

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

IN THE MATTER OF:)	ADMINISTRATIVE
)	ORDER ON CONSENT
Kickapoo Tribe in Kansas, Owner)	
Kickapoo Tribal Water Works)	
PWS Identification # 070000002)	Docket No. SDWA-07-2024-0086
Respondent)	
)	
Proceedings under Section 1414(g) of)	
Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	

INTRODUCTION

The U.S. Environmental Protection Agency (“EPA”) Region 7, and the Kickapoo Tribe in Kansas (Tribe), which is the Respondent in this matter, enter into this Administrative Order on Consent (Consent Order) to resolve noncompliance with the Safe Drinking Water Act (SDWA or Act), 42 U.S.C. Section 300f et seq., and the National Primary Drinking Water Regulations (Part 141), 40 C.F.R. part 141, at the Kickapoo Tribal Water Works Public Water System (System or PWS).

JURISDICTION

1. The EPA has primary enforcement responsibility over public water systems on the Kickapoo Tribal Reservation (Reservation). No other governmental entity has applied for and been approved to administer the program on the Reservation.
2. The EPA enters into and issues this Consent Order under the authority vested in the Administrator of the EPA by Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). The authority to take these actions has been delegated to the EPA Region 7 Enforcement and Compliance Assurance Division Director with the concurrence of the Regional Counsel.
3. By entering into this Order, Respondent (1) consents to and agrees not to contest the EPA’s authority or jurisdiction to issue and enforce this Order, (2) consents to personal service by electronic mail, (3) agrees to undertake all actions required by the terms and conditions of this Order, and (4) consents to be bound by the requirements set forth herein. Respondent neither admits nor denies the specific factual allegations in this Order, except that Respondent admits the jurisdictional allegations herein. Respondent also waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of public hearing or judicial review under SDWA Sections 1414(g)(2) and 1448, 42 U.S.C. §§ 300g-3(g)(2), 300j-7.

PARTIES BOUND

4. This Consent Order applies to Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this Consent Order to any successors-in-interest prior to transfer of any interest in the System. Any change in ownership or control of the System including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Consent Order.

5. Each undersigned signatory for Respondent certifies to her or his authority to execute this Consent Order and to legally bind Respondent to the terms of this Consent Order.

FINDINGS OF FACT

6. The Kickapoo Tribe in Kansas is a federally recognized Indian tribe and is a "person" within the meaning of 42 U.S.C. § 300f(12), for purposes of federal enforcement under the Act.

7. Respondent owns and/or operates the System, which provides piped water for human consumption on the Reservation. The System, located on the Reservation near 1107 Goldfinch Road in Horton, Kansas, serves approximately 1,949 people, including residents and a transient population consisting primarily of visitors to the Golden Eagle Casino, through 200 service connections.

8. The System is a "public water system" and "community water system" within the meaning of sections 1401(4) and (15) of the Act, 42 U.S.C. § 300f(4) and (15), and 40 C.F.R. § 141.2., and is designated as PWS Number 070000002.

9. As the owner and operator of the System, Respondent is a "supplier of water" as that term is defined in Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. As provided in Section 1411 of the Act, 42 U.S.C. § 300g, Respondents are therefore required to comply with the Act and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. Part 141.

10. Therefore, the System is a "public water system" and a "community water system" within the meaning of sections 1401(4) and (15) of the Act, 42 U.S.C. § 300f(4) and (15), and 40 C.F.R. § 141.2.

11. The source of the System's water is the Delaware River, a surface water source.

12. The EPA and Respondent entered into an Administrative Order for Compliance on Consent on September 15, 2020, Docket No. SDWA-07-2020-0124 ("2020 AOC"), and amended that Order on May 10, 2021 ("2021 Amended AOC"), pursuant to Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).

13. The EPA conducted a Sanitary Survey at the PWS on August 18 – 19, 2022, to determine compliance with the SDWA, including all eight elements of a sanitary survey required

by 40 C.F.R. § 141.401(c). A copy of the Sanitary Survey Report was provided to the Respondent and PWS on October 14, 2022.

14. The EPA conducted a Compliance Evaluation Inspection at the PWS on July 12 – 13, 2023, pursuant to Section 1445 of the SDWA, 42 U.S.C. § 300j-4. The inspection report was transmitted to the Respondent and PWS on October 23, 2023.

15. The EPA notified Respondent of violations of the SDWA that are described further below in the Notices of Violations dated:

- a. June 25, 2021
- b. September 24, 2021
- c. November 5, 2021
- d. March 18, 2022
- e. August 2, 2022
- f. August 30, 2022
- g. September 28, 2022
- h. November 28, 2022
- i. January 17, 2023
- j. October 3, 2023
- k. December 5, 2023
- l. December 14, 2023
- m. February 28, 2024
- n. April 25, 2024
- o. May 17, 2024

16. On December 21, 2023, at EPA's request, the PWS issued a boil water advisory to its customers due to the lack of continuous turbidity and disinfection monitoring data to ensure safe drinking water. The EPA advised the PWS to monitor and report to EPA weekly until turbidity levels were continuously monitored for three consecutive days and reported turbidity levels were below 0.3 NTU, at which point the PWS could lift the boil water advisory. On February 13, 2024, after meeting those thresholds, the PWS notified its customers the boil water advisory was lifted.

FINDINGS OF VIOLATION AND CONCLUSIONS OF LAW

COUNT I

Failure to Achieve Compliance with the Prior Administrative Orders on Consent

17. The facts and allegations stated above are herein incorporated.

18. The 2020 AOC and 2021 Amended AOC required a number of actions Respondent agreed to take to come into compliance with the SDWA and the National Primary Drinking Water Regulations.

19. Respondent failed to comply with the following requirements, in violation of the 2020 AOC and the 2021 Amended AOC and Section 1414(b) of the SDWA, 42 U.S.C. § 300g-3(b):

- a. Hire and/or retain two adequately certified operators as required by paragraphs 51 and 56 of the 2020 AOC;
- b. Complete Board and Council Training for management of Drinking Water Utility Systems as required by paragraph 42 of the 2021 Amended AOC;
- c. Complete a feasibility study as required by paragraph 43 of the 2021 Amended AOC.

COUNT II

Failure to Correct Significant Deficiencies

20. The facts and allegations stated above are herein incorporated.

21. In accordance with Long Term 2 Enhanced Surface Water Treatment Rule under 40 C.F.R. § 141.723(c), the PWS must respond in writing to significant deficiencies identified in sanitary survey reports no later than 45 days after receipt of the report, indicating how and on what schedule the PWS will address significant deficiencies noted in the survey. 40 C.F.R. § 141.723(d) requires the PWS to correct significant deficiencies identified in sanitary survey reports according to the schedule approved by EPA, or if there is no approved schedule, according to the schedule reported by the PWS.

22. After identifying significant deficiencies during the August 19, 2022 Sanitary Survey, the EPA granted an extension until January 31, 2023, to address the following four significant deficiencies: no lead ban ordinance; filter B leaking; Site 2 tower interior and exterior coating; and no cross-connection control plan.

23. The PWS failed to correct those four significant deficiencies by the January 31, 2023 deadline, in violation of 40 C.F.R. § 141.723(d).

24. In addition, two of those significant deficiencies remain unaddressed and/or EPA has not received documentation that they have been addressed in violation of 40 C.F.R. § 141.723(d), including:

- a. No lead ban ordinance; and
- b. Filter B leaking.

25. The August 19, 2022 Sanitary Survey further identified as a significant deficiency that the K-20 water storage tower's water level indicator was inoperable and not recording water levels within the tower. The July 12-13, 2023 inspection found that the PWS had made interim repairs to the water level indicator, and it was operable at that time. However, since the inspection, EPA received information from the PWS that the interim repairs have failed and the K-20 tower's water level indicator is no longer operable.

26. During the July 12-13, 2023 inspection, the EPA identified significant deficiencies and transmitted the report to the PWS on October 23, 2023. The PWS was required to either take corrective action or respond in writing to the EPA indicating how and on what schedule the PWS would address the significant deficiencies no later than December 7, 2023.

27. The PWS failed to timely take corrective action or respond in writing to the EPA indicating how and on what schedule the System will address the following significant deficiencies noted during the July 12-13, 2023, inspection, in violation of 40 CFR § 141.723(c):

- a. Water pressures throughout distribution system not maintained or verified; and
- b. The leaking flush hydrant on Red Bird Lane.

COUNT III

Failure to Meet Combined Filter Effluent Turbidity Limits

28. The facts and allegations stated above are herein incorporated.

29. In accordance with the Long Term 1 Enhanced Surface Water Treatment Rule under 40 C.F.R. § 141.551(a), the PWS must meet a limit of 0.3 NTU in at least 95 percent of the combined filter effluent turbidity samples taken each month.

- a. In each of the following months, the PWS exceeded the limit in combined filter effluent turbidity in more than 5 percent of samples taken for a month in violation of 40 C.F.R. § 141.551(a), as described below: In July 2022, only 65.2% of the PWS's combined filter effluent turbidity readings were at or below 0.3 NTU;
- b. In August 2022, only 84.5% of the PWS's combined filter effluent turbidity samples were at or below 0.3 NTU;
- c. In September 2022, only 88.78% of the PWS's combined filter effluent turbidity samples were at or below 0.3 NTU;
- d. In November 2022, only 90% of the combined filter effluent turbidity samples were at or below 0.3 NTU;
- e. In February 2024, only 79.9% of the combined filter effluent turbidity samples were at or below 0.3 NTU; and
- f. In April 2024, only 93.5% of the combined filter effluent turbidity samples were at or below 0.3 NTU.

COUNT IV

Failure to Meet Turbidity Monitoring and Reporting Requirements

30. The facts and allegations stated above are herein incorporated.

31. In accordance with the Surface Water Treatment Rule under 40 C.F.R. § 141.74(c)(1), the PWS must perform turbidity measurements on representative samples of the

PWS's filtered water, either by grab sample every four hours the system is online or continuously.

32. In accordance with the Long Term 1 Enhanced Surface Water Treatment Rule under 40 C.F.R. §141.560 requires the PWS to continuously monitor filter effluent turbidity for each individual filter effluent or, per 40 C.F.R. § 141.562, continuously monitor combined filter effluent turbidity in lieu of individual filter effluent turbidity.

33. 40 C.F.R. §§ 141.75(b)(1) and 141.570 require monthly turbidity monitoring information to be reported to EPA by the 10th day of the month following the monitoring period.

34. For September, October, and November 2023, and January 2024, the PWS failed to timely submit the required turbidity monitoring information to EPA by the 10th day following the end of the respective monitoring period, in violation of 40 C.F.R. §§ 141.75(b)(1) and 141.570.

35. In October 2023, the PWS failed to continuously monitor any filter effluent turbidity, either each individual filter effluent or combined filter effluent, as required, for 11 days, in violation of 40 C.F.R. § 141.560 and/or 40 C.F.R. § 141.562.

36. In November and December 2023, the PWS failed to monitor and/or report turbidity data continuously for seven days in November and 22 days in December, in violation of 40 C.F.R. §§ 40 C.F.R. § 141.74(c)(1) and 141.75(b)(1).

COUNT V

Failure to Meet Residual Disinfectant Monitoring and Reporting Requirements

37. The facts and allegations stated above are herein incorporated.

38. In accordance with the Surface Water Treatment Rule under 40 C.F.R. § 141.74(c)(2), the PWS must continuously monitor the residual disinfectant concentration of the water entering the distribution system and record the lowest daily value.

39. 40 C.F.R. § 141.75(b)(2) requires the residual disinfectant concentration monitoring information to be reported to EPA by the 10th day of the month following the monitoring period.

40. For September, October, and November 2023, and January 2024, the required disinfection monitoring information was not submitted timely to EPA by the 10th day following the end of the respective monitoring period, in violation of 40 C.F.R. § 141.75(b)(2).

41. In October, November, and December 2023, the PWS failed to continuously monitor and/or report the residual disinfection concentration of the water entering the distribution system as required, for 11 days in October, seven days in November, and 22 days in December, in violation of 40 C.F.R. §§ 141.74(c)(2) and 141.75(b)(2).

COUNT VI

Failure to Timely Collect Total Coliform Samples

42. The facts and allegations stated above are herein incorporated.

43. In accordance with the Revised Total Coliform Rule under 40 C.F.R. § 141.853, the PWS is required to develop and implement a microbiological sampling plan. Pursuant to the PWS's 2023 monitoring plan, routine microbiological samples are required to be collected at specified locations during specified weeks each month.

44. During the week of October 23, 2023, the PWS failed to timely collect routine microbiological samples in accordance with its sampling plan, in violation of 40 C.F.R. § 141.853.

COUNT VII

Failure to Meet TOC Removal Ratios

45. The facts and allegations stated above are herein incorporated.

46. In accordance with the Stage 1 Disinfectant and Disinfection Byproducts Rule under 40 C.F.R. §§ 141.133(d) and 141.135(c), systems required to meet Step 1 total organic carbon removal must have an annual average TOC removal ratio greater than 1.00.

47. The PWS's annual average total organic carbon removal ratio was less than 1.00 for the following compliance periods, in violation of 40 C.F.R. § 141.133(d):

- a. October 2020-September 2021;
- b. July 1, 2021-June 30, 2022;
- c. October 1, 2021-September 30, 2022;
- d. January 1, 2022-December 31, 2022; and
- e. April 1, 2022 – March 31, 2023.

48. In accordance with 40 C.F.R. § 141.132(d)(1), the PWS must monitor monthly for total organic carbon from the treated water, and at the same time, monitor for total organic carbon and alkalinity in the source water prior to treatment. Samples must be collected at a time representative of normal operating conditions and influent water quality.

49. The PWS failed to monitor for source and treated water total organic carbon and source water alkalinity during July and September of 2022, in violation of 40 C.F.R. § 141.132(d)(1).

COUNT VIII

Failure to Meet MCL for Haloacetic Acids or Total Trihalomethanes

50. The facts and allegations stated above are herein incorporated.

51. In accordance with the Stage 2 Disinfectants and Disinfection Byproducts Rule under 40 C.F.R. § 141.64, the maximum contaminant level for five haloacetic acids (HAA5) is 60µg/L.

52. Based on the PWS's 2021 third quarter sampling results, the locational running annual average concentration for HAA5s for sample location 845 142nd Street was 68.75µg/L, in violation of 40 C.F.R. § 141.64.

53. In accordance with 40 C.F.R. § 141.64, the maximum contaminant level for total trihalomethanes is 80 µg/L.

54. Based on the PWS's 2022 first quarter sampling results, The locational running annual average concentration for sample location 845 142nd Street for TTHM was 85.75 µg/L, in violation of 40 C.F.R. § 141.64.

COUNT IX

Failure to Monitor for Atrazine

55. The facts and allegations stated above are herein incorporated.

56. In accordance with the Phase II/V Rule under 40 C.F. R § 141.24, requires the System to monitor for atrazine during the quarter that previously yielded the highest analytical result. Based on the PWS's analytical results, monitoring for atrazine was required to be conducted during July, August, or September 2023.

57. The PWS failed to monitor for atrazine during the required timeframe of during July, August, or September 2023, in violation of 40 C.F. R § 141.24(h)(7)(iii).

COUNT X

Failure to Notify the Public

58. The facts and allegations stated above are herein incorporated.

59. In accordance with the Public Notification Rule under 40 CFR § 141.203(b), the PWS must provide a Tier 2 Public Notice as soon as practical, but no later than 30 days after the System learns of certain violations.

60. The PWS failed to timely issue Tier 2 Public Notices by the regulatory deadlines for the following violations:

- a. Failure to issue Public Notice for failure to keep turbidity below the maximum Combined Filter Effluent (CFE) turbidity of 1 NTU on 2/16/21. Due date: 3/18/2021. Issued: 4/21/2021.
- b. Failure to issue Public Notice for failure to notify the U.S. EPA, Region 7 by the end of the next business day when chlorine residual dropped below 0.2 mg/L on 2/23/21. Due date: 3/25/2021. Issued 4/21/2021.
- c. Failure to issue Public Notice for failure to keep turbidity below the maximum CFE turbidity of 1 NTU on 3/1/21. Due date: 3/31/21. Issued: 4/21/2021.

61. In accordance with 40 C.F.R. § 141.203(b)(2), the PWS must provide a Tier 2 Public Notice, with the information required by 40 CFR § 141.205(a), for each significant deficiency violation no later than 30 days after the system learns of the violations, and repeat public notices every three months as long as the violation(s) remain unaddressed.

62. The PWS was required to provide Tier 2 Public Notice for the failure to take timely corrective action to address four significant deficiencies identified during the August 2022 sanitary survey by the deadline of January 31, 2023. The PWS provided a Tier 2 public notice of those violations on February 16, 2023. Following that notice, corrective action was taken to address two of the four significant deficiencies; however, two remaining significant deficiencies remained unaddressed, requiring repeat Tier 2 public notices every three months as long as these violations persist.

63. The PWS issued a public notice regarding the two remaining significant deficiency violations on May 10, 2023; however, that notice was inadequate because it did not include what the system was doing to correct the situation or provide an expected timeframe of when the system expected to resolve the situation, as required by 40 CFR § 141.205(a)(7)-(8). The PWS has not issued any other Tier 2 Public Notices for these violations since May 2023. The PWS failed to issue a public notice or an adequate public notice every three months while those violations persisted, in violation of 40 CFR § 141.203(b)(2).

64. In accordance with 40 CFR § 141.204(b), the PWS must provide Tier 3 Public Notice no later than one year after the PWS learns of certain violations.

65. The PWS failed to issue Tier 3 Public Notices for the following violations, in violation of 40 CFR § 141.204(b):

- a. In the August 30, 2022, Notice of Violation, the PWS was informed of the requirement to provide a Tier 3 public notice for failure to monitor for total organic carbon in July 2022 no later than August 1, 2023.
- b. In the November 28, 2022, Notice of Violation, the PWS was informed of the requirement to provide a Tier 3 public notice for failure to monitor for total organic carbon in September 2022 no later than October 1, 2023.
- c. In the January 17, 2023, Notice of Violation, PWS was informed of the requirement to provide a Tier 3 public notice for failure to meet Step 1 total

organic carbon removal requirements for the period of January 1, 2022- December 31, 2022, no later than December 21, 2023.

- d. In the October 3, 2023, Notice of Violation, the PWS was informed of the requirement to provide a Tier 3 public notice for failure to meet Step 1 total organic removal requirements for the period of April 1, 2022- March 31, 2023, no later than March 20, 2024.

COUNT XI

Failure to Deliver Consumer Confidence Reports

66. The facts and allegations stated above are herein incorporated.

67. In accordance with the Consumer Confidence Report Rule under 40 C.F.R. § 141.152(b), the PWS is required to deliver a consumer confidence report to its customers annually no later than July 1. In accordance with 40 C.F.R. § 141.155(c), the PWS is required to mail a copy of the consumer confidence report to EPA by July 1, followed by a certification of distribution within three months of when the report is distributed to customers.

68. The PWS did not distribute the 2022 consumer confidence report to its customers, nor did the PWS submit a copy of the report to EPA Region 7 by July 1, 2023, in violation of 40 C.F.R. §§ 141.152(b) and 141.155(c).

ORDER FOR COMPLIANCE ON CONSENT

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

Workplan to Address Violations

69. Within thirty (30) days of the Effective Date of the Order, Respondent must submit to EPA a Workplan to address the violations identified above in Counts I through XI. The Workplan shall include actions needed to ensure reliable and consistent compliance including but not limited to needed equipment repairs in the Water Treatment Plant and distribution system, Operation and Maintenance Manual updates, and asset management and capacity development plans. The Workplan shall describe each compliance action and corresponding schedule, including a planned start date and completion date for each action. Certain compliance actions must be completed within specified timeframes, as set forth below.

70. Once the Workplan is submitted, the EPA will review and may provide comments or suggested changes for incorporation into the Workplan or approve the Workplan as submitted. If EPA provides comments, Respondent shall address EPA's comments and resubmit the Workplan for review within twenty (20) business days of receipt of EPA's comments in writing. Upon resubmission, EPA, in its sole discretion, may either accept the Workplan, or if EPA determines that the Workplan does not adequately address the comments provided by EPA, EPA may

modify the Workplan and provide Respondent with a copy of the Workplan as modified. Respondent shall implement the Workplan as approved or modified by EPA.

71. Once the Workplan is approved by EPA, the Workplan shall be incorporated by reference and fully enforceable under the terms of this Order, and implemented immediately.

Compliance with Prior Administrative Orders on Consent

72. Within thirty (30) days of the Effective Date of this Order, Respondent shall provide documentation to EPA verifying the following requirements from the prior AOCs have been met, and/or include actions and a schedule to complete the requirement(s) in the Workplan described above:

- a. Ensure two adequately certified operators are employed, as required by paragraphs 51 and 56 of the 2020 AOC, and provide documentation to EPA. Respondent must also outline the roles and responsibilities of the two certified operators and a contingency plan during any gaps in employment of two certified operators due to staff turnover or delays in hiring, and include this information in the Workplan described above. Respondent shall include the status of this requirement in its Monthly Progress Reports described below.
- b. Complete Board and Council Training for Management of Drinking Water Utility Systems as required by paragraph 42 of the 2021 Amended AOC, and provide a certificate of completion of the training to EPA within thirty (30) days of completion.

73. Respondent shall complete a feasibility study as required by paragraph 43 of the 2021 Amended AOC. This feasibility study must seek to determine the feasibility of connecting to another PWS or another source of water to ensure continued service of safe drinking water. The study must include all the options Respondent is evaluating, including sources of water, costs, and funding, and be submitted and implemented as follows:

- a. The feasibility study must be submitted to EPA within ninety (90) days of the Effective Date of this Order.
- b. Once the feasibility study is submitted to EPA, Respondent must make a determination on which plan(s) of actions to take based on the recommendations of the study, and submit documentation in writing describing the determination to EPA within 90 days of submittal.
- c. If Respondent determines it will proceed with a connection to another PWS, the Tribe must complete this connection by September 30, 2025.
- d. Within 30 days of completing any projects taken as a result of the feasibility study, Respondent must submit to EPA documentation showing completion, including for example construction completion and service agreements in place between the PWS and the connecting PWS.

Address Significant Deficiencies

74. Within 30 days of the Effective Date of the Order Respondent shall provide documentation to EPA verifying the significant deficiencies identified in Count II have been addressed, or include compliance actions and a schedule to address them in the Workplan described above for the following items:

- a. No lead ban ordinance;
- b. Filter B leaking;
- c. Water pressures throughout the distribution system are not maintained or verified;
- d. The leaking flush hydrant on Red Bird Lane; and
- e. Inoperable K-20 water storage tower's water level indicator.

75. Respondent shall continue to republish the Tier 2 public notice every three months as long as any of the above significant deficiency violations persist. A copy of the completed public notice and certification of delivery must be submitted to EPA Region 7 within ten days of when the public notice is provided.

Compliance with National Primary Drinking Water Regulations

76. Respondent shall comply with the Surface Water Treatment Rule, and Long-Term 1 Enhanced Surface Water Treatment Rule, including turbidity and disinfection residuals requirements under 40 C.F.R. §§ 141.551(a), 141.74(c)(1), 141.560, 141.562, 141.75(b)(1), and 141.570 as described in Counts III and IV above.

- a. Respondent shall report to EPA on a weekly basis the daily turbidity and disinfectant residual monitoring, on the Monday following the reporting period.

77. Respondent shall comply with the Revised Total Coliform Rule, including provisions 40 C.F.R. § 141.853 to address violations described in Count IV above.

78. Respondent shall comply with the Disinfectants and Disinfection Byproducts Rule, including TOC removal provisions under 40 C.F.R. §§ 141.133(d) and 141.135(c) to address violations described in Count V above.

79. Respondent shall comply with the Stage 2 Disinfectants and Disinfection Byproducts Rule, including MCLs for HAA5 and TTHMs provisions under 40 C.F.R. § 141.64 to address violations described in Count VI above.

80. Respondent shall comply with the Phase II/V Rule, including Atrazine provisions under 40 C.F.R. § 141.24 to address violations described in Count VII above.

81. Respondent shall comply with the Public Notification Rule, including provisions 40 C.F.R. §§ 141.203 (b), 141.205(a), and 141.204(b) to address violations described in Count VIII above.

82. Respondent shall comply with the Consumer Confidence Report Rule, including provisions 40 C.F.R. §§ 141.152(b) and 141.155(c) to address violations described in Count IX above.

Initial Report

83. Within thirty (30) days after the Effective Date of the Order, Respondent shall submit an Initial Report to EPA documenting actions taken to comply with the requirements above. All other outstanding compliance actions shall be included in the Workplan.

Monthly Progress Reports

84. Beginning sixty (60) days after the Effective Date of the Order, Respondent shall submit a written monthly report to EPA by the 10th day following the reporting period which describes the progress made on each compliance action outlined in the Workplan. The Monthly Progress Report must describe the work that was conducted during the previous month including any milestone achievements on compliance actions in the Workplan, any issues with specific Workplan items, and any other pertinent updates.

85. Monthly reporting shall continue until this Order is terminated by the EPA, or Respondent is otherwise notified by the EPA in writing that the monthly reporting schedule will be changed or may cease.

86. Respondent must request in writing as part of the Monthly Progress Reports a modification or change in schedule if a compliance action will not be completed by the due date approved in the Workplan. Respondent must provide in writing why the compliance actions will not be completed and a proposed completion date. This request to modify a compliance due date is subject to EPA review and approval or disapproval on a case by case basis depending on the facts supporting the specific request.

87. All notices or reports or information required to be submitted by this Order to the EPA shall be sent electronically to:

acord.angela@epa.gov
Angela Acord
Enforcement and Compliance Assurance Division
Water Branch
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

88. Electronic submissions to the EPA will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically shall be submitted in hard copy to the addresses provided above and they will be deemed submitted on the date they are received.

GENERAL PROVISIONS

89. Respondent 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.

90. This Consent Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or Part 141. Issuance of this Consent Order is not an election by the EPA to forgo any civil or criminal action.

91. Violation of any part of this Consent Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$69,733 (as adjusted for inflation) per day of violation, a court injunction ordering compliance, or both. 42 U.S.C. § 300g-3; 40 C.F.R. § 19; 88 Fed. Reg. at 89309 (December 27, 2023).

92. Once approved by the EPA all deliverables, including schedules contained therein, shall be incorporated into this Order.

93. 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.

94. At the EPA's sole discretion, extensions of the compliance schedule / deadlines required by this Order may be made by the EPA by written notice to Respondent, without further formal amendment to the Order. All other terms of this Order may be modified only by a subsequent written agreement signed by the Parties.

95. 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.

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

ORDERED, on the date shown in the signatures below.

Jodi Bruno
Acting Director
Enforcement and Compliance Assurance Division

Shane McCain
Attorney
Office of Regional Counsel

For the Respondent, Kickapoo Tribe in Kansas:

Paul Chatham
Signature

6/17/24
Date

CERTIFICATE OF SERVICE

I certify that on the date noted below, I filed the original and one true and correct copy of the signed Administrative Order with the Regional Hearing Clerk, Region 7.

I further certify that on the date noted below I sent a copy of the foregoing Administrative Order by electronic mail to:

Gail.cheatham@ktik-nsn.gov
Gail Cheatham, Chairwoman
Kickapoo Tribe in Kansas

acord.angel@epa.gov
Angela Acord
EPA Region 7 Enforcement and Compliance Assurance Division

mccoin.shane@epa.gov
Shane McCoin
EPA Region 7 Office of Regional Counsel

Date

Signature