

2. The EPA enters into and issues this Consent Order under the authority vested in the EPA Administrator by section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), which has been delegated to the undersigned EPA officials.

3. Respondents neither admit nor deny the Findings of Facts and Conclusions of Law in paragraphs 7 through 23 of this Consent Order.

4. The EPA and Respondents recognize that the actions taken by Respondents in accordance with this Consent Order including, but not limited to, entering this Consent Order, do not constitute an admission of any liability or any violations of the SWTR requirements, or any other requirement by Respondents.

PARTIES BOUND

5. This Consent Order binds the Respondents, their elected officials, officers, directors, operators, employees, successors and assigns.

6. Respondents' undersigned signatories certify to their authority to execute this Consent Order and to legally bind the respective Respondents to the terms of this Consent Order.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

7. The Assiniboine and Gros Ventre Tribes of the Fort Belknap Indian Community (FBIC) are federally recognized tribes under section 104 of the Federally Recognized Indian Tribe List Act, 25 U.S.C. § 479a, and 79 Fed. Reg. 4748, 4752 (January 29, 2014), and therefore "persons" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, and a "municipality" within the meaning of section 1401(10) of the Act, 42 U.S.C. § 300f(10), for purposes of federal enforcement.

8. The Prairie Mountain Utilities (PMU) is a tribal organization authorized under the laws of the FBIC Council and therefore a "municipality" within the meaning of section 1401(10)

of the Act, 42 U.S.C. § 300f(10), and also a “person” within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.

9. Respondents FBIC and PMU own and/or operate a public water system known as the Lodgepole Housing Public Water System (System) near the community of Lodgepole, Montana, within the exterior boundaries of the Reservation that provides the public with piped water for human consumption.

10. The System has approximately 17 service connections used by year-round residents and/or regularly serves an average of approximately 70 year-round residents and therefore is a “public water system” and a “community water system” within the meaning of section 1401 of the Act, 42 U.S.C. § 300f, and 40 C.F.R. § 141.2.

11. Respondents own and/or operate the System and therefore are “suppliers of water” as defined in section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondents therefore are required to comply with the requirements of the Act and its implementing regulations, the NPDWRs.

12. The source of the System’s water is groundwater. Although the System provides disinfection, it does not provide filtration treatment.

Failure to Install SWTR Treatment Technique

13. Pursuant to 40 C.F.R. § 141.71, beginning 18 months after the EPA determines that a public water system is using a ground water source that is under the direct influence of surface water, the system must comply with the treatment requirements set forth in 40 C.F.R. part 141, subparts H, T, and W.

17. Alternatively, a system may connect to a different source of water that is not subject to the SWTR or already is in compliance with subparts H, T, and W, 40 C.F.R. part 141.

18. On July 21, 2014, the EPA notified the System that the System's water supply was ground water under the direct influence of surface water based on microscopic particulate analysis testing performed at the well.

19. The System had until February 1, 2016, 18 months from the date the EPA determined that the source water was under the direct influence of surface water, to comply with the treatment requirements set forth in subpart H, T, and W 40 C.F.R. part 141.

20. The System failed to meet the treatment technique requirements by the 18-month deadline in violation of subpart H, T, and W 40 C.F.R. part 141. The EPA issued the System a Notice of Violation on February 8, 2016.

Failure to Comply with Triggered Source Monitoring Requirements

21. Pursuant to 40 C.F.R. § 141.402, Respondents are required to conduct triggered source monitoring within 24 hours of being notified that a regular, routine total coliform monitoring sample is positive for total coliform.

22. For triggered source water monitoring, Respondents must sample each ground water source and have it analyzed for a fecal indicator (i.e. *E. coli*).

23. A sample from the System's water taken on October 15, 2013, was analyzed as positive for total coliform. However, Respondents failed to collect any ground water source samples within 24 hours in violation of 40 C.F.R. § 141.402.

ORDER

Based on the foregoing Findings of Violations, and pursuant to section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), Respondents agree and are hereby ORDERED to perform the following:

24. Within 30 days after receipt of this Order, Respondents shall submit to the EPA a plan and schedule for the System to come into compliance with 40 C.F.R. part 141, subparts H, T, and W in any of the following three ways: (1) meet the applicable disinfection and filtration requirements; (2) meet the applicable disinfection requirements and filtration avoidance criteria; or (3) switch permanently to an alternate source of water not subject to these requirements. The plan shall include proposed modifications to the System, estimated costs of modifications, and a schedule for completion of the project and compliance with the above-mentioned regulations. The proposed schedule shall include specific milestone dates and a final compliance date (to be within 14 months from the date of the EPA's approval of the schedule). The proposed schedule must be approved by the EPA before construction or modifications can begin.

25. The schedule required by paragraph 24, above, shall be incorporated into this Consent Order as an enforceable requirement upon written approval by the EPA.

26. Within 90 days after receipt of the EPA's approval of the schedule required by paragraph 24, above, Respondents shall provide the EPA with monthly reports on the progress made toward bringing the System into compliance with 40 C.F.R. part 141, subparts H, T and W. Each monthly report is due by the 10th day of the month following the relevant month.

27. Within 10 days after completing all tasks included in the schedule required by paragraph 24, above, Respondents shall notify the EPA of the project's completion.

28. The System shall achieve compliance with 40 C.F.R. part 141, subparts H, T and W by the final compliance deadline specified in the EPA-approved schedule. If the

Respondents' plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

29. Until the System is in compliance with 40 C.F.R. part 141, subparts H, T and W, Respondents shall continuously chlorinate the water and maintain a chlorine residual of at least 0.2 mg/L throughout the distribution system in order to maintain compliance with the total coliform MCL, 40 C.F.R. § 141.63(a)(2). Respondents shall monitor the residual disinfectant level in the System's water in the distribution system at the same time and place it collects total coliform samples, as required by 40 C.F.R. §§ 141.74(b)(6)(i) and 141.21. No later than 10 days after the end of each quarter, Respondents shall report residual disinfectant sample results and all information required by 40 C.F.R. § 141.74(b)(6)(i) to the EPA, 40 C.F.R. § 141.75.

30. If the System (1) has more than one positive total coliform sample result (including routine and repeat samples) within the same month, or (2) fails to collect three repeat samples following a total coliform positive sample, Respondents shall conduct a Level 1 assessment within 30 days of learning of the violation (the "trigger date") to determine the cause of the total coliform positive samples, 40 C.F.R. § 141.859. The Level 1 assessment must identify corrective action for any sanitary defects identified in the assessment. The System shall use the attached form when conducting the Level 1 assessment and submit it to the EPA within 30 days of triggering the Level 1 assessment, or, if corrective action requires changes to the System or will take longer than 30 days to complete, a schedule must be approved by the EPA following consultation. Corrective action of sanitary defects requiring consultation must be completed no later than the EPA-approved timeframe.

31. Respondents shall comply with all source water monitoring and related requirements in 40 C.F.R. § 141.402. When reporting any triggered source water sample result to the EPA, Respondents shall specify that it is a triggered source water sample.

32. Respondents must submit all information required under this Consent Order to:

Sienna Meredith
U.S. EPA Region 8 Montana Office
10 W 15 Street Suite 3200
Helena, MT 59626
Meredith.sienna@epa.gov

FORCE MAJEURE

33. Respondents agree to perform all requirements of this Consent Order within the time limits established herein, unless the performance is delayed or prevented by events which constitute *force majeure*. For purposes of this Consent Order, *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Consent Order despite Respondents' best efforts to fulfill the obligation. When an event constituting *force majeure* occurs, Respondents shall perform the affected activities within a time period not to exceed the time provided in this Consent Order and the period of delay attributable to *force majeure*. Respondents shall use best efforts to avoid or minimize any delay or prevention of performance of its obligations under this Consent Order, and to discover and keep apprised of any and all circumstances which may result in a delay or prevention of the implementation of this Consent Order. A delay caused by EPA, and otherwise conforming with the terms of this Section, shall be treated as beyond the Respondents' control.

34. If any event occurs, or has occurred, that may delay the performance of any obligation under this Consent Order, whether or not caused by a *force majeure* event, Respondents shall notify the EPA contact referenced above verbally within 5 days of when Respondents' Project Coordinator first had actual knowledge that the event might cause a delay. Within 10 days after the date Respondents first became aware of the circumstances which may delay or prevent any performance of any activity required by this Consent Order, Respondents shall provide to EPA written notice of the reasons for the delay. Such written notice shall be accompanied by all available pertinent documentation including, but not limited to, third-party correspondence, and shall contain: (1) a description of the circumstances and the Respondents' rationale for interpreting such circumstances as being beyond its control; (2) the actions (including pertinent dates) Respondents have taken and/or intends to take to minimize any delay; (3) the date or time period Respondents propose to complete the delayed activities; and (4) a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment.

GENERAL PROVISIONS

35. Respondents shall fully implement each item of this Consent Order. Respondent's failure to fully implement all requirements of this Consent Order in the manner and time period required shall be deemed a violation of this Consent Order.

36. This Consent Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or the NPDWRs. Issuance of this Consent Order is not an election by the EPA to forgo any civil or criminal action.

37. Violation of any part of this Consent Order or the NPDWRs may subject Respondents to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation.

42 U.S.C. § 300g-3; 40 C.F.R. part 19.

38. Respondents waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to this Consent Order, including any right of judicial review under section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

39. This Consent Order may be amended or modified by written agreement of the EPA and Respondents.

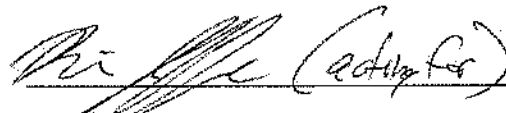
40. This Consent Order is effective upon the date a fully executed, file-stamped copy is filed with the EPA Region 8 Hearing Clerk.

41. This Consent Order shall terminate upon written request to and approval by the EPA following successful completion of the requirements agreed to in the Consent Order.

IT IS SO AGREED AND ORDERED:

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.**

Date: 10.12.2016



Suzanne J. Bohan
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

**FORT BELKNAP INDIAN
COMMUNITY,**
Respondent.

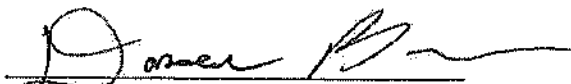
Date: 10-4-16



The Honorable Mark L. Azure
President

PRAIRIE MOUNTAIN UTILITIES,
Respondent.

Date: 10/6/16



Mr. Donald Bear
Director