective three (3) business days after the conference with Respondent and EPA occurs, unless EPA communicates a different effective date.

Issued: 10/9/2018.



Edward J. Kowalski, Director
Office of Compliance and Enforcement