



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

Via certified mail and email

The Honorable Chairman Terry Rambler
San Carlos Apache Tribe of the San Carlos
Reservation, Arizona
P.O. Box 0
San Carlos, AZ 85550

Jonathan Kitcheyan, President
San Carlos Apache Tribal Utility Authority
Bylas District Office
P.O. Box 394
Bylas, AZ 85530

Subject: Amended Administrative Order on Consent
EPA Docket No. PWS-AOC-2017-6000

Dear Chairman Rambler and President Kitcheyan:

Please find enclosed a fully executed Amended Administrative Order on Consent (“Amended Order”), with an effective date of November 8, 2016, that the United States Environmental Protection Agency (“EPA”), San Carlos Apache Tribe of the San Carlos Reservation, Arizona (the “Tribe”) and the San Carlos Apache Tribal Utility Authority (“Tribal Utility Authority”), have agreed to enter into pursuant to Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300(g)-3(g). This Amended Order supersedes and replaces the Administrative Order on Consent (Docket No. PWS-AOC-2012-6000) that EPA, the Tribe, and the Tribal Utility Authority, previously entered into on October 26, 2011.

EPA is sending you this letter as part of our ongoing effort to memorialize our consultation and coordination with you on how best to bring the nine public water systems (the “Systems”) subject to this Amended Order into compliance with the SDWA. As you know, the EPA met with the Tribe on March 30, 2016, after receiving the Tribe’s January 11, 2016 consultation request. EPA also engaged Tribal staff and legal counsel over a six month period to discuss the Systems’ compliance issues. After carefully considering the Tribe and the Tribal Utility’s perspective on these issues, EPA believes the Amended Order is the most prudent and effective enforcement tool available to bring the Systems into compliance with the SDWA and protect human health. EPA notes that its consultation and coordination with the Tribe and Tribal Utility Authority to date has been consistent with the “EPA Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy,” which implements the “EPA Policy on Consultation and Coordination with Indian Tribes” and the EPA “Enforcement Response Policy under the Safe Drinking Water Act.”

Going forward, the Tribe and Tribal Utility Authority must comply with the Amended Order by meeting its required compliance provisions, the most immediate being the provision of alternative water to customers of the Soda Canyon System no later than December 23, 2016. Failure to meet the Amended Order’s agreed-upon compliance provisions may subject the Tribe and/or Tribal Utility Authority to additional enforcement actions, including a civil judicial penalty of up to \$53,907 per day of violation, as assessed by the United

States District Court, under Sections 1414(b) and 1414(g)(3)(A) and (C) of the SDWA, 42 U.S.C. §§ 300g-3(b) and 300g-3(g)(3)(A) and (C), and/or an administrative penalty of up to \$37,561 after notice and opportunity for hearing, under section 1414(g)(3)(A) and (B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(A) and (B), and 40 C.F.R. § 19.4 (as adjusted July 1, 2016 (81 Fed. Reg. 43091, 43095)).

In conclusion, EPA recognizes the effort and cooperation extended by the Tribe and Tribal Utility Authority in this matter to ensure that these systems provide safe drinking water to your community. If you or your staff has technical questions please continue to direct them to Allison Watanabe at 213-244-1807. Legal questions should be directed to Rich Campbell, EPA Region 9's Office of Regional Counsel, at 415-972-3870.

Sincerely,

Kathleen H. Johnson, Director
Enforcement Division
U.S. Environmental Protection Agency – Region IX

cc: Tao Etpison, Vice-Chairman, San Carlos Apache Tribe
Jeffrey Porter, Utility Director, SCATUA
Alex Ritchie, Attorney General, San Carlos Apache Tribe
Kevin Parsi, Attorney, SCATUA (Titla and Parsi PLLC Attorneys at Law)
Steve Titla, Attorney, SCATUA (Titla and Parsi PLLC Attorneys at Law)
Loretta Stone, Director, Environmental Protection, San Carlos Apache Tribe
Robert Lorenz, Indian Health Service
Andrew Sallach, Tribal Program Manager, EPA