

4. In signing this Order, Respondent neither admits nor denies the specific factual allegations in this Order, except that Respondent admits the jurisdictional allegations herein. Without any admission of liability, Respondent consents to the issuance of this Order and agrees to abide by all of its terms and conditions and undertake all actions required by this Order. Respondent waives any and all remedies, defenses, claims for relief, and otherwise available rights Respondent may have for this action to be filed in federal court or for administrative review with respect to any issue of fact or law set forth in this Order, including any right of

judicial review of this Order under Section 1448 of the SDWA, 42 U.S.C. § 300j-7, and Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Respondent further agrees not to challenge the authority or jurisdiction of EPA to issue and enforce this Order or the Findings in any proceeding to enforce this Order or in any action under this Order.

FINDINGS

5. Respondent owns and/or operates a “public water system” as defined in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2, in that it provides water through a piped system or other constructed conveyance to the public for human consumption and the System has at least 15 service connections or regularly serves at least an average of 25 individuals daily at least 60 days out of the year. Specifically, the System has approximately 325 service connections and regularly serves approximately 575 people with an average daily transient population of approximately 150 people.

6. Respondent is a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, and a “supplier of water” as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2.

7. The Santee Sioux Nation is a federally recognized tribe under Section 104 of the Federally Recognized Indian Tribe List Act, now codified at 25 U.S.C. § 5131, and 89 Fed. Reg. 99899, 99900, (Dec. 11, 2024).

8. The System is a “public water system” as defined in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2.

9. The System is a “community water system” as defined in 40 C.F.R. § 141.2 and Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15).

10. Respondent’s System utilizes a groundwater source that consists of two wells, the North Well and the South Well. Respondent’s System is equipped to treat with sodium hypochlorite for disinfection.

11. Respondent is subject to Part B of the SDWA, 42 U.S.C. §§ 300g-300g-9, and the national primary drinking water regulations promulgated thereunder at 40 C.F.R. Part 141.

12. In September of 2024, Respondent failed to collect all the samples required by 40 C.F.R. §§ 141.853(a)(1) and 141.855(b) for total coliforms, and a Notice of Violation was issued by EPA on January 26, 2025, for this violation.

13. Respondent’s system tested positive for total coliforms on November 25, 2024, December 3, 2024, and December 12, 2024.

14. In January of 2025, Respondent failed to sample for total coliforms as required by 40 C.F.R. §§ 141.853(a)(1) and 141.855(b), and a Notice of Violation was issued by EPA on March 6, 2025, for this violation.

15. 40 C.F.R. § 141.859(a)(1) requires systems to conduct a Level 1 assessment when the system: (i) takes 40 or more samples per month and exceeds the 5.0% total coliform-positive samples for the month; (ii) takes fewer than 40 samples per month and has two or more total coliform-positive samples in the same month; or (iii) fails to take every required repeat sample after any single total coliform-positive sample.

16. Respondent's system takes fewer than 40 samples per month and had two or more total coliform-positive samples in December of 2024. Therefore, pursuant to 40 C.F.R. § 141.859(a)(1)(ii), a Level 1 assessment of Respondent's system was required.

17. The Respondent conducted a Level 1 Assessment pursuant to 40 C.F.R. § 141.859(a) on January 10, 2025, and identified the Respondent was sampling source water incorrectly.

18. On March 27, 2025, Respondent's system tested positive for total coliforms in samples collected pursuant to 40 C.F.R. §§ 141.853(a)(1) and 141.855(b).

19. 40 C.F.R. § 141.858(a) requires a system to conduct repeat monitoring within 24 hours of being notified of a positive total coliform result from samples taken pursuant to 40 C.F.R. §§ 141.854 through 141.857.

20. Respondent failed to conduct monitoring that was representative of the ground water source pursuant to 40 C.F.R. § 141.858(a) after receiving notice of the total coliform positive result taken on March 27, 2025.

21. Respondent's failure to conduct monitoring that was representative of the ground water source within 24 hours of receiving notice of the total coliform positive sample taken on March 27, 2025, pursuant to 40 C.F.R. § 141.858(a) is a violation under 40 C.F.R. § 141.860.

22. 40 C.F.R. § 141.859(a)(2)(i) requires a Level 2 assessment to be conducted if a second Level 1 assessment is triggered within a rolling 12-month period.

23. Respondent's failure to conduct monitoring that was representative of the ground water source pursuant to 40 C.F.R. § 141.858(a) after the System's positive total coliform results from sampling conducted on March 27, 2025, was its second Level 1 assessment trigger within a rolling 12-month period. Pursuant to 40 C.F.R. § 141.859(a)(2)(i), a Level 2 assessment of Respondent's system was required.

24. Pursuant to 40 C.F.R. § 141.859(a), EPA representatives conducted a Level 2 Assessment on May 8, 2025, which identified sanitary defects that included a leaking chlorine

injector, potential improper total coliform sampling, failures to monitor source water, and a leaking water storage tank.

25. On August 22, 2025, Respondent was notified of its failure to correct sanitary defects identified in the May 8, 2025, Level 2 Assessment described above.

26. On August 26, 2025, the Nebraska Public Health Environmental Lab ("NE LAB") notified the EPA that two routine total coliform samples collected pursuant to 40 C.F.R. § 141.855 from the Respondent's distribution system on August 25, 2025, were positive for total coliform.

27. Pursuant to 40 C.F.R. § 141.402(a)(1), a ground water system must conduct triggered source water monitoring if the system does not provide at least 4-log treatment of viruses before or at the first customer for each ground water source, and is notified that a sample collected under 40 C.F.R. §§ 141.854 through 141.857(is positive for total coliform.

28. Pursuant to 40 C.F.R. § 141.402(a)(2), a ground water system must collect, within 24 hours of notification of the total coliform-positive sample, at least one ground water source sample from each ground water source in use at the time the total coliform-positive sample was collected under 40 C.F.R. §§ 141.854 through 141.857.

29. On September 2, 2025, Respondent collected samples from the North Well and the distribution system but did not collect samples from the South Well. Two (2) repeat total coliform samples collected from the distribution system tested positive for total coliform and one (1) sample tested positive for E. coli and total coliform. The North Well tested positive for total coliform.

30. The Respondent's failure to collect samples from the South Well is a violation of 40 C.F.R. § 141.402(a).

31. Pursuant to 40 C.F.R. § 141.860, a system is in violation of the maximum contaminant level ("MCL") for E. coli when any of the following conditions are met: (1) The system has an E. coli-positive repeat sample following a total coliform-positive routine sample; (2) The system has a total coliform-positive repeat sample following an E. coli-positive routine sample; (3) The system fails to take all required repeat samples following an E. coli-positive routine sample; or (4) The system fails to test for E. coli when any repeat sample tests positive for total coliform.

32. As described above, the Respondent had an E. coli positive repeat sample following a total coliform-positive routine sample, a total coliform-positive repeat sample following an E. coli-positive routine sample and failed to take all required samples after notification of positive E. coli or total coliform samples. Therefore, pursuant to 40 C.F.R. § 141.860(a), the Respondent violated the MCL for E. coli.

33. On September 4, 2025, EPA and the Respondent were notified of the results from the testing performed in Paragraph 29, its violation of the E. coli maximum contaminant level pursuant to 40 C.F.R. § 141.860 and violations of the monitoring requirements of 40 C.F.R. § 141.402(a)(2).

34. On September 4, 2025, the EPA provided Respondents with a public notice template pursuant 40 C.F.R. § 141.202(b), that included a boil water advisory, and Respondents notified persons served by the System of the contamination on September 5, 2025.

35. Pursuant to 40 C.F.R. § 141.859(a)(2), a Level 2 treatment technique assessment is triggered when there is an E. coli MCL violation under 40 C.F.R. § 141.860(a).

36. On September 9-10, 2025, EPA representatives conducted the Level 2 Assessment required under 40 C.F.R. § 141.859 and assisted the Tribe with follow-up sampling.

37. During the Level 2 Assessment conducted on September 9, 2025, the EPA collected 15 total coliform samples from 15 locations in the Respondent's distribution system, point of entry, and from the source water of the South Well and North Well. Two samples collected from the distribution system tested positive for total coliform and the South Well source water sample tested positive for E. coli. and total coliform. The North Well source water sample was positive for total coliform. Four samples could not be analyzed due to manganese interference with the EPA approved Standard Method 9223B used to analyze the samples.

38. On September 9-10, 2025, the EPA measured the free chlorine concentration of water from locations in the distribution system and from the point of entry ("POE"). The free chlorine measurements were found to have interference from high levels of manganese in the distribution system and concluded to not be representative of the disinfection levels present in the system.

39. 40 C.F.R. § 141.402(a)(3) requires a system to collect five additional source water samples from a source with a fecal indicator-positive sampling result within 24 hours of being notified of the fecal indicator-positive sample if the State has not required corrective action under 40 C.F.R. § 141.403(a)(2).

40. On September 14, 2025, Respondent was notified of positive source water fecal contamination results from samples taken from the South Well on September 9, 2025, and was required by EPA to conduct further sampling pursuant to 40 C.F.R. § 141.402(a)(3).

41. On September 15, 2025, the Respondent collected five samples from the South Well, and the distribution system pursuant to 40 C.F.R. § 141.402(a)(3).

42. On September 16, 2025, the NE LAB notified the EPA that one of the five samples from the South Well tested positive for total coliform and E. coli.

43. The E. coli present in the System is a “contaminant” as defined in 40 C.F.R. § 141.2.

44. E. coli are bacteria whose presence indicates that the water may have been contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

45. EPA has determined E. coli detections in the distribution system, the continued presence of total coliform and E. coli in the source water, the continued presence of total coliform in the system dating back to at least November of 2024, and monitoring failures combine to present an “imminent and substantial endangerment” to consumers of the water for the purposes of taking action under SDWA Section 1431.

46. In Indian Country, EPA directly implements SDWA, as well as conducts oversight of Tribes with authorized, delegated, or approved programs. Pursuant to Section 1431 of the SDWA, EPA has determined that actions in addition to those already taken by the Tribe are necessary to protect public health.

ORDER FOR COMPLIANCE ON CONSENT

Based on the foregoing FINDINGS and VIOLATIONS, and pursuant to the authority of Section 1431(a) of the SDWA, EPA hereby ORDERS the Respondent, and the Respondent hereby AGREES, to take the actions described below:

47. **Boil Water Advisory.** Respondent shall notify the EPA within 24 hours of when the treatment system achieves the 99.99 percent (“4-log”) inactivation of viruses, and the distribution system has been flushed pursuant to the requirements in the paragraphs below. Following the review of the Respondent’s notification, the EPA shall determine if conditions have been met to lift the Boil Water Advisory.

48. **Alternate Water.** Respondent shall provide alternate water supplies to all consumers using the Santee Sioux PWS, at no cost to those consumers, until Respondent receives written notification from EPA that it is no longer necessary to supply alternate potable water.

49. **Corrective Actions.** Respondent shall immediately cease operation of the South Well for potable water purposes until the corrective actions are taken as outlined below, and it receives written notification from EPA that it is no longer necessary.

50. *Disinfection and Monitoring Requirements.*

- a. Within 7 days of the Effective Date of this Order, consistent with 40 C.F.R. §141.403(a)(6), the System must provide disinfection treatment sufficient to reliably achieve at least 99.99 percent (“4-log”) inactivation of viruses before the first customer every day the System serves water to the public.
 - i. The Respondent shall monitor and report all parameters for 4-log inactivation until the EPA provides written notice that the 4-log inactivation is no longer necessary.
- b. Within 24 hours of achieving 4-log inactivation, Respondent shall complete unidirectional flushing of all water mains in the System’s distribution.
- c. Respondent shall maintain the minimum free chlorine residual necessary to achieve 4-log inactivation and ensure disinfection residuals are present throughout the distribution system.
- d. Upon completion of the requirements above, Respondent shall submit to EPA a report to demonstrate that the above requirements have been achieved and request that the boil/alternative be lifted.

51. *Well Rehabilitation.* Within 10 days of this Order, the Respondent must develop and submit a rehabilitation plan with an implementation schedule to complete rehabilitation of the North and South Wells, including mechanical rehabilitation treatment, chemical treatment, disinfection, and redevelopment, and a plan to ensure long-term system compliance for treating accumulation of iron and manganese.

- a. The schedule shall include, at a minimum, the date by which the contractor will be selected, and the date when the well rehabilitation will begin.
- b. EPA reserves the right to review and comment on the proposed plans and schedule, and provide additional milestones and/or corrective actions it deems necessary.
- c. Within 30 days of receipt of EPA’s comments, Respondent shall incorporate any additional measures required by EPA, and implement the plan.
- d. The well rehabilitation shall be completed no later than the EPA approved implementation schedule.

52. **Reporting Requirements.**

- a. Within 24 hours of providing disinfection treatment sufficient to achieve 4-log inactivation of viruses, the Respondent shall report the System’s Contact Time (CT) calculations, results of water parameter monitoring of the point of entry monitoring, and distribution system monitoring.
 - i. The Respondent shall report the parameters required for the System to achieve 4-log virus inactivation at the point of entry.
 - ii. Following the initial report, the Respondent shall record and submit daily 4-log inactivation measurements, specified in Paragraph 50.a, to the EPA on a weekly basis.
 - iii. The updates shall continue weekly until the EPA provides written

notification to the Respondent that reports may be submitted less frequently or discontinued.

- iv. The System shall obtain written approval from EPA for any change in system infrastructure or treatment prior to making the change.

53. Respondent shall fully implement each item of this Order. Respondent's failure to fully implement all requirements of this Order in the manner and time period required shall be deemed a violation of this Order. Complying with this Order only remedies the violations listed in this Order.

54. Electronic submissions to EPA will be deemed submitted on the date they are transmitted electronically. All submittals to the EPA that are required of Respondent by this Order shall be made by electronic submission to:

Lantz Tipton
Compliance Officer
U.S. Environmental Protection Agency, Region 7
Enforcement & Compliance Assurance Division
Tipton.Lantz@epa.gov

55. By entering into this Order, Respondent consents to personal service by electronic mail at the following email address: alonzo.denney@ssndakota.com and cschulte@ndnlaw.com

56. Notwithstanding Respondent's compliance with any requirement of this Order, Respondent's failure to comply with the requirements of the SDWA and Part 141 of Title 40 of the Code of Federal Regulations may subject Respondent to additional enforcement actions, including administrative and judicial actions for injunctive relief and/or penalties.

57. This Order shall not prohibit, prevent, or otherwise preclude EPA from taking action it deems appropriate to enforce the SDWA in any manner and shall not prohibit, prevent, or otherwise preclude EPA from using this Order in subsequent administrative or judicial proceedings. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 141 or any provision of the SDWA or any of the regulations promulgated thereunder, 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 SDWA.

58. For violations of this Order, Respondent may be subject to administrative civil penalties up to \$71,545 (as adjusted for inflation) per day of violation as assessed by an appropriate United States District Court, a court injunction requiring compliance, or both, under Sections 1414(b), 1414(g)(3)(A) and 1414(g)(3)(C), and 1431(b) of the SDWA, 42 U.S.C. §§ 300g-3(b), 300g-3(g)(3)(A), and 300g-3(g)(3)(C) and 42 U.S.C. § 300i(b), and 40 C.F.R. 19.4.

59. If EPA identifies any deficiencies in the deliverables required under this Order,

Respondent shall correct all deficiencies and resubmit the deliverables, or disapproved portions thereof, within seven calendar days.

60. This Order does not relieve Respondent of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law.

61. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect the System, and/or request additional information from Respondent, pursuant to the authority of Section 1445 of the SDWA, 42 U.S.C. § 300j-4, and/or any other authority.

62. The provisions of this Order shall be severable. If any provision of this Order is found to be unenforceable, the remaining provisions shall remain in full force and effect.

63. This Order may be amended or modified only by written agreement of EPA and Respondent. At EPA's sole discretion, extensions of the compliance schedule/deadlines required by this Order may be made by EPA by written notice to Respondent, without further formal amendment to this Order.

64. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by the EPA.

65. The undersigned for each party has the authority to bind each respective party to the terms and conditions of this Order. The Order may be signed in part and counterparty by each party.

66. This Order shall apply to and be binding upon Respondent and Respondent's agents, successors, and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Order.

67. Upon Respondent's satisfaction of its responsibilities in Paragraphs 47 through 52 herein, Respondent may request EPA to issue a written notice of termination. EPA shall act on such request within 14 days, and such notice of termination shall not be unreasonably withheld.

68. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

IT IS SO AGREED AND ORDERED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 7,

Complainant.

Date: _____

David Cozad
Director
Enforcement and Compliance Assurance Division

Date: _____

Samantha Pappas
Office of Regional Counsel

THE SANTEE SIOUX NATION

Respondent.

Date: 9/26/2025


Signature

Alonzo Denney
Name

Tribal Chairman
Title

CERTIFICATE OF SERVICE

I certify that on the date noted below, I filed a true and correct copy of this signed Administrative Order for Compliance on Consent with the Regional Hearing Clerk, U.S. Environmental Protection Agency Region 7, by electronic mail to R7_Hearing_Clerk_Filings@epa.gov.

I further certify that on the date noted below, I sent a copy of this signed Administrative Order for Compliance on Consent by electronic mail to:

Copy emailed to Respondent:

The Honorable Alonzo Denney, Chairman
Santee Sioux Nation
alonzo.denney@ssndakota.com

Conly Schulte
Attorney for Respondent
cschulte@ndnlaw.com

Copy emailed to representatives for Complainant:

Samantha Pappas
EPA Region 7 Office of Regional Counsel
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Lantz Tipton
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Date

Signature

