UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

JUL 10 2015

Sent via Certified Mail:
Return Receipt Requested 7001 0320 0002 0254 5001

Herman Honanie
Chairman
Hopi Tribe
P.O. Box 123
Kykotsmovi, Arizona 86039

Honorable Chairman Honanie:

The U.S. Environmental Protection Agency, Region 9, ("EPA") is writing to request consultation and coordination with the Hopi Tribe ("Tribe") on violations of the Safe Drinking Water Act ("SDWA") at four public water systems within the exterior boundaries of the Tribe's Reservation.

The first system is the Hopi Cultural Center public water system ("Cultural Center"), PWS ID: 090400260. According to EPA's records, the Cultural Center is Tribally owned and operated. The Cultural Center is currently in violation of the SDWA's national primary drinking water regulations regarding arsenic. The Cultural Center has exceeded the arsenic maximum contaminant level ("MCL") of 0.010 mg/L since at least 2013 and has failed to routinely collect the requisite quarterly arsenic samples. These violations, especially when taken as a whole, may pose a risk to the public health of the affected community.

The remaining three systems ("Village Systems") for which EPA seeks consultation are: Polacca public water system ("Polacca"), PWS IDL 090400106; Mishongovi public water system (Mishongovi), PWS ID # 090400394; and Sipaulovi public water system ("Sipaulovi"), PWS ID # 090400107. The Village Systems are also in violation of the arsenic MCL.

Because ownership and operation of the Village Systems is unclear, EPA requests your input on our conclusion that the three Village systems are "Tribal facilities" for the purposes of the procedures established in the enclosed U.S. EPA *Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy*, dated January 17, 2001 ("Tribal Enforcement Policy"). For purposes of the policy, a "Tribal facility" can be: (1) a facility owned or managed by Tribal Governments, or (2) a non-Tribally owned or managed facility in which a Tribal Government has a substantial proprietary or non-proprietary interest, or over which a Tribal Government has control. Please provide responses to the following questions:

1. Does the Tribe agree that each of the Village Systems is a "Tribal facility" within the definition of the Tribal Enforcement Policy?

2. Does the Tribe own and/or operate any of the Village Systems? If so, which ones?

3. Does the Tribal Government receive any revenue from the operations of the Village Systems? If yes, which System(s) and how much from the System(s)?

4. Do any of the Village Systems employ members of the Tribal Community, or have they done so in the recent past? If yes, which System(s) and how many, when, and for how long from each System(s)?

5. Are there any other community or cultural interest with respect to the Village Systems that we ought to take in to account?

EPA directly implements the SDWA's regulations on nearly all tribal lands. For the past several years, EPA's Water Division Drinking Water Office has engaged with the Tribe and sought to work cooperatively with the Tribe to address the problems at the Cultural Center and Village Systems. Nevertheless, the systems continue to experience compliance issues. Consequently, EPA believes that additional steps must be taken to address the noncompliance issues concerning the arsenic MCL at the Cultural Center and Village Systems in order to protect human health.

In the coming months, EPA seeks to develop in coordination with the Tribe a framework and schedule of activities to bring the Cultural Center and Village Systems into compliance. It is EPA's goal that the framework and schedule will serve as the basis for an administrative order on consent to be signed by EPA R9 and the Tribe. Please note that EPA could pursue a unilateral enforcement action at any time should circumstances make such an action necessary.

At this point, EPA R9 requests that you or your designated consultation representative reply in writing to this letter **within 30 days** of receipt of this letter. In your response, please express whether or not you intend to engage in consultation and coordination regarding the arsenic exceedances and provide your response to the questions above regarding the Tribal interest in the Village Systems.

Should you choose to engage in consultation and coordination on these issues, we will work with you to develop a consultation schedule. Regardless of your decision, EPA will attempt to keep the Tribe informed about the compliance issues and our enforcement response. We will continue to work closely with the System and Tribal representatives in addressing problems at the Systems. EPA's effort to engage in consultation and coordination with the Hopi Tribe is undertaken consistent with our Tribal Enforcement Policy.

Please mail or email your response to the following address:

Patrick Chan
Enforcement Officer

SDWA/FIFRA Enforcement Office (ENF-3-3)
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
chan.patrick@epa.gov

Please be aware that EPA strives to assure compliance with environmental statutes and regulations in Indian Country and has a regulatory responsibility to develop appropriate means to achieve compliance to ensure that public water systems provide safe drinking water to their customers. If you have any questions, please do not hesitate to call me at (415) 972-3873, or Patrick Chan of my staff at (415) 972-3551. Legal questions should be directed to Michael Knapp, Office of Regional Counsel, at 415-972-4570.

Sincerely,

Kathleen H. Johnson
Director
Enforcement Division

Enclosure

cc:Lionel Puhuyesva, Director
Hopi Water Resources Program
P.O. Box 123
Kykotsmovi, AZ 86039