



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Phone 800-227-8917
<http://www.epa.gov/region08>

2011 JUL -5 PM 12:47

Ref: 8ENF-W

JUL 05 2011

FILED
EPA REGION VIII
HEARING CLERK

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

The Honorable Michael McCord
Mayor, Town of Neihart
P.O. Box 36
Neihart, MT 59465

Re: Administrative Order Addendum
Docket No. SDWA-08-2008-0008
Town of Neihart Public Water System
PWS ID # MT0000298

Dear Mayor McCord:

Pursuant to paragraph 3 of the Order section in the Administrative Order (AO) issued January 22, 2008, to the Town of Neihart (the Town) by the U.S. Environmental Protection Agency (EPA), this Addendum to the AO incorporates the schedule for completing system modifications as outlined in the May 13, 2011, email to EPA from you on behalf of the Town. This letter constitutes the written approval by EPA of the Town's schedule as indicated in the chart below.

Per the plan as outlined in your e-mail of May 13, 2011, the Town intends to complete an alternate permanent intake modification by October 31, 2012. This proposed alternate modification, an infiltration gallery on Shorty Creek, would replace the permanent dam structure agreed to in Addenda letters issued on December 29, 2008 and March 9, 2010. However, as this new approach for a permanent modification to the intake at the Town's water system requires an amendment to the Town's water rights, the proposed plans includes two separate but related timelines for "Water Rights" and a "Permanent Intake Modification," as detailed below.

If the State of Montana does not approve the water rights application or any other proposal contained in this plan, the Town must notify EPA immediately and submit an alternate plan to EPA within 30 days of the State's denial.

Water Rights Timeline
Milestone

Completion Date

<i>Water Rights Timeline Milestone</i>	<i>Completion Date</i>
Submit water rights application for Shorty Creek to Montana DNRC	October 31, 2011
Expected approval by DNRC of water rights application for Shorty Creek	May 31, 2012

**Permanent Intake Modification: Shorty Creek Infiltration Gallery Design, Approval, and Construction
Timeline**


<i>Milestone</i>	<i>Completion Date</i>
In-concept approval of infiltration gallery by DEQ	Completed
Prepare preliminary design of infiltration gallery	Completed
Initial technical submissions (pre-design packet) to MT State Agencies (DEQ, DNRC, FWP)	October 31, 2011
Complete and submit final infiltration gallery design packet to DEQ	January 31, 2012
Submit form 124 (Montana Stream Protection Act permit application) to MT Department of Fish, Wildlife and Parks	February 29, 2012
Expected approval of infiltration gallery design by DEQ	March 31, 2012
Construction of infiltration gallery begins	August 31, 2012
Construction of infiltration gallery completed	September 30, 2012
Infiltration gallery brought online (replacing interim intake modification currently in place)	October 31, 2012

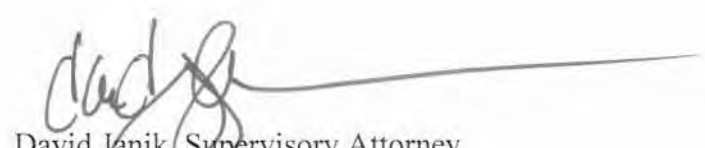
Consistent with paragraph 4 of the Order section of the AO, the "Completion Date" deadlines above are now enforceable requirements of the AO.

Please note that EPA expects this approved schedule to be met. While not creating any right to an extension, EPA may in its discretion consider granting an extension to any deadline in the schedule under limited circumstances. If unexpected events occur that are beyond the Town's control and that may prompt the Town to request an extension of these deadlines, the Town will be responsible for notifying EPA well in advance of the deadline dates. EPA will not consider extending these deadlines without a clear justification for their need. The Town must provide the following information in any request for extensions: a description of the work that has been completed and the additional work that may not be completed by the deadline dates, the unexpected events that occurred and how Respondent attempted to foresee or overcome these obstacles, the proposed new deadline dates, and an explanation that justifies the new proposed deadline dates.

Please be advised that the Town is required to comply with all provisions of the AO. Penalties for failing to comply are set forth in the Administrative Order. Please contact Mario Mérida at (303) 312-6297 if you have any questions concerning this Addendum. If the Town is represented by an attorney, your attorney may call Thomas Sitz at 1-800-227-8917, extension 6918, or at (303) 312-6918.

Sincerely,


Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice


David Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Tina Artemis, EPA Regional Hearing Clerk
John Arrigo, MT DEQ
Shelley Nolan, MT DEQ