CONFIDENTIAL

WEEKLY HOT TOPICS REPORT for RA/DRA Region 8
Week ending March 1, 2019

OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION

HOT ISSUES AND IMPORTANT DEADLINES

Argo Tunnel Water Treatment Plant Release (Colorado)

Key Message: Valve left open overnight at water treatment plant resulted in 150,000 gallons of treated water entering Clear Creek.

- On Tuesday February 26, 2019 at approximately 0600 hours, Argo Tunnel Water Treatment Plant (WTP) staff discovered that a discharge valve was accidently left open from the previous evening. The valve was immediately shut off by an operator upon discovery. This valve normally remains closed until final treatment of the Argo tunnel influent is complete. As a result of the valve being left open overnight, approximately 150,000 gallons of treated water overflowed the treatment tank and entered the nearby Clear Creek via storm drains in the area.
- The discharge was initially reported as high pH and total suspended solids (TSS) but noted no evidence of damage to aquatic life at or downstream of the WTP. The plant operator immediately reported the incident to CDPHE, who notified Region 8 around 1400 hours on the same day.
- On Wednesday February 27, 2019, the RPM assigned to the Clear Creek Site followed up with the EPA Telephone Duty Federal On Scene Coordinator, State Project Officer (PO) and Lead Argo Plant Operator regarding the incident. The incident was confirmed as operator error resulting in the accidental discharge of 9.2 pH treated water to Clear Creek. It was also discovered during the interviews that the TSS was less than 1 (contrary to the initial report of "high" TSS).
- CDPHE has placed signage in the area, adjusted the discharge alarm and is considering contracting a security vendor (for afterhours) to help ensure this situation doesn't happen again. Additionally, the PO agreed to make certain that proper notification is made to the EPA RPM during any future incidents involving accidental discharges at the Central City - Clear Creek Site.
- Contacts: Leslie Sims, RPM, 312-6224; Duane Newell, FOSC, 312-6129; Steve Wharton, Unit Supervisor, 312-6935

Eagle Mine Site Releases

Key Message: Multiple releases at Eagle Mine Superfund Site (Colorado) contained prior to reaching Eagle River.

- On Thursday, February 21, 2019, water treatment plant staff at the Eagle Mine Superfund Site observed seepage from a manhole on the east trench groundwater collection system line along the Consolidated Tailings Pile. This groundwater is typically pumped to the water treatment plant for treatment. The release was localized around the manhole and did not reach Hwy 24 or the Eagle River.
- The operator shut off the pump at the north trench, slowing the flow considerably and procured a vacuum truck to pump down the water level in the manhole so that the operator could assess the infrastructure to determine the problem. The operator suspects that a hose or hose fitting came loose but is still working to determine the exact cause. The operator followed the steps outlined in the Site Emergency Response/Contingency Plan.
- On Friday, February 22, 2019, the operator reported another release on-Site, up the Eagle River canyon towards the abandoned town of Belden. Approximately 100 gallons of untreated water

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seeped onto the ground from a manhole along the access road due to a partial pipeline obstruction. No water reached the Eagle River. The operator reduced the flow from the mine draw down system and will jet the pipe to clear the obstruction in the coming days. The operator followed the steps outlined in the Site Emergency Response/Contingency Plan.

- RPM coordinated with CDPHE PM and notified Stakeholder group of the releases via email.
- Contacts: Jamie Miller, RPM, 312-6519 and Kayleen Castelli, 312-6174, Site Attorney

OFFICE OF ENFORCEMENT, COMPLIANCE & ENVIRONMENTAL JUSTICE

HOT ISSUES AND IMPORTANT DEADLINES:

Region 8 Settles a Clean Air Act Enforcement Action with Tallgrass Midstream, LLC and Tallgrass Interstate Gas Transmission, LLC for Violations of Leak Detection and Repair Requirements in Wyoming

Key Message: On February 21, 2019, Regional Judicial Officer Katherin E. Hall issued a final order approving a Combined Complaint and Consent Agreement (CCCA) between the EPA, Tallgrass Midstream, LLC and Tallgrass Interstate Gas Transmission, LLC.

- The CCCA resolves alleged violations of leak detection and repair requirements at the Casper Compressor Station and Gas Plant located near Casper, Wyoming.
- Tallgrass agreed to pay a civil penalty of $118,250 to resolve the alleged violations. The CCCA includes conditions of settlement, under Clean Air Act Section 113(d), to ensure compliance with LDAR requirements. These conditions include accepting applicability of NSPS OOOO LDAR requirements, a facility-wide LDAR document, quality assurance and quality control procedures, a third-party audit, low-emission valve requirements, electronic data recording and storage, and an optical gas imaging program.
- EPA worked concurrently with WY DEQ on this action. WY DEQ entered into a companion state-only settlement with Tallgrass.
- Legal Contact: Jessica Portmess, 312-7026; Technical Contacts: Laurie Ostrand, 312-6437, Joseph Wilwerding, 312-6729

NPDES Enforcement Sends Warning Letter to Ethete Water Treatment Plant for Significant Noncompliance

Key Message: On February 20, 2019 NPDES Enforcement sent a warning letter to the Ethete Water Treatment Plant to notify them the EPA's data indicates they are in significant noncompliance and requesting corrective actions.

- The facility is in significant noncompliance for not submitting discharge monitoring reports (DMRs) within 30 days, and some DMRs are several months late.
- Compliance assistance has been provided through phone calls and emails requesting the DMRs be submitted.
- The warning letter notified the facility that these are considered potential violations, and if the EPA makes a final determination that a violation has occurred, the EPA is authorized to commence enforcement.
- Chairman Spoonhunter of the Arapahoe Tribe and the tribe's attorneys were copied on the warning letter. The facility is tribally-owned.
- Technical Contact: Laurel Dygwoski, 312-6144; Management Contact: Stephanie DeJong, 312-6362

NPDES Enforcement to Settle Construction Stormwater Penalty with David Jacobsen in Park City, Utah

Key Message: NPDES Enforcement plans to settle a complaint filed on September 27, 2017 with David

Jacobsen, a construction operator of the Frostwood Townhomes construction site in Park City, Utah for discharging construction stormwater without a permit.

- The complaint was filed against four respondents: Frostwood 6 LLC (owner), Kent Hoggan (owner), David Jacobsen (operator), and CBM Leasing, LLC (operator). CBM Leasing, LLC is no longer a viable respondent, and an administrative hearing for the case against Frostwood 6 LLC and Kent Hoggan is scheduled for June 11, 2018.
- Based on financial documents submitted by David Jacobsen related to his ability to pay, a reduced settlement penalty of $500 has been agreed upon.
- A construction stormwater inspection was conducted by NPDES Enforcement on August 31, 2016 at the site.
- The inspections and follow-up enforcement actions are being done as part of written workshare agreement at the request of the Utah Division of Water Quality (UDWQ).
- Technical Contact: Akash Johnson 312-6067, Management Contact: Stephanie DeJong 312-6362

SDWA Enforcement Issued a Final Compliance Assistance Plan (CAP) to the Northern Arapaho Tribe regarding ongoing violations at the Ethete, Arapaho Community, and Arapaho Industrial Park public water systems located in Ethete and Arapaho, Wyoming on the Wind River Reservation

Key Message: The Final CAP was issued on February 26, 2019, to the Ethete, Arapaho Community, and Arapaho Industrial Park public water systems due to failure to correct significant deficiencies.

- On August 9, 2017, EPA issued an Information Letter to the Tribe to inform the Tribal Leadership of violations of the National Primary Drinking Water Regulations under the Safe Drinking Water Act.
- On November 8, 2018, EPA issued a Draft CAP to the Tribe to provide steps to return the public water systems to compliance.
- On November 26, 2018, EPA held a consultation conference call with the Tribal Leadership and staff of the public water systems.
- Since the consultation call, the Tribe has provided information to return the systems to compliance with the monitoring violations identified.
- Since the Information Letter and the Draft CAP, the Tribe has not corrected the significant deficiencies by the deadline.
- The systems are classified as community water systems serving approximately 5700 residents.
- Technical Contact: Olive Hofstader 312-6467, Management Contact: Tiffany Cantor 312-6521

OPA Enforcement plans to send an Information Request to Union Pacific Railroad, Inc. for a discharge in Rawlins, Wyoming.

Key Message: OPA Enforcement is sending an information request to the Union Pacific Railroad, Inc. for the discharge of diesel fuel at a railyard in Rawlins, Wyoming.

- On or about September 8, 2018, a discharge of an unknown amount of diesel fuel occurred from a pump house at a Union Pacific Railroad railyard.
- OPA Enforcement is issuing this information request to gather information to determine the extent of the discharge (including actual quantities discharged and the possible impact of the waters of the U.S. and/or its tributaries), the environmental harm resulting from the discharge, and the status of the spill clean-up.
- Contact: Christopher Ajayi, 312-6263; Management Contact: Stephanie DeJong, 312-6362

Sunnyside Gold requests EPA Inspector General to investigate Region 8's role at the Bonita Peak Mining District Site

Key Message: Sunnyside Gold Corporation, a potentially responsible party at the Bonita Peak Mining District Site, requested the EPA Inspector General to investigate EPA's cleanup work at the Site. The

PRP asserted EPA has a conflict of interest in light of the Agency's connection to the Gold King Mine spill that occurred in 2016 and the pending lawsuits relating to the spill. The request was reported in the Durango Herald newspaper on February 26.

- Region 8 issued a statement in response to press inquiry.
- Region 8 will be sending a letter to Sunnyside Gold refuting the misleading and unsubstantiated allegations.
- Contact: Andrea Madigan, 312-6904

OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE

No report

OFFICE OF TECHNICAL AND MANAGEMENT SERVICES

No report

OFFICE OF WATER PROTECTION

HOT ISSUES AND IMPORTANT DEADLINES:

Update on transfer of the NPDES program from NDDOH to NDDEQ

Key Message: Region 8 is requesting concurrence from Dave Ross, AA/OW, for the transfer of the NPDES program from NDDOH to NDDEQ. Once concurrence is received, OWP will provide the RA an approval package, with the goal to complete the action by March 8.

- Region 8 has reviewed the State's proposed NPDES program revision package and provided feedback to the State to ensure the requirements of 40 C.F.R. part 123 and the Clean Water Act are met.
- The transfer of the NPDES program was published in the Federal Register and major North Dakota newspapers for 30 days to provide the opportunity to comment to the public. The comment period closed on November 29, 2018, and one set of comments was received from the Dakota Resource Council.
- These comments mirror comments submitted by the Idaho Conservation League on the Idaho NPDES program authorization. Region 8 worked closely with Office of Water, Office of Enforcement and Compliance Assurance and Office of General Counsel to respond to these comments. No changes were made to the program approval in response to these comments.
- Delegations require concurrence on this action from OW and OECA. OECA has already concurred.
- Contact: Colleen Rathbone, 312-6133; Everett Volk, 312-7290

OWP Comments on Major Modification to Utah's Small MS4 Permit

Key Message: This week, OWP is providing comments to Utah on a major modification to its general permit for small municipal separate storm sewer systems (MS4s). The proposed permit modification would delay implementation of the post construction stormwater retention standard. OWP's comments do not object to the extension, but reiterate EPA's support for the standard, and discuss its benefits for water quality in Utah.

- This permit was originally issued on March 1, 2016. This is the fourth permit modification Utah DEQ has made delaying implementation of the post construction stormwater retention standard.
- Homebuilders have resisted the post construction retention standard that will be required by MS4s.
- OWP has notified the director of the Division of Water Quality, including the Water Quality Division Director, about our intent to comment, and they are receptive to the input.
- Contact: Amy Clark, 312-7014; Colleen Rathbone, 312-6133

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EPA Region 8 attendance at Denver Water Optimal Corrosion Control Treatment (OCCT) meetings the weeks of 2/25 and 3/4/2019

Key Message: Region 8 continues to participate in the Water Technical Working Group meeting related to the MOU between Denver Water and CDPHE pertaining to OCCT, as well as discussions regarding the components of a Safe Drinking Water Variance.

- The water technical working group met on 2/26 to continue discussions on Denver Water's pilot study data as well as sequential sampling results from homes with and without lead service lines.
- On Monday, 3/4, Region 8 will participate in a meeting with Denver Water and CDPHE to continue discussions on the lead reduction components of a variance proposal.
- On Tuesday, 3/5 Region 8 and CDPHE will meet to discuss the variance process.
- Contact: Angelique Diaz, 312-6344; Sarah Bahrman, 312-6243

Crow tribe takes bacteriological compliance samples at Pryor and Wyola water systems. Next interagency meeting tentatively scheduled for Tuesday, 3/5

Key Message: Thursday, 2/21, the tribal drinking water operator took bacteriological compliance samples at both water systems. Sampling results were negative for bacteriological contamination.

- These total coliform compliance samples taken by the water systems were for the month of February. Compliance samples are required monthly, and the systems have failed to take compliance samples for the previous eight months.
- No reliable transportation is in place for sample collection by the systems. If future monthly compliance samples are uncollected the Region 8 contractor will take special samples to determine the safety of the water being served.
- The next interagency meeting is tentatively scheduled for Tuesday, 3/5, where we will discuss emergency planning.
- Contact: Angelique Diaz, 312-6344

High Arsenic in Flathead MT Private Wells

Key Message: In late 2018, Montana agencies became aware of extremely high levels of arsenic in a private well near Charlo, Montana, in the area of the CSKT Reservation. Montana Department of Public Health and Human Services (DPHHS) and the CSKT tribe notified residents in the surrounding area and offered free well testing. EPA is providing technical assistance to ensure public health protection.

- EPA does not have authority over private wells but is concerned about health risks to residents in the area due to a report of arsenic levels in a private well 99 times the MCL (990 ppb result vs 10 ppb MCL).
- After being notified of a potential case of arsenic poisoning in late fall of 2018, the MT DEQ and MT DPHHS sampled the household well and confirmed high arsenic levels. The agencies issued a letter to 89 non-tribal residents within a 3-mile radius of the initial sample notifying them of the high arsenic levels and offering free testing of their private wells.
- The MT DPHHS letter resulted in 39 requests for sampling; 86% of the results so far exceed the MCL. The highest level seen is 143 ppb, with no samples near the extremely high initial result. EPA has requested to review a summary of sampling results from DPHHS.
- The DPHHS database did not include addresses for tribal residents, but DPHHS contacted CSKT leaders who then sent a similar letter offering free well testing on February 11, 2019 to 28 households on fee simple and trust land; 11 have requested sampling of their wells. The Tribe is awaiting sampling results from the lab.
- DPHHS has prepared another mailing to the 89 non-tribal residents, providing information on health effects of arsenic, and well testing and treatment, and again strongly urging all residents to have their wells sampled. EPA reviewed the draft letter and encouraged DPHHS to strongly state that residents should not drink or cook with the well water if the results exceed the MCL, since most results are reportedly at least three times the MCL.

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- EPA spoke with CSKT leaders on February 25 to obtain information on the Tribe's notification efforts. EPA forwarded the State outreach information to the Tribe and encouraged them to send similar messages to tribal residents and to coordinate with the State. EPA also offered technical assistance related to treatment options and suggested the Tribe submit a request to IHS for funding installation of treatment units in affected homes.
- The arsenic is believed to be naturally occurring in the area, with source water assessment evaluations indicating no additional known sources.
- The Missoulian and the Missoula Current reported on the issue on February 11, 2019 and stated that a woman and child were hospitalized for arsenic poisoning in late 2018. One article contains a map with sample results collected by a private well testing company.
- The news coverage raised local awareness of the issue and resulted in EPA's Montana office becoming engaged. The EPA was contacted by the Tribe in mid-February to discuss ideas for addressing the issue.
- The Town of Charlo is supplied by a public water system serving 170 connections; the most recent arsenic results are 4 ppb, well below the MCL.
- Contacts: Lisa Kahn, 312-6896; Barbara Burkland, 406-457-5009

Lake Powell Pipeline Project Clean Water Act (CWA) 404 Permit Review

Key Message: The Aquifer and Aquatic Resources Protection Unit (AARPU) responded to the Army Corps of Engineers (Corps) public notice requesting comment on the CWA 404 permit application for the Lake Powell Pipeline project in Utah.

- The proposed project would transport water from Lake Powell through an approximately 140-mile buried pipeline to Washington and Kane counties in Utah. Pump stations would move the water through the pipeline and hydroelectric facilities would supply a portion of the energy needed to operate the pump stations.
- The project would directly impact 10.54 acres/51,636 linear feet of waters of the U.S., including wetlands in or adjacent to Lake Powell and the Virgin River and 266 streams within the project area. Secondary impacts to aquatic resources, including Flaming Gorge Reservoir, Lake Powell, and Sand Hollow Reservoir were not disclosed.
- NEPA review was initiated in 2008, but a Draft Environmental Impact Statement has yet to be released.
- AARPU determined there was insufficient information in the permit application to assess compliance with the CWA 404 implementing regulations, including a lack of information on project purpose and alternatives (including implementing conservation measures), an incomplete assessment of project impacts, and insufficient information on mitigation for unavoidable impacts.
- AARPU recommended that the applicant withdraw the permit application and resubmit the application to the Corps once the NEPA analysis is complete.
- Contact: Julia McCarthy, 312-6153

Region 8 hosted a conference call with the Pinedale Water System, the Town of Pinedale, Wyoming Department of Environmental Quality (WYDEQ), and Representatives from Cheney, Enzi, and Barrasso's offices to discuss options for the water system to respond to an exceedance of the filtration avoidance criteria

Key Message: The purpose of the call was to inform the Town of Pinedale of the options for a path forward and preview the content of a letter from Region 8 in response to the town's exceedance of the filtration avoidance criteria.

- R8 is providing Pinedale with three options for responding to an exceedance of filtration avoidance criteria: 1) install filtration; 2) develop an alternative source; or 3) conduct a watershed study and implement changes to how the watershed is being managed based on the conclusions of the study.

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- Pinedale and other attendees noted the uncertainty associated with the high fecal coliform results that led to the exceedance. EPA acknowledged this uncertainty and indicated that there is no legal or scientific means to invalidate the data.
- Pinedale indicated that they would be selecting option 3, but also continue to be interested in pursuing invalidation of the data.
- Attendees expressed concern that Pinedale would be in non-compliance with the regulations. Region 8 clarified that the Town of Pinedale would not receive a violation at this time and, while Region 8 will review the town's proposed schedule for the watershed study and watershed management modifications to ensure it is reasonable, no specific time limitations being imposed.
- R8 communicated that there are no current public health concerns. Pinedale and the Congressional delegation requested that language indicating that there are no current public health concerns be included in the letter. This change was made and the letter outlining the three options will be sent on 2/28/19.
- On the call were Rich Cripe and Kevin Frederick with WY DEQ, Pinedale Mayor Matt Murdock, representatives from the offices of Congresswoman Cheney, Senator Barrasso and Senator Enzi, Pinedale's attorney, and several Pinedale consultants.
- Contact: Jake Crosby, 312-6389; Angelique Diaz, 312-6344

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