



**REGION 9**

SAN FRANCISCO, CA 94105

<b>IN THE MATTER OF:</b>	)	Docket No. SDWA-09-2024-008
	)	
Jennifer Hodges, PWS ID. No. 090600202	)	
	)	
Respondent.	)	<b>ADMINISTRATIVE ORDER</b>
	)	
	)	
Proceedings pursuant to Section 1414(g) of the Safe	)	
Drinking Water Act, 42 U.S.C. § 300(g)-3(g).	)	
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**I. INTRODUCTION**

1. The United States Environmental Protection Agency, Region 9 (EPA) is issuing this Unilateral Administrative Order (“Order”) for the purpose of bringing the Havasu Water Company public water system, PWS ID. No. 090600202 (“System”), which is located within the external boundaries of the Chemehuevi Indian Reservation, into compliance with the requirements of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300f et seq., and the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. Part 141.

## **II. JURISDICTION**

2. EPA issues this Order under the authority vested in the EPA Administrator by Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g) which has been delegated to the EPA Region 9 Regional Administrator and in turn has been delegated to the EPA Region 9 Director of Enforcement and Compliance Assurance Division.

3. EPA has primary enforcement responsibility under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3 to ensure that suppliers of water in the United States comply with the requirements of the SDWA.

4. The State of California, acting through its California State Water Resources Control Board Division of Drinking Water (DDW), previously asserted primary enforcement responsibility under Section 1413(a) of the SDWA, 42 U.S.C. § 300g-2(a), to ensure that public water systems in California comply with the applicable requirements of the SDWA. On November 2, 2023, in coordination with DDW, EPA notified Respondent that the System was located within the exterior boundaries of the Chemehuevi Indian Reservation and was therefore within EPA's jurisdiction. On January 1, 2024, DDW officially transferred oversight of the System to EPA.

## **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

EPA makes the following findings of fact and conclusions of law:

5. Respondent is a "person" within the meaning of Section 1401(12) of the SDWA and 40 C.F.R. § 141.2.

6. Under Section 1401(5) of the SDWA, a "supplier of water," means any person who owns or operates a public water system. See 42 U.S.C. § 300f(5).

7. Respondent owns and/or operates a system known to EPA as the “Havasu Water Company public water system,” PWS ID. No. 090600202, located at 148896 Havasu Lake Road, Needles, CA 92363, for the provision to the public of piped water for human consumption.

8. Under Section 1401(4) of the SDWA, a “public water system,” means, in relevant part, a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if such system has at least 15 service connections or regularly serves at least 25 individuals. See 42 U.S.C. § 300f(4)(A). Section 1401(15) of the SDWA further defines a “community water system,” as a “public water system” that serves at least 15 service connections used by year-round residents of the area served by the system; or regularly serves at least 25 year-round residents. See 42 U.S.C. § 300f(15).

9. The System utilizes a surface water source. The surface water source is an intake located at the west side of Lake Havasu. The intake comprises part of the System and is the System’s sole water source.

10. The System uses a pressure filter from Environmental Products Division Alternative Filtration Technology for surface water treatment.

11. The System uses chlorine gas as a chemical disinfectant in the water treatment process.

12. According to records provided by DDW, the System has 221 service connections and serves 361 people.

13. The System has at least 15 service connections or regularly serves at least 25 people and is therefore a “public water system” as that term is defined in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and a “community water system” as that term is defined in Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15), and 40 C.F.R. § 141.2.

14. Respondent is individually an owner of a “public water system” and a “supplier of water” within the meaning of Section 1401(4) and (5) of the SDWA, 42 U.S.C. § 300f(4) and (5), and 40 C.F.R. § 141.2.

15. Respondent owns a “community water system” as defined by Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15), and 40 C.F.R. § 141.2.

16. As a “person,” “supplier of water,” and “owner” of a “public water system,” Respondent is subject to the requirements of Part B of the SDWA, 42 U.S.C. § 300g *et seq.*, and all other applicable requirements of the SDWA as defined at 42 U.S.C. §300g-3(i), including all applicable State requirements under 42 U.S.C. §300g-3(i)(4).

17. As a “person,” “supplier of water,” and “owner” of a “public water system,” Respondent is jointly and severally liable for violations of Part B of the SDWA, 42 U.S.C. § 300g *et seq.*, the Act’s implementing regulations at 40 C.F.R. Part 141, and all other applicable requirements of the SDWA as defined at 42 U.S.C. §300g-3(i).

**A. EXCEEDANCE OF THE TOTAL TRIHALOMETHANES MCL**

18. The NPDWRs set a “maximum contaminant level” (MCL) for certain contaminants that may be found in drinking water. MCL is defined under 40 C.F.R. § 141.2 as the maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

19. Total trihalomethanes (TTHM) are a contaminant regulated under the NPDWRs. The MCL for TTHM is 80 ug/L. *See* 40 C.F.R. § 141.64(b).

20. For systems monitoring quarterly, compliance with MCLs in 40 C.F.R. § 141.64 must be based on a running annual arithmetic average (RAA), computed quarterly, of quarterly arithmetic averages of all samples collected by the system. 40 C.F.R. § 141.133(b).

21. Respondent has been conducting quarterly monitoring at two distribution system locations to determine compliance with the TTHM MCL in accordance with 40 C.F.R. § 141.621(a)(2). As the System has had TTHM exceedances since at least 2014, the System is required to collect dual sample sets once per quarter at all locations in accordance with 40 C.F.R. § 141.625(a). The analytical results of Respondent’s quarterly monitoring at the two distribution system locations since 2019 are provided below, in addition to the calculated locational RAA:

**Table 1. TTHM Results at the Approved Monitoring Locations**

Date	Quarter (Calendar Year)	Result (ug/L) – Cement Plant	Locational RAA– Cement Plant	Result (ug/L) – Desert View Ln	Locational RAA– Desert View Ln
<b>2019</b>					
7/12/2019	3 <sup>rd</sup>	78.2	79.3	54.3	N/A
10/4/2019	4 <sup>th</sup>	58.9	79.3	37.3	N/A
<b>2020</b>					
2/7/2020	1 <sup>st</sup>	52.9	79.6	40.5	N/A
4/3/2020	2 <sup>nd</sup>	52.9	60.7	41	43.2
7/10/2020	3 <sup>rd</sup>	80.9	61.4	77.3	49.0
11/6/2020	4 <sup>th</sup>	48.9	58.9	53.4	53.1

Date	Quarter (Calendar Year)	Result (ug/L) – Cement Plant	Locational RAA – Cement Plant	Result (ug/L) – Desert View Ln	Locational RAA – Desert View Ln
<b>2021</b>					
2/5/2021	1 <sup>st</sup>	49.8	58.1	70.9	60.7
4/2/2021	2 <sup>nd</sup>	52.4	58	45.8	61.9
8/6/2021	3 <sup>rd</sup>	144.6	73.9	77.8	62.0
10/8/2021	4 <sup>th</sup>	163.2	102.5	118.3	78.2
<b>2022</b>					
1/7/2022	1 <sup>st</sup>	76.9	109.3	77.9	80.0
4/8/2022	2 <sup>nd</sup>	117.6	125.6	89.9	91.0
8/4/2022	3 <sup>rd</sup>	188.2	136.6	148.7	108.7
10/7/2022	4 <sup>th</sup>	253.4	159.2	77.5	98.5
<b>2023</b>					
1/6/2023	1 <sup>st</sup>	87.6	161.9	67.6	95.9
4/7/2023	2 <sup>nd</sup>	70.7	150.1	104.5	99.6
8/4/2023	3 <sup>rd</sup>	73.4	121.3	149.3	99.7
10/6/2023	4 <sup>th</sup>	135.3	91.8	115.4	109.2

2024					
Date	Quarter (Calendar Year)	Result (ug/L) – Everet St*	Locational RAA – Everet St*	Result (ug/L) – Desert View Ln	Locational RAA – Desert View Ln
1/18/24	1 <sup>st</sup>	84.7	91.0	68.2	109.4
4/5/24	2 <sup>nd</sup>	81.9	93.8	71.2	101.0

\*Sample was taken at a property adjacent to the former sampling site (Cement Plant) due to its closure but was found by EPA to be an acceptable replacement sampling site.

22. Based on the analytical results of quarterly monitoring conducted at the Cement Plant and Desert View Lane as seen in Table 1, Respondent has exceeded the TTHM MCL of 80 ug/L specified at 40 C.F.R. § 141.64(b) based on the locational RAA starting in October 2021 at the Cement Plant sampling location (replaced in January 2024 by the Everet Street sampling location) and in April 2022 at Desert View Lane sampling location.

**B. FAILURE TO MEET QUALIFIED PERSONNEL/OPERATOR REQUIREMENTS**

23. Pursuant to the SDWA’s Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproducts Precursors Rule (Disinfection Byproducts Rule) at 40 C.F.R. § 141.130(c), any CWS that adds a chemical disinfectant to the water in any part of the drinking water treatment process must be operated by qualified personnel who meet the requirements specified by the State (or EPA where it is the primacy agency).

24. Pursuant to the SDWA’s Filtration and Disinfection Rule at 40 C.F.R. § 141.70(c), any CWS supplied by a surface water source must be operated by qualified personnel who meet the requirements specified by the State (or EPA where it is the primacy agency).

25. Respondent adds a chemical disinfectant to the water during the System’s drinking water treatment process and the System is supplied by a surface water source. Therefore, the

System must be operated by qualified personnel pursuant to 40 C.F.R. § 141.130(c) and 40 C.F.R. § 141.70(c), with at least Water Treatment Level 2 and Water Distribution Level 1 certifications in accordance with the EPA Operator Certification Program.

26. Since the departure of the System's qualified personnel in April 2023, the System has not had properly certified personnel to operate the System. The current operator of the System does not have a Water Treatment Level 2 certification or a Water Distribution Level 1 certification.

27. Since at least May 2023, Respondent has failed to retain "qualified personnel," which is to have an operator with at least Water Treatment Level 2 and Water Distribution Level 1 certification, to operate the System as required by the SDWA's Disinfection Byproducts Rule at 40 C.F.R. § 141.130(c) and the SDWA's surface water filtration and disinfection requirement at 40 C.F.R. § 141.70(c).

**D. FAILURE TO MONITOR AS REQUIRED BY THE SURFACE WATER TREATMENT RULE**

28. In accordance with the 40 C.F.R. § 141.74(c), a PWS that uses a surface water source or a ground water source under the influence of surface water and provides filtration treatment must monitor and report filtered water turbidity every four hours when the treatment plant is filtering water. The system must also monitor the chlorine residual levels at the entry point to the distribution system daily. Furthermore, chlorine residual levels must be monitored at the same point and time as total coliform samples.

29. In accordance with 40 C.F.R. § 141.75(b), a PWS that uses a surface water source or a ground water source under the direct influence of surface water and provides filtration



treatment must report monthly turbidity measurements specified by § 141.74(c)(1) and disinfection information specified in § 141.74(c).

30. In addition, in accordance with 40 C.F.R. § 141.70(e), a PWS that serves fewer than 10,000 people must comply with Subpart T. Within Subpart T, in accordance with 40 C.F.R. § 141.570(a) and (b), public water systems meeting this definition must report monthly turbidity measurements.

31. All monthly reporting must be compiled into a Monthly Operating Report (MOR) to be submitted to EPA within 10 days after the last day of each month.

32. The System's December 2023 MOR failed to report daily lowest chlorine residual concentrations, measure disinfectant contact time performance metrics on days the treatment plant was in operation, and relied on instruments to measure turbidity and chlorine residual that were not properly calibrated. The December 2023 MOR was submitted on February 7, 2024, which was later than the due date of January 10, 2024.

33. The January 2024 MOR failed to report daily lowest chlorine residual concentrations, measure most disinfectant contact time performance metrics on days the treatment plant was in operation, and relied on instruments that were not properly calibrated. The MOR was submitted on February 7, 2024, which was prior to the due date of February 10, 2024, but as stated, was inadequate and missing essential data.

34. The February 2024 MOR did not include real-time data for contact time calculations, and relied on instruments that were not properly calibrated. The February 2024 MOR was submitted on March 22, 2024, which was past the due date of March 10, 2024.

35. The March 2024 MOR was submitted on April 11, 2024, which was past the due date of April 10, 2024. The MOR data continued to rely on instruments that were not properly calibrated.

36. The April 2024 MOR was submitted on May 16, 2024, which was past the due date of May 10, 2024. The MOR was missing some pH and temperature measurements used for disinfectant contact time calculations.

37. Respondent submitted MORs to EPA for December 2023, January 2024, February 2024, and March 2024 that did not meet Surface Water Treatment Rule requirements. In addition, the December 2023, February 2024, March 2024, and April 2024 MORs were submitted after the due dates. Respondent failed to submit MORs in accordance with 40 C.F.R. § 141.75(b) and 141.570(a) and (b).

#### **E. FAILURE TO CORRECT SIGNIFICANT DEFICIENCIES**

38. EPA conducted an onsite inspection of the System on December 15, 2023.

39. As defined in 40 C.F.R. § 141.723(b), a significant deficiency includes a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that EPA determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

40. On January 30, 2024, EPA identified in a letter to Respondent seven significant deficiencies based on the December 15, 2023 inspection pursuant to 40 C.F.R. § 141.723. By March 15, 2024, the System was required to correct the significant deficiencies or develop an EPA-approved corrective action plan. Respondent did not submit a corrective action plan for

approval by EPA by March 15, 2024 and did not submit documentation demonstrating appropriate corrective action was taken for the seven identified significant deficiencies.

41. The seven significant deficiencies cited in EPA's January 30, 2024 letter were the following:

1. The System did not have written procedures for treatment plant operations and was unable to produce the manufacturer's manual. The System also lacked a backwash plan;
2. The storage tank overflow was not appropriately screened;
3. The System did not have an appropriately certified operator onsite to manage daily operations;
4. The second chlorine injection point was unknown;
5. The backwash pump was not properly mounted;
6. The polymer injection containers were not secure, not appropriately covered, and vulnerable to spillage; and
7. The turbidimeters and colorimeters had never been calibrated.

42. Respondent violated 40 C.F.R. § 141.723(c) by not submitting an EPA-approved schedule within 45 days of receipt of the EPA letter that reported and identified the significant deficiencies.

43. On April 5, 2024, Respondent submitted an email to EPA demonstrating appropriate corrective action to properly mount the backwash pump. On April 15, 2024, Respondent submitted an email demonstrating the tank overflow had been appropriately screened. On April 24, 2024, Respondent submitted sufficient documentation to EPA that the turbidimeters and

colorimeters had been calibrated, and that written procedures and a calibration schedule were in place. Therefore, these significant deficiencies have been resolved. However, the remaining significant deficiencies have not been resolved.

44. Respondent violated 40 C.F.R. § 141.723(d) by not correcting all the significant deficiencies within 45 days of receipt of the report or under an EPA-approved schedule.

#### **F. FAILURE TO MEET PUBLIC NOTIFICATION REQUIREMENTS**

45. 40 C.F.R. Part 141, Subpart Q, requires public water systems to provide public notice of any failure to comply with any NPDWR and other situations listed in Table 1 of 40 C.F.R. § 141.201.

46. Table 2 of 40 C.F.R. § 141.201(b) defines three public notification tiers, two of which are relevant here: Tier 1, Table 1 of § 141.202(a)(9), are required for situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the primacy agency either its regulations or a case by case basis; and Tier 2, Table 1 of § 141.203(a), are required for non-Tier 1 NPDWR violations and situations with potential to have serious adverse effects on human health.

47. Tier 1 Violations: Pursuant to Table 1 of 40 C.F.R. § 141.202, Tier 1 public notice is required when EPA determines there is a significant potential to have serious adverse effects on human health as a result of short-term exposure. A system must provide Tier 1 public notice no later than 24 hours after a system learns of the violation, or in this case, notification from EPA that Tier 1 public notification is necessary. As discussed in Paragraphs 48 and 50, Respondent has violated public notification requirements by failing to deliver the Tier 1 boil water notices within 24 hours of EPA's notification to issue boil water notices.

48. On February 8, 2024, EPA notified Respondent that it must deliver Tier 1 boil water notices to customers by the end of day on February 9, 2024, as EPA determined a significant potential of serious adverse effects to human health due to unreliable chlorine residual, turbidity, flow, pH, temperature and tank level data. Respondent began delivery of the boil water notices on February 9th but did not complete delivery until February 10, 2024, after the 24-hour deadline.

49. On February 10, 2024, a customer of the System informed EPA that Respondent distributed a notice along with the boil water notice that contained misinformation about the EPA-required boil water notice. This notice, that was not approved by EPA, erroneously and inappropriately cited the SDWA and made representations that were misleading to the public by suggesting that the boil water notice was not due to health and safety-based concerns. On February 14, 2024, EPA sent a letter to Respondent identifying the inaccuracies and misinformation in the notice and demanding that the Respondent must cease dissemination of the notice and any other misinformation to customers.

50. On March 21, 2024, EPA directed Respondent to issue a repeat Tier 1 boil water notice by March 22, 2024, due to continued unreliable monitoring data. Respondent certified that the delivery of boil water notices to customers was complete on March 27, 2024, which was several days after the 24 -hour deadline.

51. On March 28, 2024, EPA was notified by a System customer that the Respondent posted a notice that was physically placed in front of the required boil water notice in the community post office, blocking the boil water notice. The additional notice, which was not approved by EPA, made inaccurate assertions about the safety of the water and reason for the boil water

notice and obscured EPA's required boil water notice. The System customer stated this additional notice was also included with the customer's water bills.

52. Pursuant to 40 C.F.R. § 141.205(c), public notices must be displayed in a conspicuous location when posted and must not contain language that nullifies the purpose of the notice. As discussed in Paragraphs 49 and 51, Respondent posted misinformation that was not EPA-approved and nullified the purpose of the boil water notice. In addition, the unapproved language was located on top of the EPA-approved boil water notice, making it no longer conspicuous.

53. Tier 2 Violations. Pursuant to Table 1 of 40 C.F.R. § 141.203, Tier 2 public notice is required for certain violations. Tier 2 public notice must be provided no later than thirty (30) days after the System learns of the violation and must be repeated every three months for as long as the violation persists. As discussed in Paragraph 22, Respondent has continued to be in violation of the TTHM MCL RAA starting in October 2021 and was therefore required to provide Tier 2 public notice every quarter. As discussed in Paragraph 27 and pursuant to 40 C.F.R. § 141.201(a) Table 1 (3)(v), Respondent has been in violation of the "qualified personnel" operator requirements since at least May 2023 for failing to retain an operator with Water Treatment Level 2 and Water Distribution Level 1 water operator certifications. Therefore, Respondent is required to provide Tier 2 public notice every three months for as long as this violation persists.

54. Although notices are required quarterly for ongoing violations as described in Paragraph 53, Respondent only submitted public notices to DDW for a March 1, 2023 distribution and a June 15, 2023 distribution and Respondent did not submit the required certification forms for

these two public notices as required pursuant to 40 C.F.R. § 141.31(d) and California Code of Regulations, Title 22, § 64469(d).

55. EPA informed Respondent on April 16, 2024 that it was in violation of the TTHM MCL RAA and for ongoing and unresolved significant deficiencies and that it would need to provide public notice to all customers within 30 days in accordance 40 C.F.R. § 141.203. On May 15, 2024, Respondent circulated a letter to customers regarding the ongoing violations without EPA's approval, which included misleading and inaccurate statements regarding the TTHM and significant deficiencies violations. In response, EPA provided an accurate and appropriate Tier 2 public notice for Respondent to circulate on May 15, 2024. Respondent modified this notice without approval and did not complete distribution until May 20, 2024, per their certification to EPA.

56. Respondent failed to distribute the required public notice under 40 C.F.R. § 141.203(b) within 30 days of notice of the violation.

#### **G. FAILURE TO SUBMIT A CONSUMER CONFIDENCE REPORT**

57. Pursuant to 40 C.F.R. § 141.152(b), the Respondent is required to provide all water consumers served by the System with a Consumer Confidence Report (CCR) by July 1 of each year.

58. By no later than the date the system is required to distribute the report to its customers, each CWS must mail a copy of the report to the primacy agency, followed within three months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously

submitted to the primacy agency. 40 C.F.R. § 141.155(c) and California Code of Regulations, Title 22, § 64483(c).

59. Respondent failed to deliver the 2022 CCR to consumers of the System and DDW by July 1, 2023, in violation of 40 C.F.R. § 141.152(b) and California Code of Regulations, Title 22, § 64483(a-c).

60. Respondent failed to submit certification to DDW that the 2022 CCR had been distributed to customers by October 1, 2023, in violation of 40 C.F.R. § 141.155(c) and California Code of Regulations, Title 22, § 64483(c).

#### **IV. ORDER FOR COMPLIANCE**

Based on the foregoing findings and conclusions of law, and pursuant to the authority of SDWA section 1414(g), 42 U.S.C. § 300g-3(g), EPA hereby **ORDERS:**

61. **LETTER OF INTENT:** No later **than fifteen (15) days** from this Order's Effective Date, Respondent shall transmit to EPA letter a describing its intention to comply with this Order, the SDWA, and its implementing regulations at 40 C.F.R. Part 141, i.e., the NPDWRs.

62. **COMPLIANCE PLAN:**

a. No later than **sixty (60) days** from this Order's Effective Date, as defined in Paragraph 91, Respondent must submit to EPA for its review and approval a written Compliance Plan that describes in detail the steps and schedule Respondent will follow to comply with this Order and to return its System to compliance with the SDWA and its NPDWRs. If EPA disapproves of Compliance Plan, then Respondent shall make requested changes to the Compliance Plan and resubmit it to EPA within **thirty (30) days** of receipt of a written disapproval from EPA.



b. EPA may require the Respondent to modify their draft Compliance Plan as necessary to effectuate the Respondent's compliance with the compliance deadlines set forth in this Order. Unless otherwise specified by EPA, the Respondent shall, within **fifteen (15) days** of receipt of comments from EPA, incorporate the modifications and resubmit this revised draft Compliance Plan to EPA for approval. After receiving EPA's approval of the Compliance Plan, the Respondent shall comply with all steps, deadlines, and other requirements described in the final Compliance Plan.

63. **INITIAL TTHM MCL COMPLIANCE:** The System shall achieve compliance with the MCL for TTHM, in accordance with 40 C.F.R. § 141.64(b), no later than **December 31, 2024**. The Respondent shall together provide written notification to EPA of the date on which the System has met this requirement within **ten (10) days** of receiving the sampling results from the laboratory. This notification shall include the laboratory reports showing the results of the TTHM analyses.

64. **CONTINUOUS COMPLIANCE WITH THE TTHM MCL:** After achieving initial compliance with the MCL for TTHM, as described in Paragraph 63, above, the Respondent shall maintain continuous compliance with the TTHM MCL in accordance with 40 C.F.R. § 141.625(c) for at least four consecutive quarters with the LRAA for every monitoring location  $\leq 60$  ppb for TTHM.

65. **SAMPLING AND ANALYSIS:** The Respondent shall conduct ongoing TTHM sampling in accordance with 40 C.F.R. § 141.625. All drinking water samples taken for purposes of compliance with 40 C.F.R. § 141.64(b) shall be analyzed by an EPA-certified laboratory in accordance with 40 C.F.R. § 141.28.

66. **QUARTERLY TTHM SAMPLING:** The Respondent shall conduct quarterly sampling for TTHM at the EPA-approved Sampling Points, until directed otherwise by EPA in writing, in accordance with 40 C.F.R. § 141.625. The Respondent shall comply with additional and/or more frequent TTHM sampling and analysis requirements if EPA determines in writing that these additional requirements are necessary and appropriate to assist with achieving or overseeing compliance with the TTHM MCL and/or this Order.

67. **REPORTING OF TTHM SAMPLING RESULTS:** The Respondent shall report to EPA the results of all TTHM monitoring conducted at the EPA-approved Sampling Points within **ten (10) days** of the end of the monitoring period for TTHM required by 40 C.F.R. § 141.23. If a TTHM result exceeds the MCL, the Respondent shall notify EPA within 24 hours of the System's receipt of notification of the TTHM exceedance.

68. **COMPLIANCE WITH OPERATOR CERTIFICATION REQUIREMENTS:** By **July 1, 2024**, Respondent must identify and provide verification (i.e., copy of active certifications) that the System has a qualified water operator who is physically operating the system and who maintains at least Water Treatment Level 2 certification and Water Distribution Level 1 certification.

69. **COMPLIANCE WITH THE SURFACE WATER TREATMENT RULE REQUIREMENTS:** Respondent shall submit MORs to EPA in accordance with 40 CFR §§ 141.74(c), 141.75(b), and 141.570(a) and (b).

70. **SIGNIFICANT DEFICIENCY CORRECTION:** Respondent shall correct the following unaddressed significant deficiencies within **thirty (30) days** of the Effective Date of the Order:

1. Provide written procedures for treatment plant operations. The procedures must also include procedures for backwashing the treatment filters.
2. Provide sufficient documentation demonstrating the physical location of the second chlorine injection point and its location within the System.
3. Provide photographic documentation demonstrating an appropriate polymer injection container that is secure and protected from potential contamination.

71. **COMPLIANCE WITH PUBLIC NOTIFICATION REQUIREMENTS:** If any Tier 1 public notice is required, the Tier 1 public notice must be issued as required by 40 C.F.R. §§ 141.202 and 141.205. At the time of a Tier 1 violation or situation, Respondent must immediately consult with EPA and issue a Tier 1 notice provided by EPA. This EPA-provided notice may not be altered and cannot be accompanied by communications that nullify the purpose of the notice or otherwise violate 40 C.F.R. §§ 141.205(c). Respondent shall continue to issue Tier 2 public notices every three months for any TTHM MCL exceedances, significant deficiency violations, and/or Disinfection Byproduct Rule violations as required by 40 C.F.R. §§ 141.203(b) and 141.205. In addition, Respondent shall submit proposed Tier 2 notices to EPA for review and approval a minimum of **five (5) days** before the deadline for issuance of any Tier 2 notice. Respondent must circulate the EPA-approved notice to customers without alterations and the notice cannot be accompanied by communications that nullify the purpose of the notice or otherwise violate 40 C.F.R. §§ 141.205(c). Respondent shall submit a copy of the public notice and a certification statement to EPA that all public notice requirements have been met within **ten (10) days** of completing the public notification as required by 40 C.F.R. §§ 141.31(d) and 141.201(c)(3).

72. **COMPLIANCE WITH CONSUMER CONFIDENCE REPORT REQUIREMENTS:** Respondent shall deliver the 2022 and 2023 CCRs to customers by **July 1, 2024**, as required by 40 C.F.R. § 141.152(b), and submit a copy of the CCRs to EPA by **July 1, 2024**. By October 1, 2024, Respondent must submit a certification statement to EPA that the report has been distributed to customers and that information is correct and consistent with the compliance monitoring data previously submitted to the primacy agency as required by 40 C.F.R. § 141.155(c).

73. **QUARTERLY PROGRESS REPORTS:** The Respondent shall submit to EPA written quarterly progress reports that describe the steps the Respondent has taken pursuant to the approved Compliance Plan to achieve compliance with the TTHM MCL, and all requirements described from Paragraphs 63 to Paragraph 72 during the previous quarter. The first report is due **June 30, 2024**. Subsequent reports are due by the last day of every calendar quarter thereafter.

74. **Quarterly Meetings:** Respondent must convene quarterly meetings (by teleconference or at a centralized meeting location) with the point of contacts identified in Paragraph 82 to:

- a. Discuss the adequacy of Respondent's compliance with the Order and the approved Compliance Plan;
- b. Establish any necessary managerial and governance protocols that will assist in Respondent's compliance with the Order and approved Compliance Plan; and
- c. Discuss how to best promote long-term and efficient drinking water compliance at the System.

The first meeting will be held at a date to be determined by Respondent in June 2024.

Respondent must send invitations to this first meeting at least seven (7) days in advance and at

a minimum must be sent to the point of contacts identified in Paragraph 82. Subsequent meetings must be convened before the last week of the last month of every quarter thereafter. Respondent must ensure that equipment is provided to allow parties to join any meeting either in person or via teleconference.

75. **DELAYS AND FORCE MAJEURE**: “*Force majeure*,” for purposes of this Order, is defined as any event arising from causes beyond Respondent’s control, or of any entity controlled by Respondent, or of Respondent’s contractors, which delays or prevents the performance of any obligation under this Order despite Respondent’s best efforts to fulfill the obligation. The requirement that Respondent exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential *force majeure* event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Examples of events that are not *force majeure* events include, but are not limited to, increased costs or expenses of any work to be performed under this Order, loss of source(s) of funding for work to be performed under this Order, including federal funding sources, and normal inclement weather.

76. If any event occurs that causes or is likely to cause delay in the achievement of any requirement or time frame specified in this Order, Respondent shall notify EPA in writing, within seven (7) business days of learning of such event, of the anticipated length and cause of the delay, the measures Respondent has taken and/or to be taken to prevent or minimize the delay, and the timetable by which Respondent intends to implement these measures and achieve the requirement or meet the time frame. Respondent shall adopt all reasonable

measures to avoid or minimize delay. Submittal of the notice to EPA required by this paragraph does not extend any deadline or time frame in this Order.

77. Respondent has the burden of demonstrating, by a preponderance of the evidence, that the actual or anticipated delay has been or will be caused by a *force majeure* event, that the duration of the delay was or will be warranted under the circumstances, that Respondent exercised or is using its best efforts to avoid and mitigate the effects of the delay, and that Respondent complied with the requirements of this section.

78. If, upon receiving the notice required under Paragraph 76, EPA agrees that the delay or anticipated delay in compliance with this Order has been or will be caused by circumstances that constitute a *force majeure* event as defined in Paragraph 75, the compliance date may be extended for a period of time no longer than the delay resulting from the circumstances causing the delay. In such event, the EPA Region 9 Enforcement and Compliance Assurance Division may grant an extension of time.

79. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this Order has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of EPA's decision and any delays will not be excused.

80. **ADDITIONAL INFORMATION:** Within fourteen (14) days of any request by EPA, Respondent shall submit to EPA such additional documents and information as EPA may reasonably request to determine Respondent's compliance with this Order, the approved Compliance Plan, or any other provisions of the NPDWRs.

81. All submittals to EPA made pursuant to this Order shall be accompanied by the following certification signed by Respondent or a representative for the Respondent:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person(s) who managed the system, or of person(s) directly responsible for gathering the information, I certify that the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

82. All information required to be submitted by this Order to EPA shall be emailed to:

Christopher Chen  
Enforcement Officer  
U.S. EPA Region 9  
Enforcement and Compliance Assurance Division  
Drinking Water Section (ENF-3-3)  
600 Wilshire Blvd, Suite 940  
Los Angeles, CA 90017  
Phone: (213) 244-1853  
Email: [chen.christopher@epa.gov](mailto:chen.christopher@epa.gov)

Hong (Annie) Wan  
Program Manager  
U.S. EPA Region 9  
Tribal Drinking Water Team (WTR-4)  
75 Hawthorne Street  
San Francisco, CA 94105  
Phone: (415) 972-3845  
Email: [wan.hong@epa.gov](mailto:wan.hong@epa.gov)

## **V. GENERAL PROVISIONS**

83. Respondent shall fully implement each item of this Order and the Compliance Plan approved under this Order in accordance with the schedules set forth therein. Respondent's failure to fully implement all requirements of this Order and the approved Compliance Plan in the manner and time period required shall be deemed a violation of this Order and of the SDWA.

84. Respondent's failure to comply with all the requirements of the SDWA and 40 C.F.R. Part 141 may subject Respondent to additional enforcement actions, including but not limited to judicial or administrative actions.

85. This Order will not prohibit, prevent, or otherwise preclude EPA from taking whatever action(s) it deems appropriate to enforce the SDWA in any manner and will not prohibit, prevent, or otherwise preclude EPA from enforcing or using this Order in subsequent administrative or judicial proceedings. Nothing in this Order constitutes a waiver, suspension, or modification of the requirements of the SDWA, or the rules and regulations promulgated thereunder, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any administrative or judicial action otherwise authorized under the law.

86. Violations of any term of this Order may subject Respondent to: (i) a civil judicial penalty of up to \$69,733 per day per violation for each day in which a violation occurs, as assessed by the United States District Court, under Sections 1414(b) and 1414(g)(3)(A) of the SDWA, 42 U.S.C. §§ 300g-3(g)(3)(A), and 40 C.F.R. §19.4; or (ii) an administrative penalty of up to \$48,586 under Section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B). This Order does not relieve Respondent of any responsibilities or liabilities established pursuant to any applicable state, federal, local, or tribal.

87. The provisions of this Order are severable. If any provision of this Order is found to be unenforceable, the remaining provisions will remain in full force and effect.

88. The provisions of this Order are binding upon Respondent, its officers, directors, agents, servants, authorized representatives, and successors or assigns.



89. Providing false or misleading information may subject Respondent to civil or criminal enforcement, or both.

90. EPA may amend or modify this Order by providing written notice of such amendment or modification to Respondents.

## **VII. EFFECTIVE DATE AND TERMINATION**

91. This Order shall become effective immediately upon signature by EPA and will remain in effect until Respondent demonstrates compliance with the terms and conditions of this Order and EPA terminates the Order. EPA will provide this Order to Respondent via electronic mail with electronic confirmation and mail delivery.

92. After completing all the conditions of this Order and bringing its System into compliance with all requirements of the SDWA, Respondent may request in writing that EPA terminate this Order and such submittal shall include a discussion of why termination is appropriate. EPA may either agree to the request and terminate this Order or reject the request if outstanding SDWA compliance issues remain.

ORDERED, this 28 day of May, 2024.

/s/ by Amy C. Miller-Bowen on May 28, 2024

Amy C. Miller-Bowen, Director  
Enforcement and Compliance Assurance Division  
United States Environmental Protection Agency, Region 9