



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ELECTRONIC MAIL
CONFIRMATION OF EMAIL RECEIPT REQUESTED

The Honorable Talbert Cypress
Chairman
Miccosukee Tribe of Indians of Florida
P.O. Box 440021
Miami, Florida 33144

Re: Notice of Noncompliance and Concerns Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(a)(2)(B), Miccosukee Tribe of Indians Public Water System, 3770 Old Tamiami Trail, Miami, Florida, PWS ID Number: 041210001

Dear Chairman Cypress:

The U.S. Environmental Protection Agency is responsible for assuring public water systems (PWSs) provide safe drinking water in accordance with the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f *et seq.*, and the regulations promulgated thereunder. Based on information contained in the Safe Drinking Water Information System, the Miccosukee Tribe of Indians Water System (System) has approximately 205 connections, serves approximately 500 persons year-round, and is owned and/or operated by the Miccosukee Tribe of Indians of Florida (hereinafter, MTIF or Tribe). Pursuant to Section 1401(16) of the SDWA, 42 U.S.C. § 300f(16), it is therefore a community water system. As a community water system, the System is subject to the requirements of the National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141.

Notice of Noncompliance

Based on the findings of a monitoring data review conducted by EPA Region 4, the EPA alleges that the System is in noncompliance with the SDWA and the NPDWRs, as described below. Because the System is owned and/or operated by the Tribe, the Tribe must take steps to protect the health of people who drink water from the System. This letter also explains that the EPA could initiate an enforcement action to address SDWA non-compliance.

Based on the information submitted and reviewed, the EPA has identified the System as out of compliance regarding the following:

1. Under 40 C.F.R. § 141.132(c)(1)(i), community water systems that use chlorine or chloramines must measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled.

The monthly total coliform sample collected on February 8, 2022, did not include the chlorine residual on the chain of custody form submitted to Florida Spectrum Environmental Services, Inc. for analysis. Therefore, the System has not complied with 40 C.F.R. § 141.132(c)(1)(i) by failing to measure disinfectant residual at the same time as total coliform.

2. Under 40 C.F.R. § 141.201(a), each owner or operator of a public water system must give notice for all violations of NPDWRs.

Additionally, under 40 C.F.R. § 141.204 (b) (1), public water systems must provide the public notice not later than one year after the public water system learns of the violation. If the public notice is posted, the notice must remain in place no less than seven days.

The System did not submit a copy of a public notice notifying its customers of the missed chlorine residual measurement to the EPA. Therefore, the System has not complied with 40 C.F.R. §§ 141.201(a) and 141.204 (b)(1) for failure to provide a public notice to notify its customers of the gross alpha particle MCL exceedance.

A public notice template has been included as an enclosure. Once the public notice is issued, a copy of the notice and the Certification Form must be submitted to the Direct Implementation Team in the Water Division and the Enforcement and Compliance Assurance Division within ten days per 40 C.F.R. § 141.31(d).

Pursuant to Section 1414(a)(2) of the SDWA, 42 U.S.C § 300g-3(a)(2), the EPA is hereby notifying the Tribe of such noncompliance. This Notice shall not be construed as a final agency action subject to judicial review under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).

Consistent with the EPA's government-to-government relationship with the MTIF, and our *Final Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy*, the EPA wishes to work cooperatively with the Tribe to bring the System into compliance with the SDWA and its implementing regulations. Within **seven** calendar days of receipt of this letter, the Tribe should contact this office to arrange a video or telephone conference to discuss this notice and the Tribe's plans to develop a written corrective action plan to address the noncompliance and findings. For items that have been addressed, the Tribe should be prepared to provide all relevant information with documentation pertaining to the above violations. The need of additional guidance or compliance assistance in order to address any of the noncompliance listed on this notice, can also be discussed during the meeting.

Until compliance with the SDWA is achieved, the Tribe is considered to be in violation of the SDWA and may be subject to further enforcement action pursuant to Section 1414 of the CWA, 42 U.S.C. § 300g-3, which provides for, among other things, orders on consent, unilateral orders, civil judicial action, and/or financial penalties.

The Tribe may, if it so desires, assert a confidential business information (CBI) claim covering any or all information furnished to the EPA in response to this letter. Further details on how to make a CBI claim are included in Enclosure A.

Thank you for your prompt attention to this matter. If you have any questions, please contact Rebecca Quiñones at (404) 562-9282 or by email at quinones.rebecca@epa.gov. For legal inquiries, please have your attorneys contact Suzanne Armor, Associate Regional Counsel, at (404) 562-9701 or by email at armor.suzanne@epa.gov.

Sincerely,

LARRY
LAMBERTH

Digitally signed by
LARRY LAMBERTH
Date: 2023.03.31
09:54:54 -04'00'

for

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Howard Jim, Miccosukee Tribe of Indians of Florida
Guy Barrett, Miccosukee Tribe of Indians of Florida

ENCLOSURE A

RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS

(40 C.F.R. Part 2)

Except for information which deals with the existence, absence, or level of contaminants in drinking water, you may, if you desire, assert a business confidentiality claim as to any or all of the information that the EPA is requesting from you. Applicable EPA regulations relating to business confidentiality claims are at 40 C.F.R. Part 2 and 40 C.F.R. § 2.304(e).

If you assert such a claim for the requested information, the EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, the EPA may make the information available to the public without any further notice to you.

40 C.F.R. § 2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.