



REGION 10

SEATTLE, WA 98101

RETURN RECEIPT REQUESTED

The Honorable Albert Smith
Mayor
Metlakatla Indian Community
P.O. Box 8
Metlakatla, Alaska 99926

Re: Notice Letter, Request for Assistance, and Opportunity to Consult regarding Non-Compliance at the Metlakatla Public Water System PWS ID # 100211202

Dear Mayor Smith:

The U.S. Environmental Protection Agency (EPA) has identified one or more violations of the Safe Drinking Water Act (SDWA) at the Metlakatla Public Drinking Water System, located on Walden Point Road in Metlakatla, Alaska ("System"). The System is located within the exterior boundaries of the Metlakatla Indian Community Reservation. It is EPA's understanding that the System is a Tribal enterprise that is owned and/or operated by the Metlakatla Indian Community ("Tribe"). If you have information to the contrary, please notify EPA immediately.

The purpose of this letter is to: (1) inform the Tribe of the System's noncompliance with SDWA; (2) provide information regarding EPA's efforts to facilitate compliance at the System and the potential for federal enforcement to address the noncompliance; (3) respectfully request your leadership's assistance in taking steps to rectify the violations quickly and communicate with EPA, so that we can work together to ensure safe drinking water is provided to the consumers of the System; and (4) offer the opportunity to engage in government-to-government consultation with the Tribe regarding the System's noncompliance with SDWA.

SDWA Violations at the System and EPA's Compliance Assistance Efforts

EPA tracks the compliance status of all public water systems in the United States subject to SDWA and has primary enforcement authority over public water systems on the Metlakatla Indian Community Reservation. Our records, as of April 23, 2024, show that the System is in violation of National Primary Drinking Water Regulations. Specifically, violations include the failure to correct significant deficiencies in a timely manner.

The System's operators have been notified of the violations and the steps needed to return to compliance. EPA communicates with the operators of the System by phone, email and letter to address specific compliance issues at the System. EPA and one of its technical assistance providers, the

Rural Community Assistance Corporation (RCAC), have also conducted site visits at the System. It is important for the Tribe, as the System's owner, to also be aware of the violations and to ensure that the System returns to compliance as soon as possible and maintains compliance thereafter.

The EPA has provided the System significant prior compliance assistance to address the violations, as described in the following enclosures:

1. Notice of Violation, provided in Enclosure 1, describes the specific violations of the National Primary Drinking Water Regulations, steps to return the open violations to compliance and the EPA Rule Manager's contact information for any questions;
2. A Violation History Table, provided in Enclosure 2, shows aggregate open and closed violations over the last five years and the date the violations returned to compliance; and
3. A Compliance Assistance History, provided in Enclosure 3, describes EPA's efforts to assist the operator in achieving compliance.

Necessary Compliance Actions

Because the System remains in noncompliance despite EPA's prior compliance assistance, EPA respectfully requests the Tribe's engagement to ensure the System implements the following necessary compliance actions to avoid formal enforcement.

1. As soon as possible, but no later than 30 days after receipt of this letter, the Tribe must resolve the four outstanding significant deficiencies identified during the October 5, 2021, sanitary survey by completing the corrective actions listed below and submit sufficient evidence to EPA, including photographs when applicable, clearly documenting each correction.
 - a. Finished water storage tank ST-01:

The tank interior of the Old Tank (ST-01) is not in good condition and shows signs of corrosion. Submit to EPA confirmation that the tank has been cleaned and inspected and any concerns resulting from the inspection have been addressed.
 - b. Cross-connection control program:

Submit to EPA a written cross-connection control program that includes, at a minimum, 1) a description of backflow devices in place with a testing schedule; and 2) identification of potential cross-connection threats and a description of prevention controls in place.
 - c. Cross-connections with chemical feed systems:

As an interim measure, install atmospheric vacuum breakers on any hose bibs used for chemical supply make-up water. As part of the water treatment plant upgrades, install backflow prevention devices at all required locations and submit to EPA the product information of the devices installed, photographs of the installed devices and evidence that the devices were properly tested.
 - d. Certified water operator:

Submit to EPA documentation that the System's water operator is properly certified, to the required level, by the state of Alaska.

Potential for Enforcement to Address Noncompliance

Pursuant to SDWA, EPA may take an enforcement action when public water systems are out of compliance. An enforcement action may include an order requiring compliance or the assessment of civil penalties in an amount up to \$69,733 per day of violation. While the EPA prefers to resolve noncompliance involving tribal public water systems before such formal enforcement is necessary, it is imperative that the Tribe adhere to the necessary compliance actions and deadlines set forth in the above section and incur no additional violations to avoid formal enforcement and to protect public health. If the Tribe is unable to complete the required actions listed above within 30 days, EPA will seek to enter into an Administrative Order on Consent with the Tribe that sets forth an appropriate schedule to comply.

EPA will notify you after the deadline established above regarding whether the System has successfully returned to compliance with SDWA or whether EPA plans to initiate an enforcement action ordering compliance to address continued noncompliance.

Opportunity to Consult and Provide Additional Information

The EPA strongly encourages the Tribe to review this letter and the enclosed information to ensure the System returns to compliance. If there is any additional information that you can provide to EPA that demonstrates the System's compliance with SDWA please provide that information to my staff using the contact information listed below, with a copy to R10TribalDW@epa.gov. The EPA requests that you provide such information to EPA and include the respective System PWS identification number, which is included in the top of this letter, on all relevant correspondence.

If the Metlakatla Tribal government wishes to engage in government-to-government consultation on this matter, please respond no later than June 5, 2024 and request consultation. In your response, please designate a tribal contact with which my staff will work to make the appropriate arrangements and include any policies or procedures that the Tribe has regarding consultation with the EPA. If you do not wish to engage in formal government-to-government consultation and wish to engage in less formal coordination to resolve the matter, please direct your staff to contact Stephen Fitzner, of my staff, whose contact information is provided below.

Our efforts to work cooperatively with you and the operators to resolve noncompliance are undertaken consistent with the EPA "Enforcement Response Policy under the Safe Drinking Water Act" ("Enforcement Response Policy") and the EPA "Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy," which implements the EPA "Policy on Consultation and Coordination with Indian Tribes." These documents are available at: <https://www.epa.gov/enforcement/enforcement-response-policy-public-water-system-supervision-pwss-program-under-safe> and <https://www.epa.gov/enforcement/transmittal-final-guidance-enforcement-principles-outlined-1984-indian-policy-january-17>.


Our goal is to assure that the System consistently produces safe water for the consumers it serves.

Please do not hesitate to contact me at (206) 553-6695 if you have questions. Your staff may also contact Stephen Fitzner, of my staff, at (208) 378-5764 or fitzner.stephen@epa.gov. If you are represented by legal counsel, please have your counsel contact Melanie Shepherdson, Assistant

Regional Counsel, at shepherdson.melanie@epa.gov or (206) 553-0310. The EPA appreciates your partnership in protecting public health and the environment in Indian country.

Sincerely,

**EDWARD
KOWALSKI**

 Digitally signed by EDWARD
KOWALSKI
Date: 2024.05.02 12:06:26 -07'00'

Edward J. Kowalski
Director
Enforcement and Compliance Assurance Division

cc: Rick Anderson
Utility Director, Metlakatla Indian Community

Kelly Bolton
Metlakatla Public Works

100211202	METLAKATLA	Volatile Organic Chemicals	Monitoring, Regular	MR	N	Styrene	01-Jan-2017	31-Dec-2019	Returned to Compliance	08-Jun-2020	EOX	Federal Compliance achieved	05-Mar-2020
100211202	METLAKATLA	Volatile Organic Chemicals	Monitoring, Regular	MR	N	1,2,4-Trichlorobenzene	01-Jan-2017	31-Dec-2019	Returned to Compliance	08-Jun-2020	EOX	Federal Compliance achieved	05-Mar-2020
100211202	METLAKATLA	Volatile Organic Chemicals	Monitoring, Regular	MR	N	DICHLOROMETHANE	01-Jan-2017	31-Dec-2019	Returned to Compliance	08-Jun-2020	EOX	Federal Compliance achieved	05-Mar-2020

Compliance Assistance History

Date	Type	Subject Matter	Recipient
2/3/2022	Letter	Notice of Deficiencies Letter- Inform PWS of Significant Deficiencies	<ul style="list-style-type: none"> • Rick Anderson, Utility Director • Jerry Johnson, Water Operator
5/23/2022	Letter	Approval of Corrective Action Plan Letter- Inform PWS of approval of proposed corrective action plan	<ul style="list-style-type: none"> • Rick Anderson, Utility Director • Jerry Johnson, Water Operator
11/9/2022	Letter	Significant Deficiencies Notice of Violation letter- Inform PWS of significant deficiencies violations and resulting public notification requirement	<ul style="list-style-type: none"> • Albert Smith, Mayor • Rick Anderson, Utility Director • Jerry Johnson, Water Operator
11/30/2022	Virtual Meeting	EPA Virtual Technical Assistance Meeting- EPA met with utilities manager to provide technical assistance on unaddressed significant deficiencies and review overdue items.	<ul style="list-style-type: none"> • Rick Anderson, Utility Director
1/4/2023	Virtual Meeting	EPA Virtual Technical Assistance Meeting- EPA set up meeting with utilities manager and Alaska Remote Worker to provide technical assistance on unaddressed significant deficiencies and review overdue items. Utilities manager did not show up or respond to phone calls.	<ul style="list-style-type: none"> • Rick Anderson, Utility Director
3/2/2023	Email	EPA Email with Updated Unresolved Significant Deficiencies List- Email providing updated significant deficiencies tracker of remaining unaddressed items following documentation of fixes.	<ul style="list-style-type: none"> • Rick Anderson, Utility Director
4/18/2023	Site Visit	Technical Assistance Provider and Alaska Remote Worker Site Visit- EPA contractor and Alaska Remote Worker provided technical assistance on site related to issues of non-compliance, including	<ul style="list-style-type: none"> • Rick Anderson, Utility Director • Jerry Johnson, Water Operator

		unaddressed significant deficiencies and PN.	
7/7/2023	Email	EPA Email with Technical Assistance offer and Reminder to Complete Requirements- Email offering technical assistance for two significant deficiencies, request for CAP update and reminder to complete remaining overdue items. No response received.	<ul style="list-style-type: none"> • Rick Anderson, Utility Director
10/20/2023	Email	EPA Email with Updated Unresolved Significant Deficiencies List- Email providing updated significant deficiencies tracker of remaining unaddressed items following documentation of fixes.	<ul style="list-style-type: none"> • Rick Anderson, Utility Director

From: [Fitzner, Stephen](#)
To: asmith@metlakatla.com
Cc: mic_maint@aptalaska.net; KBolton@metlakatla.com; [Shepherdson, Melanie \(she/her/hers\)](#); [Law, Jonathan Contreras, Peter](#); [Kenknight, Jeff](#); [Ghetu, Christine \(she/her/hers\)](#); [Kowalski, Edward](#)
Subject: Notice Letter, Request for Assistance, and Opportunity to Consult regarding Safe Drinking Water Act (SDWA) Non-Compliance at the Metlakatla Public Water System PWS ID # 100211202
Date: Thursday, May 2, 2024 3:43:00 PM
Attachments: [Metlakatla Request for Assistance and Opportunity to Consult.pdf](#)
[Enclosure 1-Notice of Violation.pdf](#)
[Enclosure 2-Violation Report.pdf](#)
[Enclosure 3-Compliance Assistance History.pdf](#)
[image001.png](#)
Importance: High

Dear Mayor Smith:

Attached please find correspondence from Edward Kowalski, EPA Region 10 Director of Enforcement and Compliance Assurance Division, regarding the above-referenced matter.

Thank you.



Stephen Fitzner

Field, Data, & Drinking Water Enforcement Section
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 10
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Boise, Idaho 83702
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