

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

IN THE MATTER OF:	)	
	)	Docket No. SDWA-10-2025-0007
<b>Metlakatla Indian Community,</b>	)	
	)	
Respondent.	)	<b>ADMINISTRATIVE ORDER ON</b>
	)	<b>CONSENT</b>
	)	
	)	Proceeding pursuant to section 1414(g) of the
<u>PWS ID # 100211202</u>	)	<u>Safe Drinking Water Act, 42 U.S.C. § 300(g)-3(g).</u>

**INTRODUCTION**

The U.S. Environmental Protection Agency, Region 10 (“EPA”) and the Metlakatla Indian Community (“Metlakatla”), which is the Respondent in this matter, enter into this Administrative Order on Consent (“Consent Order”) to resolve noncompliance with the Safe Drinking Water Act (“Act”), 42 U.S.C. section 300f *et seq.*, and the National Primary Drinking Water Regulations (“Part 141”), 40 C.F.R. Part 141 at the Metlakatla Public Drinking Water System, located on Walden Point Road in Metlakatla, Alaska (“System”).

**JURISDICTION**

1. EPA has primary enforcement responsibility over public water systems on the Metlakatla Indian Community Reservation. (“Reservation”). No other governmental entity has applied for and been approved to administer the program on the Reservation.
2. EPA enters into and issues this Consent Order under the authority vested in EPA Administrator by section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), which has been delegated to the undersigned EPA official.
3. The Findings of Fact and Findings of Violation and Conclusions of Law (“Findings”), below, are made solely by EPA. Without any admission of liability, Respondent consents to the issuance

of this Consent Order and agrees to abide by all of its conditions. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review. Respondent may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review of this Consent Order under section 1448(a) of the Act, 42 U.S.C. § 300j-7(a). Respondent further agrees not to challenge the jurisdiction of EPA or the Findings in any proceeding to enforce this Consent Order or in any action under this Consent Order.

#### **PARTIES BOUND**

4. This Consent Order applies to Respondent and its officers, directors, employees, agents, trustees, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this Consent Order to any successors-in-interest prior to transfer of any interest in the System. Any change in ownership or control of the System including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Consent Order.

5. Each undersigned signatory for Respondent certifies to her or his authority to execute this Consent Order and to legally bind Respondent to the terms of this Consent Order.

#### **FINDINGS OF FACT**

6. The Metlakatla Indian Community is a federally recognized Indian Tribe and is a "person" within the meaning of 42 U.S.C. § 300f(10) and § 300f(12), for purposes of federal enforcement under the Act. Respondent owns and/or operates the System, which is a public water system, in Metlakatla, Alaska, within the exterior boundaries of the Metlakatla Indian Community Reservation. The System provides the public with piped water for human consumption.

7. The System has approximately five hundred sixty-five (565) service connections used by year-round residents and regularly serves an average of approximately 1,475 year-round residents.

Therefore, the System is a “public water system” and a “community water system” within the meaning of sections 1401(4) and (15) of the Act, 42 U.S.C. § 300f(4) and (15), and 40 C.F.R. § 141.2.

8. Respondent owns and/or operates the System and therefore is a “supplier of water” as defined in section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent therefore is required to comply with the requirements of the Act and its implementing regulations, Part 141.

9. The System is solely supplied by a surface water source.

10. 40 C.F.R. § 141.723(c) requires a surface water system, within 45 days of receiving a sanitary survey report, to either correct the significant deficiencies or develop an approved corrective action plan to address how and when the deficiencies will be addressed and to maintain compliance with the corrective action plan and schedule.

#### **FINDINGS OF VIOLATION AND CONCLUSIONS OF LAW**

11. On review of the System’s records, including a sanitary survey conducted by Process Applications Inc. on October 5, 2021, on behalf of the EPA, the EPA identified that the System is in violation of the SDWA for failing to address significant deficiencies.

12. 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 C.F.R. § 141.723(b).

13. 40 C.F.R. § 141.723(c) requires a surface water system, within 45 days of receiving a sanitary survey report, to either correct the significant deficiencies or develop an approved corrective action plan (“CAP”) to address how and when the deficiencies will be addressed and to maintain compliance with the CAP and schedule.

14. EPA notified Respondent of significant deficiencies identified during a sanitary survey in a letter dated February 3, 2022.

15. On May 23, 2022, the EPA approved the CAP submitted by the Respondent to address significant deficiencies.

16. EPA's records reflect that Respondent failed to complete all corrective actions in the CAP. On November 9, 2022, the EPA sent Respondent a notice of violation letter.

17. Following the issuance of the notice of violation letter, the EPA provided additional compliance assistance to the System.

18. As of the effective date of this Order, the System has failed to timely correct significant deficiencies and is therefore in violation of 40 C.F.R. § 141.723(c).

#### **ORDER ON CONSENT**

Based on the foregoing Findings, and pursuant to section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), Respondent agrees and is hereby ORDERED to perform the following:

19. Respondent shall at all times comply with Part B of SDWA, 42 U.S.C §§ 1401-1420, and its implementing regulations at 40 C.F.R Part 141.

20. Old Tank (ST-01): By no later than December 31, 2025, Respondent shall complete the cleaning and inspection of the tank and address any concerns resulting from the inspection. Within 90 days of the effective date of this Order, Respondent shall submit to the EPA a plan to clean and inspect the tank and address all concerns resulting from the inspection by the December 31, 2025, deadline.

21. Cross-connection control program: By no later than April 30, 2025, Respondent shall 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.



22. Cross-connections with chemical feed systems: By no later than April 30, 2025,

Respondent shall install atmospheric vacuum breakers on any hose bibs used for chemical supply make-up water. As part of the water treatment plant upgrades, Respondent shall install Reduced Pressure Zone (RPZ) 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.

23. Certified Operator: By no later than December 31, 2025, Respondent shall have at

least one properly certified water operator for the System. The certified water operator must be an employee of the Public Works Department or a contract operator possessing current certification at the level appropriate for the System. The certified water operator must hold keys to the System and must be able to respond in a timely manner in the event of an emergency. Within 90 days of the effective date of this Order, Respondent shall submit to the EPA its plan to obtain a certified water operator by the December 31, 2025, deadline. System operators may be properly certified by successfully passing either the Alaska Department of Environmental Conservation's ("DEC") Operator Certification Program or the certification exam administered by the Inter Tribal Council of Arizona ("ITCA"). Information for the Waterworks Operator Certification exam is available at: <https://dec.alaska.gov/water/operator-certification/>. Information for water operator exams administered by ITCA is available at: <https://itcaonline.com/programs/environmental-quality-programs/tws-tmap/certification-2/>. For assistance in exam preparation, Respondent may contact DEC and/or ITCA.

24. Within 10 calendar days after completing all tasks included in Paragraphs 20-23,

Respondent shall notify EPA of the project's completion. Respondent shall provide sufficient evidence of the project's completion to EPA, including photographs of the corrective actions. Thereafter, if EPA identifies any significant deficiency at the System, Respondent shall complete corrective action for each

significant deficiency and provide notification to EPA within 45 calendar days of completion, as required by 40 C.F.R. § 141.723.

25. EPA and Respondent shall participate in quarterly videoconferencing meetings to discuss the status of Respondent's compliance with this Order and Part 141.

### **NOTICES**

26. All notifications, documentation, submissions, and other correspondence required to be submitted to EPA by this Consent Order shall be submitted electronically to EPA at the following email addresses: fitzner.stephen@epa.gov and R10TribalDW@epa.gov.

27. Respondent shall designate a Project Coordinator to oversee Respondent's implementation of the provisions of this Consent Order and receive on behalf of Respondent all notifications and correspondence from EPA relating to this Consent Order. Within ten (10) days of the Effective Date of this Consent Order, Respondent shall notify EPA of the Project Coordinator's name and email address.

### **GENERAL PROVISIONS**

28. Respondent shall fully implement each item of this Consent Order. Respondent's failure to fully implement all requirements of this Consent Order in the manner and time period required shall be deemed a violation of this Consent Order.

29. Nothing in this Consent Order shall be construed to relieve Respondent of any applicable requirements of federal, state, tribal, or local law. EPA reserves the right to initiate enforcement as authorized by law for any violation of this Consent Order and for any future or past violation of any

applicable legal requirements of SDWA, including, but not limited to, the violations identified in this Consent Order.

30. Violation of any part of this Consent Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$71,545 (as adjusted for inflation) per day of violation, a court injunction ordering compliance, or both. 42 U.S.C. § 300g-3; 40 C.F.R. Part 19; 90 Fed. Reg. 1375 (January 8, 2025).

31. This Consent Order may be amended or modified by written agreement of EPA and Respondent.

32. The Effective Date of this Consent Order is the date upon which a fully executed copy is received by Respondent.

#### **TERMINATION**

33. No sooner than twelve (12) months after the Effective Date of this Consent Order, Respondent may request termination of this Consent Order and submit to EPA a written certification of completion summarizing all actions taken to comply with all requirements of this Consent Order.

34. EPA will review Respondent's certification of completion to determine whether Respondent complied with the terms of this Consent Order and Part 141. If EPA concludes that Respondent has failed to comply with any requirement of this Consent Order or Part 141, EPA may (1) pursue civil penalties and (2) deny Respondent's request for termination, in which case this Consent Order remains effective.

35. If EPA denies a request for termination, Respondent may submit a subsequent request for termination and certification of completion to EPA for review and approval no sooner than six (6) months after receiving EPA's denial.

36. This Consent Order will terminate when Respondent receives written notification from EPA that its request for termination has been approved.

37. Notwithstanding the procedure for termination set forth above, EPA may terminate this Consent Order upon its sole discretion by written notice to Respondent.

IT IS SO STIPULATED AND AGREED.

FOR RESPONDENT:

4-29-2025  
DATE

  
Albert Smith, Mayor  
Metlakatla Indian Community

IT IS SO ORDERED AND AGREED.

FOR COMPLAINANT:

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Edward J. Kowalski, Director  
Enforcement and Compliance Assurance Division  
EPA Region 10