From:	Baron, Adam
To:	Charity Bernard
Cc:	Contreras, Peter; Hartman, Bob
Subject:	RE: Follow up from yesterday"s call on Drinking Water Proposed AOCs
Date:	Friday, October 28, 2016 9:49:31 AM

Charity –

With this updated information, any indication on when you will get an update from the Council on willingness to sign/ timing?

Adam Baron
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1200 Sixth Avenue, Suite 900
Seattle, WA 98101
(206) 553-6361
baron.adam@epa.gov

From: Charity Bernard [mailto:cbernard@nooksack-nsn.gov]
Sent: Tuesday, October 25, 2016 2:18 PM
To: Baron, Adam <Baron.Adam@epa.gov>
Subject: RE: Follow up from yesterday's call on Drinking Water Proposed AOCs

Thank you ☺

From: Baron, Adam [mailto:Baron.Adam@epa.gov]
Sent: Tuesday, October 25, 2016 12:06 PM
To: Charity Bernard <cbernard@nooksack-nsn.gov>
Cc: Hartman, Bob <Hartman.Bob@epa.gov>; Contreras, Peter <Contreras.Peter@epa.gov>
Subject: RE: Follow up from yesterday's call on Drinking Water Proposed AOCs

Charity -

All relevant letters are attached. See below for your requested summary by system in red.

You may notice that noted significant deficiencies vary when it comes to: operator certification, written standard operating protocol, written emergency response plan, and written cross-connection control program. However these are needed by each system. My guess is that the inconsistencies are due to pieces being missed during the sanitary survey. In any case, the Nooksack Tribe should ensure their in place as part of this high level review effort. They'll only come up again as issues.

Let me know if you need more.

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From: Charity Bernard [mailto:cbernard@nooksack-nsn.gov]
Sent: Tuesday, October 25, 2016 11:19 AM
To: Baron, Adam <Baron.Adam@epa.gov>
Subject: RE: Follow up from yesterday's call on Drinking Water Proposed AOCs

Hi Adam –
Thank you for your email. Could you please spell out the highlighted areas below? We are trying to get a complete understanding of what the EPA is considering incomplete or missing so that we can properly address these issues.
Thank you,

Charity Bernard
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From: Baron, Adam [mailto:Baron.Adam@epa.gov]
Sent: Thursday, October 20, 2016 12:10 PM
To: Charity Bernard <cbernard@nooksack-nsn.gov>; Rickie W. Armstrong <rarmstrong@nooksack-nsn.gov>; Joe Bob <JBob@nooksack-nsn.gov>
Cc: Contreras, Peter <Contreras.Peter@epa.gov>; Hartman, Bob <Hartman.Bob@epa.gov>; Michael.OShea@ihs.gov; Jacobsen, Lisa <Jacobsen.Lisa@epa.gov>
Subject: Follow up from yesterday's call on Drinking Water Proposed AOCs

Charity –

Thanks so much for the call yesterday. It was a productive one. Per my commitment, here is a written follow up with 1) a summary of key points in our shared understanding of next steps, 2) high level summary remaining violations by system, and 3) the updated proposed AOCs in pdf that reflect up to date monitoring.

1) Next Steps:

The Tribe has made substantial strides in remedying several violations at each drinking water system. However, the Tribe has not yet reached full compliance and many of the violations that remain require longer time periods to correct. Lead and copper monitoring, for example, can't be achieved until next summer. With that in mind, EPA remains committed to Admin Orders on Consent to reflect the high level of cooperative effort between EPA and Nooksack Tribal leadership to track these issues to resolution to ensure the protection of public health. You committed to get back to us next week on whether tribal leadership was amenable to signing the proposed AOCs. We said we were aiming to have these signed by November 4th.

2) Summary of remaining violations:

In terms of new compliance information, we discussed that the Community Confidence Reports (CCRs) could be drafted by the end of October, and that Kevin Roberts does have operator certification and you would send us his certificate so that significant deficiency could be remedied. We also talked about difficulty in accessing portions of the River Casino and that was causing the monitoring violations for total coliform and chlorine residuals (and maybe lead and copper too?). On this point, we said that if no one was drinking water from this area any longer, it didn't need to be monitored and the water quality management plan would be updated to reflect the current state of operations. We also discussed the need for public notice of certain regulations such as failure to monitor and how that needs to be communicated to water system customers.

Here are is the high level list of violations by system:

a) 5 Cedars: CCRs, unaddressed significant deficiencies (SDs) identified in our September 30th 2011 letter(CAP approval letter dated June 14, 2012), and Public Notice (PN) about those unaddressed SDs.

    1) Improper well cap, vent, and/or seal
    2) No raw water sample tap
    3) Ground water under direct influences of a surface water analysis needed
    4) Inactive well needing proper closure
    5) Not save access to drinking water storage tank
    6) Improper storage tank overflow
    7) Inadequate pump house ventilation
    8) No written standard operating protocol

9) No written emergency response plan

b) Northwood Casino: Incomplete lead and copper monitoring, unaddressed SDs identified in our October 23rd 2013 letter(Notice of noncompliance letter to Chairman Kelly on April 29, 2014), and PN on that missed monitoring and unaddressed SDs.

1) Inadequate operator certification
2) No written standard operating protocol
3) No written emergency response plan
4) No written cross-connection control program

c) River Casino: Missing total coliform and residual chlorine monitoring (discussed above), incomplete lead and copper sampling, unaddressed SDs identified in our November 15, 2013 letter (Notice of noncompliance letter to Chairman Kelly on April 29, 2014), and PN on that missed monitoring and unaddressed SDs.

1) Inadequate operator certification
2) No written standard operating protocol
3) No written emergency response plan
4) No written cross-connection control program
5) No raw water sample tap

d) Rutsatz Road: Missing asbestos monitoring, CCRs, unaddressed SDs identified in our September 29, 2014 letter, and PN on that missed monitoring and unaddressed SDs.

1) Well within 100 feet of septic tank
2) Well casing less than 18 inches above grade or less than 12 inches above pump house floor
3) Potential for chemical feed system to overfeed
4) Inadequate pump house ventilation
5) Inadequate operator certification
6) No written standard operating protocol
7) No written cross-connection control program

e) Sulwahnon: E. coli maximum contaminant level violation (addressed when clear for 6 consecutive months), missing radiological monitoring, CCRs, unaddressed SDs identified in our July 8, 2013 letter, and PN on that missed monitoring and unaddressed SDs.

1) Well casing less than 18 inches above grade or less than 12 inches above pump house floor
2) Well within 100 feet of a sewer line
3) No raw water sample tap
4) Inadequate pump house ventilation (Genesis II)
5) Inadequate pump house ventilation
6) Inadequate operator certification
7) No written emergency response plan
8) No written cross-connection control program

f) Whispering Cedars: Incomplete lead and copper monitoring, CCRs, unaddressed SDs

identified in our October 26, 2013 letter, and PN on that missed monitoring and unaddressed SDs.

1) Improper well cap, vent and/or seal
2) Well casing less than 18 inches above grade or less than 12 inches above pump house floor
3) Inadequate pump house ventilation
4) No written cross-connection control program

FYI, Rickie is in possession of all the letters referenced above. If you need me to resend, just let me know.

3) Updated AOCs are attached here. Again, they are in PDF. If specific language is at issue, please let us know and we will discuss what is able to be changed. At a minimum, for the unaddressed significant deficiencies, I've included our default of within 60 days and that will likely not be long enough for the hardware issues. The tribe should consider how much time you'll need to complete these tasks and suggest that schedule as a reasonable time to include in the orders.

Let me know if any of this is unclear or if you need more information. Thanks again for your efforts in working with us cooperatively.

Adam Baron
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