

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

FILED

Sep 25, 2024

2:49 pm

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

IN THE MATTER OF:)	
)	Docket No. SDWA-08-2024-XXXX
The Blackfeet Tribe of the)	SDWA-08-2024-0047
Blackfeet Indian Reservation of Montana,)	
)	ADMINISTRATIVE ORDER ON
Respondent.)	CONSENT
)	
Starr School Public Water System)	Proceeding pursuant to section
PWS ID #083090007)	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 Blackfeet Tribe of the Blackfeet Indian Reservation of Montana (Respondent) 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 Starr School 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 15, below, are made solely by the EPA. Without any admission of liability, Respondent consents to the issuance of this Consent Order and agrees to abide by all of its conditions. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review Respondent 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). Respondent

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 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. Respondent is a federally recognized Indian tribe 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.
7. Respondent owns and/or operates the System, which is a public water system, in Starr School, 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 60 service connections used by year-round residents and regularly serves an average of approximately 250 year-round residents. 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. Respondent owns and/or 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. Respondent 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 groundwater by two wells.

FINDINGS OF VIOLATION AND CONCLUSIONS OF LAW

11. Respondent is required to correct any sanitary defect found through either a Level 1 or 2 assessment or be in compliance with an EPA-approved schedule and, notify the EPA when each scheduled corrective action is complete. 40 C.F.R. § 141.859(c). Respondent failed to timely correct all sanitary defects found during a Level 2 assessment conducted October 7, 2022, and/or failed to notify the EPA of corrective action completion and therefore, violated these requirements. The sanitary defects that were not corrected were:
 - Cleaning the storage tank (ST03) and making sure there are no longer any moths or insects in the water.
 - Installing #24 mesh on the top of the vent, under the shroud on the storage tank (ST03).
 - Replacing the torn well cap gasket on WL02 to create a sanitary seal.
12. Respondent is required to notify the public of certain violations of Part 141 and, within 10 calendar days after completing public notice, provide the EPA a certification of having provided public notice, along with a representative copy of the public notice. 40 C.F.R. §§ 141.31(d) and 141.201141.211. The violations identified in paragraphs 11 above, are classified as a Tier 2 violations, requiring public notice within 30 calendar days, according to 40 C.F.R. § 141.203. Respondent failed to notify the public of the violation identified in paragraph 11, above, and/or failed to certify to the EPA that public notice was provided and therefore violated this requirement.
13. Respondent is required to report any violation for failure to correct sanitary defects to the EPA no later than the end of the next business day after it learns of the violation listed in paragraphs 11 above, to the EPA and therefore violated this requirement.
14. Respondent failed to notify the public of the violations cited in paragraph 11 and/or failed to submit a copy to the EPA and therefore violated this requirement.
15. Respondent 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). Respondent 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), Respondent agrees and is hereby ORDERED to perform the following:

16. Respondent is ordered to comply with all provisions of the Act and Part 141, including but not limited to each requirement cited above.
17. Within 30 calendar days of receipt of this Order, Respondent shall consult with the EPA regarding implementation of necessary corrective actions and submit to the EPA a schedule for completion of all corrective actions. Upon written approval by the EPA, the-approved schedule (Schedule) shall be incorporated into this Order as an enforceable requirement. Within 10 calendar days after completing all tasks included in the Schedule, Respondent shall notify the EPA of the project's completion. Respondent shall provide sufficient evidence to the EPA including photographs of the corrective actions. Thereafter, Respondent shall comply with all provisions of 40 C.F.R. § 141.859(c) regarding any identified sanitary defects at the System.

Corrective Actions:

- Clean the storage tank (ST03) and make sure there are no longer any moths or insects in the water. Complete the enclosed EPA Storage Tank Cleaning Checklist.
 - Install #24 mesh on the top of the vent, under the shroud on the storage tank (ST03).
 - Replace the torn well cap gasket on WL02 to create a sanitary seal.
18. Within 30 calendar days after receipt of this Order, and quarterly thereafter as long as the violations cited in paragraph 17, above, persist, Respondent shall notify the public of these violations. Thereafter, following any future violation of Part 141, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 calendar days after providing public notice,

Respondent shall submit a copy of the notice and certification to the EPA. 40 C.F.R. § 141.31(d). Templates and instructions are available at:
<https://www.epa.gov/dwreginfo/public-notification-instructions-and-templates-revised-total-coliform-rule-rtrcr>.

19. Respondent must report any violation of total coliform monitoring requirements to the EPA within 10 calendar days after discovering the violation and notify the public in accordance with subpart Q of this part, as required by 40 C.F.R. § 141.861(a)(4).
20. Respondent 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 Order or Part 141, Respondent shall report within that different period.
21. 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

22. 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.
23. 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.
24. 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. Part 19; 88 Fed. Reg. at 89309 (December 27, 2023).

25. This Consent Order may be amended or modified by written agreement of the EPA and Respondent.
26. The Effective Date of this Consent Order is the date upon which a fully executed copy is filed with the Regional Hearing Clerk.
27. 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 the Respondent.

IT IS SO AGREED AND ORDERED:

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

Date: _____

Suzanne J. Bohan, Director Water
Enforcement Branch
U.S. EPA Region 8

**The Blackfeet Tribe of the
Blackfeet Indian Reservation of
Montana**
Respondent.

Date: 9.24.2024

Shellyn Hall (acting)
Rodney R. Gervais Jr., Chairman
Blackfeet Indian Tribe