



REGION 10

SEATTLE, WA 98101

February 8, 2024

Tony Berkson
Nisqually Indian Tribe
4820 She-Nah-Num Dr. S.E.
Olympia, WA 98513

Failure to Monitor or Report Nitrate and Failure to Submit Lead Consumer Notice and Certification, Cuyamaca, PWS ID 105300089

Dear Mr. Berkson:

The Environmental Protection Agency (EPA) has not received nitrate sample results for the 1/1/2023 - 12/31/2023 compliance period, which constitutes a violation of the National Primary Drinking Water Regulations [40 CFR §141.23(a)]. Cuyamaca is required to collect one nitrate sample every year. Results must be reported to the EPA by the tenth (10th) of the month following the sampling period [40 CFR 141.31(a)]. Timely testing for nitrate is essential because nitrate poses short-term health risks to infants at elevated levels.

To return to compliance Cuyamaca must either:

1. If samples were already collected, submit results to R10TribalDW@epa.gov as soon as possible.

-OR-

2. Collect nitrate samples from sample site NC-09 as soon as possible and submit results to R10TribalDW@epa.gov.

Additionally, Cuyamaca must:

1. Distribute Tier 3 Public Notification (PN) **within 1 year** of receiving this letter [40 CFR 141.204(b)].

-AND-

2. Submit a copy of the PN that was distributed and the completed PN Certification Form to R10TribalDW@epa.gov within 10 days after issuing the notice [40 CFR 141.31(d)(1)].

A Public Notification template, instructions, and certification are enclosed to assist with completing the requirements. For community water systems only, the annual Consumer Confidence Report (CCR) may

be used as a vehicle for the initial Tier 3 public notice, and all required repeat notices, instead of individual Tier 3 public notices, under [40 CFR 141.204\(b\)\(2\)](#).

Also, The Environmental Protection Agency (EPA) has not received a documentation that Cuyamaca provided consumer notices of individual lead tap results to its customers for for the 6/1/2023 – 9/30/2023 compliance period, which constitutes a violation of the National Primary Drinking Water Regulations [[40 CFR 141.90\(f\)\(3\)](#)]. All water systems that sample for lead and copper must provide a consumer notice of individual lead tap results to each location where samples were taken within 30 days of receiving results [[40 CFR 141.85\(d\)](#)]. One example copy of a consumer notice that was distributed, along with a certification that the consumer notices contained all required information must be submitted to EPA within 90 days following the end of the compliance period [[40 CFR 141.90\(f\)\(3\)](#)].

To return to compliance Cuyamaca must either:

1. If lead consumer notices were already delivered to customers, submit one example copy of a notice to R10TribalDW@epa.gov as soon as possible. The certification form was previously submitted.

-OR-

2. Distribute consumer notices of individual lead tap results to customers and submit one example copy along with the certification form to R10TribalDW@epa.gov as soon as possible.

This letter serves as initial notification of non-compliance under the Safe Drinking Water Act for the regulation and time period cited. EPA supports compliance assistance and encourages early action to return to compliance. Issues not addressed in a timely manner may be referred to enforcement. Prior to an enforcement action for the cited violation(s), EPA Region 10 will offer government-to-government consultation, in accordance with the [EPA Policy on Consultation and Coordination with Indian Tribes](#).

Please contact R10TribalDW@epa.gov with questions.

Sincerely,

For Karen Burgess
Manager
Groundwater and Drinking Water Section

cc: Arthur Gouley, Nisqually Indian Tribe

Nich Kirsten, Nisqually Indian Tribe
Quinn Andreas, RCAC/EFC Region 10