

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

**FILED**

Sep 25, 2024

2:55 pm

**U.S. EPA REGION 8  
HEARING CLERK**

IN THE MATTER OF:	)	
	)	Docket No. SDWA-08-2024-0048
<b>Two Medicine Water Company,</b>	)	
	)	<b>ADMINISTRATIVE ORDER ON</b>
Respondent.	)	<b>CONSENT</b>
	)	
Two Medicine Water Public Water System	)	Proceeding pursuant to section
PWS ID #083090090	)	1414(g) of the Safe Drinking Water
	)	Act, 42 U.S.C. § 300(g)-3(g).

**INTRODUCTION**

The United States Environmental Protection Agency, Region 8 (EPA) and the Two Medicine Water Company (TMWC), 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 (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 Two Medicine Water Public Water System (System).

**JURISDICTION**

1. The EPA has primary enforcement responsibility over public water systems on the Blackfeet Indian Reservation of Montana (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 EPA Administrator by section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), which has been delegated to the undersigned EPA official.
3. The Findings of Fact and Findings of Violation and Conclusions of Law (Findings) allegations in paragraphs 6 through 12, below, are made solely by the EPA. Without any admission of liability, TMWC consents to the issuance of this Consent Order and agrees to abide by all of its conditions. TMWC waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review TMWC may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review of this Consent Order under section 1448(a) of the Act, 42 U.S.C. § 300j-7(a). TMWC further agrees not to challenge the jurisdiction of the EPA or the Findings in any proceeding to enforce this Consent Order or in any action under this Consent Order.

### **PARTIES BOUND**

4. This Consent Order applies to TMWC and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. TMWC 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 TMWC's responsibilities under this Consent Order.
5. Each undersigned signatory for TMWC certifies to her or his authority to execute this Consent Order and to legally bind TMWC to the terms of this Consent Order.

### **FINDINGS OF FACT**

6. The Two Medicine Water Company is a tribal agency organized under the laws of the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana and therefore is a "person" as that term is defined in the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, for purposes of federal enforcement under the Act.
7. TMWC owns and operates the System, which is a public water system, in Glacier County, Montana, within the exterior boundaries of the Reservation. The System provides the public with piped water for human consumption.
8. The System has approximately 240 service connections used by year-round residents and regularly serves an average of approximately 904 year-round residents and a non-transient population of 250, as well as serving 5271 year-round residents as a wholesaler. 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.
9. TMWC owns and operates the System and therefore is a "supplier of water" as defined in section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. TMWC therefore is required to comply with the requirements of the Act and its implementing regulations, Part 141.
10. The source of the System's water is a surface water source accessed via the Two Medicine Lake Intake. The water is treated by a membrane filtration system and addition of sodium hypochlorite.

### **FINDINGS OF VIOLATION AND CONCLUSIONS OF LAW**

11. TMWC is required to complete corrective action of significant deficiencies or comply with an EPA-approved corrective action plan and schedule within 180 calendar days (or earlier if instructed by the EPA) of receiving written notification from the EPA of a significant deficiency. 40 C.F.R. § 141.404(a). TMWC is required to notify the EPA within 30 calendar days of completion of a significant deficiency corrective action. 40 C.F.R. § 141.405(a)(2). TMWC received a sanitary survey report from the EPA on January 18, 2022, which detailed significant deficiencies. The EPA approved a schedule for the System to complete the corrective actions by December 8, 2022. TMWC failed to complete all corrective actions by December 8, 2022, and therefore violated this requirement. New East Glacier Tank (ST02) and Old East Glacier Tank (ST04) were inspected by RATES on August 1, 2023, in partial fulfillment of these requirements. This inspection identified additional corrective actions required that have been incorporated into this Consent Order. See paragraph 13 for a complete description of the outstanding significant deficiencies.
12. TMWC is required to report any failure to comply with Part 141 to the EPA within 48 hours (except where Part 141 specifies a different time period). 40 C.F.R. § 141.31(b). TMWC failed to report the violations identified in paragraph 11 above, to the EPA and therefore violated this requirement.

### **ORDER ON CONSENT**

Based on the foregoing Findings, and pursuant to section 1414(g) of the Act, 42 U.S.C.

§ 300g-3(g), TMWC agrees and is hereby ORDERED to perform the following:

13. Within 30 calendar days of the Effective Date of this Consent Order, TMWC shall consult with the EPA regarding actions to correct significant deficiencies and shall submit a proposed schedule (Schedule) and plan to the EPA for completion of all corrective actions. The plan shall include proposed modifications to the System and estimated costs of modifications. The Schedule shall be incorporated into this Consent Order as an enforceable requirement upon written approval by the EPA. Within 10 calendar days after completing each task included in the Schedule, TMWC shall notify the EPA of the task's completion through the submission of a

Significant Deficiency Correction Notice. TMWC shall provide sufficient evidence to the EPA including photographs of the corrective actions.

Corrective Actions:

- Overall maintenance of the water treatment plant is required. Several housekeeping and general maintenance concerns were observed including significant treatment chemical leaks in feed line fittings, chemical feed pumps that were not repaired or routinely cleaned, leaking water pipes, empty chemical feed bags and barrels not properly disposed of, and garden hoses and tools scattered in areas of the plant.
- New East Glacier Tank (ST02) Storage Tank: issues identified with tank components must be corrected. Reference enclosed Tech Tips for Finished Water Storage Facilities.
  - Leaking in the tank must be stopped, by replacement, repair, disconnection, decommissioning, or any other effective method.
  - All openings not covered with well-secured 24-mesh must be fully covered with no gaps or holes.
  - Tank must be cleaned.
  - Non-downturned vents are not completely covered to the bottom of the vent screen to prevent dust entrapment. Air vents must be completely covered.
  - Photos must be provided from all angles to demonstrate that the mesh screen just below the roof of the tank is not loose at any point and is of 24-mesh.
  - Distance from non-downturned vent opening to the top of the tank must be measured. If this distance is less than eight inches, distance must be increased to eight inches or more.
  - Drain outfall location must be cleaned of all debris, soil, and vegetation.
- Old East Glacier Tank (ST04) Storage Tank: issues identified with tank components must be corrected. Reference enclosed Tech Tips for Finished Water Storage Facilities.

- Leaking in the tank must be stopped, by replacement, repair, disconnection, decommissioning, or any other effective method.
  - All openings not covered with well-secured 24-mesh must be fully covered with no gaps or holes.
  - Tank must be cleaned.
  - Non-downturned vents are not completely covered to the bottom of the vent scree to prevent dust entrapment. Air vents must be completely covered to the bottom of the vent scree.
  - Distance from non-downturned vent opening to the top of the tank must be measured. If this distance is less than eight inches, distance must be increased to eight inches or more.
  - Drain outfall location must be cleaned of all debris, soil, and vegetation.
14. During the pendency of this Consent Order, TMWC shall report any violation of Part 141 to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Consent Order or Part 141, TMWC shall report within that different period.
15. Any notices or reports required by this Consent Order to be submitted to the EPA shall be submitted to:

Christina Carballal, 8ENF-WSD

U.S. Environmental Protection Agency

1595 Wynkoop Street

Denver, Colorado 80202-1129

Email: carballal-broome.christina@epa.gov

### **GENERAL PROVISIONS**

16. TMWC shall fully implement each item of this Consent Order. TMWC'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.
17. 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.

18. Violation of any part of this Consent Order, the Act, or Part 141 may subject TMWC 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. Part 19; 88 Fed. Reg. at 89309 (December 27, 2023).
19. This Consent Order may be amended or modified by written agreement of the EPA and TMWC.
20. The Effective Date of this Consent Order is the date upon which a fully executed copy is filed with the Regional Hearing Clerk.
21. 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. The EPA at its sole discretion may terminate the Consent Order upon determining full compliance and providing written notice to TMWC.

IT IS SO AGREED AND ORDERED:

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Suzanne J. Bohan, Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 8

**TWO MEDICINE WATER COMPANY**  
Respondent.

Date: 9.24.2024

Shelly M. Hall (Acting)  
Rodney R. Gervais Jr., Chairman  
Blackfeet Indian Tribe