



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

December 13, 2018

MEMORANDUM

SUBJECT: Crow Tribe Public Water Systems Concerns
Report No. 19-N-0044

FROM: Kathlene Butler, Director
Water Directorate
Office of Audit and Evaluation

A handwritten signature in black ink that reads "Kathlene Butler". The signature is written in cursive and appears to be a professional or official name.

TO: Doug Benevento, Regional Administrator
Region 8

SUMMARY

Information recently provided to the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) indicates that three public drinking water systems serving the Crow Tribe in Montana are experiencing challenges in complying with fundamental Safe Drinking Water Act (SDWA) requirements. EPA information shows that two public water systems have not complied with monitoring requirements, and the drinking water quality for these systems is unknown. The EPA has required a third public water system to modify water treatment to address source water contamination concerns. As EPA Region 8 directly implements the SDWA for the public water systems serving the tribe, we are communicating with you on this matter so that you can assess the need for more immediate, direct EPA action to protect public health.

BACKGROUND

The three systems of concern are the following:

- **Pryor Water System** (PWS ID 083090012), which serves 406 residents, in addition to students and staff at an elementary school, a high school and a medical clinic.
- **Wyola Water System** (PWS ID 083090014), which serves 261 residents, in addition to students and staff at an elementary school.
- **Crow Agency Water System** (PWS ID 083090011), which serves 1,300 residents.

The information we have at this time indicates that the EPA does not know whether the drinking water provided by the Wyola and Pryor systems currently meets SDWA requirements because the systems have not complied with monitoring requirements. Our concern regarding the Crow Agency water system stems from a July 19, 2018, letter EPA Region 8 issued to the system requiring changes to address

source water *E. Coli* exceedances; the drinking water facility will not meet SDWA requirements¹ until the facility implements one of three solutions offered in the letter.

EPA databases, documents and information reported by Region 8 personnel show a recent history of compliance issues at these public water systems:

Pryor Water System:

- The region reported that six deficiencies from its 2017 review of this system remain unresolved.²
- The region indicated that the system did not comply with monitoring requirements for seven of the nine monthly samples required under the Revised Total Coliform Rule in 2018. Region 8 issued a November 2018 notice of violation to the system for violating this requirement.
- Region 8 personnel told us that the most recent monitoring result submitted, from May 2018, did not exceed the total coliform limit, but no chlorine was present even though the system typically uses chlorine as its disinfectant. Without chlorine present, the system runs a higher risk of exceeding total coliform limits, and without regular sampling the EPA, system operators and consumers do not have assurance that the water meets other SDWA standards.
- Region 8 personnel told us that this system did not submit one of two sets of nitrate samples required under the Phase II Rule in 2017. The water system is required to collect a sample for nitrates at two different locations by the end of 2018.

Wyola Water System:

- The region reported that four deficiencies from its 2017 review of this system remain unresolved.
- The region indicated that the system did not comply with monitoring requirements for seven of the nine monthly samples required under the Revised Total Coliform Rule in 2018. Region 8 issued a November 2018 notice of violation to the system for violating this requirement.
- Region 8 personnel told us that the most recent monitoring result submitted, from May 2018, did not exceed the total coliform limit, but no chlorine was present even though the system typically uses chlorine as its disinfectant. Without chlorine present, the system runs a higher risk of exceeding total coliform limits, and without regular sampling the EPA, system operators and consumers do not have assurance that the water meets other SDWA standards.
- Region 8 EPA personnel told us that this system did not submit a nitrate sample result required under the Phase II Rule in 2017. EPA personnel told us that the system must collect one sample for nitrates by the end of 2018.

¹ Under the Long Term 2 Surface Water Treatment Rule.

² The region identified deficiencies at all three systems in 2017 sanitary surveys. A sanitary survey is a review of a public water system to assess its capability to supply safe drinking water. Primacy agencies are responsible for completing sanitary surveys. Region 8 directly implements the SDWA for the Crow Tribe and is responsible for conducting the annual sanitary surveys at these facilities.

Crow Agency Water System:

- The region reported that at least four deficiencies from its 2017 review of this system remain unresolved.
- In April and May 2018, the system's monitoring results showed *E. Coli* exceeding the limits for source water under the Long Term 2 Enhanced Surface Water Treatment Rule. A July 2018 EPA letter to the system says that the exceedance triggers the need for additional monitoring, treatment, or a new raw water source for the system. The EPA instructs the system to address the public health issue and provide an action plan by January 1, 2019.
- In addition, in October 2017, the EPA issued an Emergency Administrative Order concerning this system under SDWA Section 1431 due to a vandalism incident that caused extensive damage to one of the system's two water treatment plants, including destruction of the gas chlorination system, control system and chemical feed components.

Region 8 personnel told us in November 2018 that an EPA contractor provides technical and compliance assistance at the Pryor and Wyola systems twice per month; however, due to the lack of recent monitoring data the quality of the drinking water remains unknown.

EPA data systems do not show evidence of public notification of sampling deficiencies, and Region 8 personnel told us they did not know whether the public water systems issued the required public notices to consumers when violations occurred.³ News reports show an October 2017 public notification resulting from the vandalism incident at the Crow Agency Water System. SDWA allows public water systems 1 year from the date of a monitoring violation to provide public notice that they failed to conduct monitoring. However, without this information, the public served by these water systems may not be fully informed about their drinking water quality.

OIG CONCERNS

We are concerned about potential human health threats posed by any contaminants in the drinking water due to these potentially improper and or noncompliant operations. Operations such as these raise concerns about the water systems' ability to recover from financial, technical and managerial setbacks, and provide drinking water that complies with SDWA regulations.

Information reported by the Department of the Interior OIG indicates that financial issues may further limit the capacity for complying with drinking water requirements. A September 2018 report shows that the Crow tribal government spent over \$12 million of federal funds meant to fund various projects and improvements to tribal water systems that were unsupported or unallowable.⁴ According to information provided to the OIG, the Crow tribal government has not been able to regularly pay system operators for their services and cannot purchase critical supplies to operate and maintain the water systems.

According to Region 8 personnel, the region continues to explore options for assisting the water systems with returning to compliance. EPA data show that Crow Tribe drinking water systems exceeded national

³ Our ongoing work reviewing public notification practices has shown that Region 8 does not track public notice violations, so this information is not available in the EPA database for most Region 8 drinking water facilities. [Project Notification: OIG Project No. OPE-FY17-0020, Public Notification of Drinking Water Quality](#).

⁴ U.S. Department of the Interior Office of Inspector General. September 28, 2018. Audit of Contract Nos. R11AV60120 and R12AV60002 Between the Bureau of Reclamation and the Crow Tribe. [Report No. 2017-FIN-040](#).

averages for SDWA noncompliance over the past 7 years. Over the same period of time, data show that the EPA's level of informal intervention also exceeded the national average at these systems. The SDWA provides the EPA with several options for intervening beyond issuing notices of violation. To select and implement the most appropriate actions, Region 8 needs to know whether each system's drinking water meets SDWA public health-based standards.

As emphasized in the *EPA 2016 Policy on Elevation of Critical Public Health Issues*, the EPA has a responsibility to consider when risks, viewed through the lens of public health, require a higher level of attention than what usual EPA processes may prescribe. The policy also provides criteria and communication guidance designed to enable the EPA to engage the full decision-making resources of the agency when addressing public health issues.

RESPONSE REQUESTED

Please update us by January 11, 2019, on the actions taken by your office to verify that the drinking water provided by these systems meets SDWA standards. The OIG does not have an open audit on this matter. However, we may initiate an audit after receiving your input. If you or your staff have any questions, please contact me at (404) 562-9738 or butler.kathlene@epa.gov; or Kevin Christensen, Assistant Inspector General for Audit and Evaluation, at (202) 566-1007 or christensen.kevin@epa.gov.

cc: Andrew Wheeler, Acting Administrator
Henry Darwin, Acting Deputy Administrator
Ryan Jackson, Chief of Staff
Michael Molina, Special Advisor, Office of the Administrator
David P. Ross, Assistant Administrator for Water
Susan Bodine, Assistant Administrator for Enforcement and Compliance Assurance
Jane Nishida, Principal Deputy Assistant Administrator, Office of International and Tribal Affairs
Lee Forsgren, Deputy Assistant Administrator, Office of Water
Anna Wildeman, Deputy Assistant Administrator, Office of Water
Lawrence Starfield, Principal Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance
Holly Greaves, Agency Follow-Up Official (the CFO)
Bob Trent, Agency Follow-Up Coordinator
Matthew Leopold, General Counsel
Troy Lyons, Associate Administrator for Congressional and Intergovernmental Relations
Nancy Grantham, Principal Deputy Associate Administrator for Public Affairs
Serena McIlwain, Director, Office of Continuous Improvement, Office of the Administrator
Deb Thomas, Deputy Regional Administrator, Region 8
Darcy O'Connor, Assistant Regional Administrator, Region 8
Patrick Davis, Senior Advisor to the Regional Administrator for Public Engagement, Region 8
Michael Benton, Audit Follow-Up Coordinator, Office of the Administrator
Paul Felz, Audit Follow-Up Coordinator, Region 8
Steven Moore, Audit Follow-Up Coordinator, Office of Water
Gwendolyn Spriggs, Audit Follow-Up Coordinator, Office of Enforcement and Compliance Assurance
Lenore Connell, Audit Follow-Up Coordinator, Office of International and Tribal Affairs