*C O N F I D E N T I A L*

**WEEKLY HOT ISSUES REPORT for RA/DRA Region 8**

**Week ending March 30, 2018**

## OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION

*No report*

## OFFICE OF ENFORCEMENT, COMPLIANCE AND ENVIRONMENTAL JUSTICE

HOT ISSUES AND IMPORTANT DEADLINES:

**NPDES Enforcement Plans to Conduct Pretreatment Compliance Inspection of the City of Ft. Morgan, Colorado**

Key Message: National Pollutant Discharge Elimination System (NPDES) Enforcement plans to conduct a pretreatment compliance inspection (PCI) of Ft. Morgan, Colorado's pretreatment program the week of April 2, 2018.

- The EPA directly implements the pretreatment program in Colorado.
- Ft. Morgan has an EPA-approved pretreatment program and implements the Pretreatment Regulations for industrial users in its service area.
- The purpose of the PCI is to verify compliance with Ft. Morgan's requirements to implement its pretreatment program.
- Ft. Morgan has been notified of the scheduled PCI.
- Technical Contact: Emilio Llamozas 312-6407; Management Contact: Stephanie DeJong 312-6362

**NPDES Enforcement Plans to Conduct Inspection of U.S. Air Force Academy's Wastewater Treatment Plant in Colorado**

Key Message: NPDES Enforcement plans to conduct an inspection of the U.S. Air Force Academy Wastewater Treatment Plant in Colorado the week of April 23, 2018.

- The EPA directly implements the NPDES program for Federal Facilities in Colorado.
- The purpose of the inspection is to verify compliance with the facility's EPA-issued NPDES permit.
- The facility will be notified prior to the inspection.
- Technical Contacts: Mike Boeglin 312-6250; Management Contact: Stephanie DeJong 312-6362

**NPDES Enforcement Plans to Conduct Oversight Inspections in Utah and an Inspection on the Skull Valley Reservation**

Key Message: Region 8 plans to conduct oversight inspections in Utah at facilities to be determined including a construction stormwater, industrial stormwater, municipal wastewater, and industrial wastewater facility the week of April 9, 2018; NPDES Enforcement will also conduct an industrial stormwater inspection of the Tekoi Landfill on the Skull Valley Reservation in Utah.

- The purpose of the four oversight inspections is to observe typical inspection procedures of state inspectors.
- The Utah Division of Water Quality will determine whether facilities will be notified in advance of the oversight inspections.
- NPDES Enforcement is conducting the oversight inspections in preparation for the scheduled State Review Framework (SRF) review that will be completed next year based on FY18 information. The oversight inspections will help inform the SRF review.
- The Tekoi Landfill has been notified of the inspection.
- The EPA directly implements the NPDES program on the Skull Valley Reservation.



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- The purpose of the Tekoi Landfill inspection is to verify compliance with the facility's EPA-issued NPDES permit.
- Consistent with the Federal government's trust responsibility and Region 8's Guidance for Compliance Monitoring, Compliance Assistance, and Enforcement Procedures in Indian Country, the Skull Valley government will be notified of the inspections by a letter from ARA Suzanne Bohan to Chairwoman Candice Bear at least one week prior to the scheduled inspection date.
- Technical Contact: Akash Johnson, 312-6067; Management Contact: Stephanie DeJong, 312-6362

**NPDES Enforcement to Issue a Letter of Potential Violation to Graham Construction Services, Inc. to Offer a Combined Consent Agreement to Address Discharges on the Ft. Berthold Indian Reservation**

Key Message: NPDES Enforcement plans to send a letter of potential violation (LOPV) to Graham Construction Services, Inc. (the Company). The LOPV will invite the Company to enter into a combined complaint and consent agreement (CCCA) based on the Company's unpermitted discharges of construction stormwater at the Thomas M. Johnny Bird Veterans Memorial Hall construction site located near New Town, North Dakota.

- The site is located within the exterior boundaries of the Ft. Berthold Indian Reservation. EPA Region 8 implements the NPDES enforcement program in Indian Country.
- A construction stormwater inspection was conducted by NPDES Enforcement on August 25, 2017 at the site.
- During the inspection, EPA identified evidence of unpermitted construction stormwater discharges into Lake Sakakawea. The site did not have any stormwater controls on the stormwater inlets, and sediment was observed in and around the inlets.
- If the Company does not want to enter into a CCCA, NPDES Enforcement will pursue a unilateral Complaint. If the Company enters into settlement negotiations a settlement offer of $47,400 will be made
- A tribal interest letter will be sent to Chairman Mark Fox. Current information indicates the Tribe owns the site. Under the Clean Water Act, both the owner and operator of an unpermitted construction stormwater site are liable. Because compliance assistance has not been provided to the tribe on this type of matter and consistent with enforcement discretion in other stormwater cases, NPDES Enforcement is planning to enforce only on the Company as the operator.
- NPDES Enforcement plans to provide compliance assistance materials to all tribal governments in Region 8 to make them aware of construction stormwater permitting responsibilities for any tribally-owned construction sites.
- Technical Contact: Akash Johnson, 312-6067; Management Contact: Stephanie DeJong, 312-6362

**NPDES Enforcement Held a Conference Call with the Crow Tribe and Apsaalooke Water and Wastewater Authority Regarding an Unpermitted Lagoon on the Crow Indian Reservation and Plans to Enter into an Administrative Order on Consent**

Key Message: NPDES Enforcement held a conference call with the Crow Tribe (Tribe) and the Apsaalooke Water and Wastewater Authority (AWWWA) on March 22, 2018 to discuss unpermitted discharges from the Crow Agency Lagoon, failure to submit discharge monitoring results, and operational issues at the lagoon. The Tribe is willing to enter into an Administrative Order on Consent (AOC) to come back into compliance.

- The EPA directly implements the NPDES program on the Crow Indian Reservation.
- Violations include discharge without a permit and failure to submit discharge monitoring reports over several years beginning in 2011. Extensive compliance assistance has been provided to AWWWA but has not resulted in compliance.
- NPDES Enforcement plans to send a Warning Letter to reiterate the seriousness of the violations, and then negotiate the terms of an AOC.



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- NPDES Enforcement conducted its most recent inspection of the lagoon on September 12, 2017. During the inspection, the UV disinfection system and aerators at the lagoon were observed to be less than fully functional, which could result in water quality concerns.
- A section 308 Information Request will be sent to obtain effluent quality data as well as requiring continued sampling and effluent reporting until a permit is issued.
- Representatives from the Bureau of Indian Affairs (BIA) at the Crow Agency and the Indian Health Service (IHS) also participated on the call.
- Technical Contact: Akash Johnson, 312-6067; Management Contact: Stephanie DeJong, 312-6362

**Drinking Water Enforcement is Authorizing Newfield Production Company to Resume Injection of a Class II Injection Well in Utah**

Key Message: The Underground Injection Control Team plans to issue an approval to resume injection during the week of March 26, 2018.

- On October 13, 2017, the Company reported a loss of mechanical integrity on the Balcron Monument Federal 21-25-8-17 injection well to EPA. The well is a Class II injection enhancing oil recovery well.

EPA followed up with a notice of violation (NOV) to the Company on October 19, 2017 to ensure mechanical integrity at the well is maintained.

- The purpose of mechanical integrity is to ensure there are no significant leaks in the Well and prevent the migration of injection fluids to an underground source of drinking water.
- The Company repaired the well and re-established mechanical integrity on December 8, 2017.
- EPA is approving injection to resume on the well, because it is located on the Uintah & Ouray Indian Reservation where EPA has direct implementation authority.
- Technical Contact: Nathan Wiser, 312-6211; Management Contact: Tiffany Cantor, 312-6521

**Drinking Water Enforcement is Issuing a Notice of Violation to FX Drilling for Failure to Submit Required Reports for Class II Injection Wells in Montana (Blackfeet Reservation)**

Key Message: Drinking Water Enforcement issued a Notice of Violation (NOV) this week due to the company's failure to submit annual injected fluid analysis monitoring reports for several of its injection wells.

- EPA's UIC permits require annual fluid analysis monitoring reports to be submitted by February 15 every year for the company's Class II injection wells.
- EPA provided the company a courtesy reminder of this requirement in January.
- The Company failed to submit the fluid analysis associated these reports. Failure to comply with a EPA UIC Permit is a violation.
- EPA is issuing this NOV because the Class II injection wells are located within the Blackfeet Reservation where EPA has direct implementation authority.
- Technical Contact: Nathan Wiser, 312-6211; Management Contact: Tiffany Cantor, 312-6521

**Drinking Water Enforcement is Issuing a Temporary Authorization to Exceed the Maximum Allowable Injection Pressure Limit Specified Under a Safe Drinking Water Act (UIC) Permit to WPX Energy - Williston for a Class II Injection Well Located in North Dakota (Fort Berthold Reservation)**

Key Message: This week Region 8 is issuing an authorization to WPX Energy to allow for the performance of certain well testing.

- EPA's UIC permit specifies that the maximum injection pressure limit normally in place may be exceeded in order to perform certain types of testing, so long as the company receives written authorization from the EPA.
- EPA Region 8's delegation of authority (SDWA 9B) specifies that this kind of written authorization is delegated to ECEJ.



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- EPA is issuing this letter because the Class II injection well is located within the Fort Berthold Reservation where EPA has direct implementation authority.
- Technical Contact: Nathan Wiser, 312-6211; Management Contact: Tiffany Cantor, 312-6521

**Region 8 Settles XTO Energy's Clean Air Act Violations on the Fort Berthold Indian Reservation in North Dakota**

Key Message: On March 23, 2018, DOJ, on behalf of the EPA Region 8, lodged a complaint and consent decree with the United States District Court for the District of North Dakota. This settlement resolves Clean Air Act violations of the Federal Implementation Plan (FIP) for 20 Oil and Natural Gas Production Facilities located on the Fort Berthold Indian Reservation ("FBIR") (Mandan, Hidatsa and Arikara Nation).

- Emissions violations were observed by EPA inspectors utilizing a forward looking infrared (FLIR) camera during field inspections of oil and natural gas tank systems. Additional violations were determined from XTO's responses to Clean Air Act section 114 information request letters.
- The settlement includes a $320,000 civil penalty, an injunctive relief package, and a tank auto-gauging mitigation project at tank systems located both on and off the FBIR.
- Technical Contact: Alex North, 312-7005; Legal Contact: Lauren Hammond, 312-7081

**Drinking Water Enforcement is Issuing an Opportunity to Confer Letter to the Blackfeet Tribe Regarding Noncompliance Under the Safe Drinking Water Act of a Tribally Owned Class II Underground Injection Control (UIC) Well Located on the Blackfeet Indian Reservation in Montana.**

Key Message: The SDWA Enforcement Unit plans to send an Opportunity to Confer letter to the Blackfeet Tribe the week of April 2 for the failure to maintain financial responsibility on the WSW-1 injection well, owned and operated by the Tribe.

- The well is tribally owned and operated by the Blackfeet Oil & Gas Minerals Department. The Tribe acquired the well on November 2013, as part of a 2012 settlement agreement between K2 America and the BLM.
- The EPA sent an Informational Letter on September 7, 2016, to inform Tribal leadership of the well's noncompliance with the financial responsibility requirements of the UIC regulations.
- The EPA provided compliance assistance to the Tribe following the Informational Letter to provide guidance on approved financial responsibility instruments for the well.
- The Tribe has not yet obtained financial responsibility due to objections with the administrative banking fees associated with the financial instrument.
- The EPA is proposing a conference call with representatives of the Tribe and the Tribe's Blackfeet Oil & Gas Minerals Department to discuss the well's compliance status, its current use and future options.
- Technical Contact: Gary Wang, 312-6469; Legal Contact: Amy Swanson, 312-6906; Management Contact: Tiffany Cantor, 312-6521

## OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE

HOT ISSUES AND IMPORTANT DEADLINES:

**Pueblo Chemical Agent-Destruction Pilot Plant and U.S. Army Propose the Addition of Two Static Detonation Chambers (SDC) to Augment Main Plant Operations**

Key Message: The U.S. Army at the Pueblo Chemical Depot in Pueblo, Colorado, have proposed adding two SDCs to deal with nearly 97,000 problematic 4.2-inch mortar rounds. In addition, they hope to utilize the SDCs to keep the destruction of the nearly 800,000 mortar and artillery rounds containing mustard agent on schedule for completion in 2019.



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- Currently the main pilot plant has not operated since November due to technical difficulties caused by the poor condition of some of the mustard rounds.
- The poor condition of the munitions is due primarily to moisture interacting with the mustard agent causing an acid to be produced, thereby causing the rounds to degrade.
- The U.S. Army is proposing to conduct an environmental assessment to review the potential impacts of using the SDCs, though currently funding for the SDCs is not assured.
- The Pueblo Citizen Action Committee has raised concerns over the use of SDCs, likening them to incinerators.
- If the Army decides to go with SDCs to augment the destruction process, **Colorado Department of Public Health and Environment** will need to issue a new RCRA treatment permit for the process. It would not be permitted under the current research, development and demonstration permit the Pilot Plant is currently operating under, as it is already a proven technology being used at other munitions destruction facilities.
- Contacts: Jesse Newland, 312-6353; Nancy Morlock, 312-6421

## OFFICE OF TECHNICAL AND MANAGEMENT SERVICES

***No report***

## OFFICE OF WATER PROTECTION

HOT ISSUES AND IMPORTANT DEADLINES:

**EPA Region 8 Office of Water Protection is sending the British Columbia Ministry of Environment a letter providing recommendations for monitoring of coal mining impacts in the US portion of Lake Koocanusa**

Key Message: On March 28, the Office of Water Protection in Region 8 will send a letter to the Ministry in response to its request for input from EPA and Montana DEQ on monitoring needed in US waters to identify and quantify impacts of BC coal mining.

- The Ministry has indicated a willingness to consider including specific monitoring tasks directed at the US portion of Lake Koocanusa in the monitoring plan that the permittee is required to implement.
- The sampling intensity and scale required to document and quantify selenium and other impacts in US waters make funding through the state's Clean Water Act 106 grant impractical; and there are no monitoring resources dedicated for this project (other than limited funding within the Army Corps of Engineers for reservoir operations).
- All of the impacts of concern in Lake Koocanusa result from discharges from mining occurring in the Elk Valley in BC. Although the mining permittee has been required to do extensive monitoring in Canadian waters, they have not previously been required to monitor impacts of their operations on US waters, leaving a critical information gap in understanding water quality trends and results of management actions taken to reduce pollutants.
- Pollution in the US portion of the Lake has long been a significant concern for Montana and for the Kootenai tribes in Montana and Idaho. Some water and fish samples in the Lake have exceeded current BC benchmarks.
- Data collection efforts on the US side are being used to develop scientifically defensible selenium criteria for Lake Koocanusa.
- Contact: Ayn Schmit, 312-6220

**Region 8 Preparing to Take Action on Utah's 2016 303(d) List**

Key Message: Region 8, in consultation with OWOW and OGC, is preparing to approve the majority of Utah's 2016 303(d) list including a listing of Utah Lake for harmful algal blooms (HABs), defer action on Utah's decision not to list Farmington Bay (of Great Salt Lake) for HABs and defer action on its decision not to assess Great Salt Lake (GSL) for mercury. We expect to take this action within the next two weeks.



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- Region 8 intends to approve Utah Division of Water Quality's (UDWQ's) decision to list Utah Lake as impaired by HABs. Though the State received significant stakeholder comments from the regulated community about this listing, the state complied with the procedural requirements and has sufficient data and evidence to support its decision to list this water as impaired.
- Region 8 intends to defer action on UDWQ's decision not to list Farmington Bay as impaired by HABs. UDWQ completed an assessment for Farmington Bay which indicated that this Bay is impaired by HABs. However, UDWQ did not include an impairment listing based on questions raised about the application of the State's freshwater HABs assessment methodology in the hydrologically unique waters of GSL. EPA is deferring action until these scientific questions can be resolved.
- Region 8 intends to defer action on UDEQ's decision not to list GSL as impaired by mercury. In 2012, EPA deferred action on UDEQ's decision not to include GSL on their 2008/2010 303(d) impaired waters list for mercury and Region 8 prepared a draft assessment of the available data. Region 8 is reviewing the newest scientific information and plans to resolve the deferral in the 2018 Integrated Report cycle.
- Expected reactions: 1) UDWQ will support the above actions; 2) wastewater stakeholders likely will accept deferral on GSL and Farmington Bay as the preferred alternative over Agency over-listing of these waters for the State and will oppose approval of listing Utah Lake for HABs citing uncertainties in the State's scientific basis for listing; and 3) environmental stakeholders will likely accept deferral actions on GSL/Farmington Bay as a preferred alternative to approving the State's decision not to list and twill support listing of Utah Lake for HABs.
- Contacts: Sandra Spence, 312-6947; Shera Reems, 312-6888



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