



RON CHAPMAN, MD, MPH  
Director & State Health Officer

State of California—Health and Human Services Agency  
California Department of Public Health



EDMUND G. BROWN  
Governor

December 13, 2013  
System No. 1000479

John Stout, Plant Manager  
Franzia Winery – Sanger  
2916 S. Reed Avenue  
Sanger, CA 93657

**RE: Compliance Order No. 03-23-13R-011 For Noncompliance with the Nitrate MCL**

Dear Mr. Stout:

The purpose of this letter is to inform you that the California Department of Public Health (Department) has issued Compliance Order No. 03-23-13R-011 to the Franzia Winery – Sanger Water System (Water System) on December 13, 2013.

**The Compliance Order requires that you submit a written response to our office by December 31, 2013, acknowledging receipt of this order and your intent to comply with the directives within. The Compliance Order requires the preparation and presentation of a Corrective Action Plan. This plan must be presented to the Department in an office meeting by February 3, 2014. The Compliance Order also requires the submission of quarterly progress reports on the Corrective Action Plan to the Department. The first progress report is due no later than April 10, 2014.**

The Department has commented on a nitrate evaluation prepared by your contract operator; this evaluation should be included in the Corrective Action Plan. You may request an electronic copy of the required public notification forms from the Department. If you have any questions regarding this matter, please contact Philip Dutton or myself at (559) 447-3300.

Sincerely,

Betsy S. Lihti, P.E.  
Senior Sanitary Engineer, Fresno District  
SOUTHERN CALIFORNIA BRANCH  
DRINKING WATER FIELD OPERATIONS

BSL/PD

**STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC HEALTH**

IN RE: **FRANZIA WINERY - SANGER**  
WATER SYSTEM NO. 1000479

TO: MR. JOHN STOUT, PLANT MANAGER  
FRANZIA WINERY - SANGER  
2916 SOUTH REED AVENUE  
SANGER, CA 93657

**COMPLIANCE ORDER FOR NONCOMPLIANCE WITH  
THE NITRATE MAXIMUM CONTAMINANT LEVEL**

**Issued on December 13, 2013**

Section 116655, Chapter 4 of the California Health and Safety Code authorizes the issuance of an Order for failure to comply with a requirement of the California Safe Drinking Water Act, or any regulation, standard, permit, or order issued thereunder.

**FINDINGS**

The Franzia Winery - Sanger Water System ("Water System") is a nontransient noncommunity water system, located in central Fresno County, which provides domestic water to a winery. The Water System's 2012 electronic Annual Report indicates a year-



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2 round nontransient population of 37 individuals, and a seasonal transient population of 29  
3 individuals, served through two industrial service connections. The Water System uses  
4 treated groundwater obtained from two active wells onsite. Both wells regularly exceed the  
5 dibromochloropropane (“DBCP”) maximum contaminant level (“MCL”), for which the  
6 Water System provides granular activated carbon (“GAC”) treatment at each well site.  
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9 The Water System operates under Domestic Water Supply Permit No. 03-12-08P-032 and  
10 Domestic Water Supply Permit Amendment No. 03-23-12PA-008, issued by the California  
11 Department of Public Health - Drinking Water Program (“Department”) on August 4,  
12 2008, and October 8, 2012, respectively. The Department issued the amendment to  
13 reclassify the water system as a nontransient noncommunity water system from a transient  
14 noncommunity water system, to permit the addition of continuous disinfection treatment,  
15 and to formalize the rescinding of the previously issued handwashing exemption.  
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18 The California Code of Regulations (“CCR”), Section 64431, establishes the MCL for  
19 nitrate at 45 mg/L as NO<sub>3</sub>. CCR Section 64432.1 establishes the monitoring and  
20 compliance requirements for nitrate. Dating to 2011, the Water System has had three raw  
21 water samples from Well 01 exceed the nitrate MCL. Nitrate monitoring results for Well  
22 01 are presented in the table below.  
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**Table 1: Nitrate Monitoring Summary**

Sample Date	Nitrate (mg/L as NO <sub>3</sub> )	Sample Date	Nitrate (mg/L as NO <sub>3</sub> )
1/21/2009	33	11/1/2012	43
3/25/2010	34	1/3/2013	40
2/21/2011	<b>46*</b>	4/4/2013	38
3/24/2011	40	8/5/2013	43
7/6/2011	40	10/1/2013	40
1/4/2012	36	11/6/2013	41
7/5/2012	38	11/19/2013	40
10/4/2012	<b>46*</b>	11/26/2013	<b>52*</b>

*\*Sample result exceeds nitrate MCL*

The Water System is in violation of the nitrate MCL in the water produced by Well 01. Raw water monitoring for Well 02 has shown nitrate concentrations ranging between 29 mg/L and 43 mg/L.

The Water System failed to collect the required resample following notification of the November 26, 2013, exceedance. The Water System's contracted certified operator has informed the Department that Well 01 has not discharge to the distribution system. Further, the certified operator has submitted a proposal to the Department to further evaluate the nitrate levels in Well 01 while operating the well to waste.

Nitrate is not removed by the existing GAC treatment process. Further, in some cases, nitrate may accumulate and slough off the GAC media during well startups, at concentrations greater than the raw water concentrations. Monitoring of the Well 01 treatment plant effluent for nitrate has shown exceedance of the nitrate MCL; samples



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2 collected on June 5, 2011, and November 1, 2013, showed nitrate concentrations of 45.6  
3 mg/L and 46 mg/L, respectively.  
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5 **CONCLUSIONS OF LAW**  
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8 Based on the above Findings, the Department has determined that the Franzia Winery -  
9 Sanger Water System has violated provisions contained in Title 22, California Code of  
10 Regulations and in the California Health and Safety Code ("CHSC"). These violations  
11 include, but are not limited to the following:  
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- 13
- 14 1. CHSC Section 116555(a)(1). Specifically, the Franzia Winery - Sanger Water  
15 System is a public water system that produces water that does not comply with a  
16 primary drinking water standard.  
17
  - 18 2. CHSC Section 116555 (a)(3): Specifically, the Franzia Winery - Sanger Water  
19 System has failed to ensure that a reliable and adequate supply of pure, wholesome,  
20 healthful, and potable water is provided to all of its consumers.  
21
  - 22 3. CCR Section 64431 (a): Specifically, the water produced by Well 01 has exceeded  
23 the nitrate maximum contaminant level of 45 mg/L (as NO<sub>3</sub>), as shown in Table 1  
24 above. No treatment is provided to reduce the nitrate concentration in water  
25 delivered the distribution system.  
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**ORDER**

In order to ensure that the water supplied by the Water System is at all times safe, wholesome, healthful, and potable, and pursuant to Section 116655 of the Health and Safety Code, the Franzia Winery - Sanger Water System is ordered to take the following actions:

1. (a) Cease and Desist from failing to comply with CHSC Sections 116555(a)(1) and 116555(a)(3) by ensuring that the system is provided with a reliable and adequate source of pure, wholesome, healthful, and potable water that is in compliance with all primary drinking water standards.

(b) The Franzia Winery - Sanger Water System shall provide Tier 1 public notification in English and in Spanish, in accordance with CCR Section 64463.1, of its inability to meet the nitrate MCL. Attachment A is a Department-approved notice to be provided to all consumers. An electronic copy of this attachment is available upon request. The notification shall be provided to consumers by posting the notice at prominent locations, and specifically at locations where consumption of the water may occur, and by mail or direct delivery to each employee.

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(c) The Franzia Winery - Sanger Water System shall provide public notification to all water users quarterly until a project is completed to correct the problem. Proof of public notification shall be submitted to the Department by the 10<sup>th</sup> day of the month following each quarter. Attachment B shall be used to satisfy this requirement.

(d) Franzia Winery - Sanger Water System personnel shall prepare a Corrective Action Plan identifying improvements to the water system designed to correct the water quality problem (violation of the nitrate MCL) and eliminate the need to deliver water to consumers that does not meet primary drinking water standards. The plan shall include a time schedule for completion of various phases of the project such as design, construction, startup and public information.

(e) The Corrective Action Plan required under item (1)(d) above shall be presented to the Department in an office meeting no later than **February 3, 2014**.

(f) The Franzia Winery - Sanger Water System shall submit quarterly progress reports to the Department on the implementation status of the Corrective Action Plan. The first quarterly progress report shall describe progress made in the first quarter of 2014 and shall be submitted to the Department by **April 10, 2014**.



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(g) By no later than **July 1, 2015**, the Franzia Winery - Sanger Water System shall complete a project designed to achieve compliance with the nitrate MCL. The Water System shall notify the Department in writing of the date that the project has been completed. Any changes to the source or treatment require prior Department approval.

2. Quarterly raw water monitoring of Well 01 for nitrate shall continue, and shall take place before each quarterly notice is released so that the notice can reflect the most recent sample results. The nitrate results must be submitted to the Department via electronic data transfer (EDT) using the following primary station code (PS-Code): 1000485-013.
3. The Franzia Winery - Sanger Water System shall continue to monitor the GAC treatment process for DBCP and nitrate, in accordance with the provisions of Domestic Water Supply Permit Amendment No. 03-23-12PA-008
4. The Franzia Winery - Sanger Water System shall submit a written response by **December 31, 2013**, indicating its willingness to comply with this Compliance Order.
5. The Department reserves the right to make such modifications to this Order as it may deem necessary to protect public health and safety. Such modifications may be

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2 issued as amendments to this Order and shall be effective upon issuance. All  
3 submittals required by this Order shall be addressed to:

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5 Betsy S. Lichti, P.E.  
6 Senior Sanitary Engineer  
7 CA Department of Public Health  
8 Southern California Branch  
9 Drinking Water Field Operations  
265 W. Bullard Avenue, Suite 101  
Fresno, CA 93704

- 10  
11 6. If the Franzia Winery - Sanger Water System is unable to perform the tasks  
12 specified in this Order for any reason, whether within or beyond its control, and if  
13 the Franzia Winery - Sanger Water System notifies the Department in writing no  
14 less than five days in advance of the due date, the Department may extend the time  
15 for performance if the Franzia Winery - Sanger Water System demonstrates that it  
16 has used its best efforts to comply with the schedule and other requirements of this  
17 Order.  
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20 7. If the Franzia Winery - Sanger Water System fails to perform any of the tasks  
21 specified in this Order by the time described herein or by the time subsequently  
22 extended pursuant to Item 6 above, the Franzia Winery - Sanger Water System shall  
23 be deemed to have not complied with the obligations of this Order and may be  
24 subject to additional judicial action, including civil penalties specified in CHSC  
25 Section 116725 and 116730.  
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8. The State of California shall not be liable for any injuries or damages to persons or property resulting from acts of omissions by the Franzia Winery - Sanger Water System, its employees, agents, or contractors in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by the Franzia Winery - Sanger Water System or its agents in carrying out activities pursuant to this Order.

**PARTIES BOUND**

This Order shall apply to and be binding upon the Franzia Winery - Sanger Water System, its officers, directors, agents, employees, contractors, successors, and assignees.

**SEVERABILITY**

The requirements of this Order are severable, and the Franzia Winery - Sanger shall comply with each and every provision thereof notwithstanding the effectiveness of any provisions.



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12-13-2013  
Date

  
Carl L. Carlucci, P.E.  
Supervising Sanitary Engineer  
Central California Section  
SOUTHERN CALIFORNIA BRANCH  
DRINKING WATER FIELD OPERATIONS

CLC/PD

**Attachments:**  
Attachment A: Public Notification English/Spanish  
Attachment B: Proof of Notification Form

## DRINKING WATER WARNING

Este informe contiene información muy importante sobre su agua potable.  
Tradúzcalo o hable con alguien que lo entienda bien.

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### Franzia Winery - Sanger water has high levels of nitrate.

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## DO NOT GIVE THE WATER TO INFANTS UNDER 6 MONTHS OLD OR USE IT TO MAKE INFANT FORMULA

Water samples collected on DATE from Well No. X showed nitrate levels of XX mg/L as NO<sub>3</sub>. These levels are above the nitrate standard, or maximum contaminant level (MCL), of 45 mg/L as NO<sub>3</sub>. Nitrate in drinking water is a serious health concern for infants less than six months old.

### What should I do?

- **DO NOT GIVE THE WATER TO INFANTS.** *Infants below the age of six months who drink water containing nitrate in excess of the MCL may quickly become seriously ill and, if untreated, may die because high nitrate levels can interfere with the capacity of the infant's blood to carry oxygen. Symptoms include shortness of breath and blueness of the skin. Symptoms in infants can develop rapidly, with health deteriorating over a period of days. If symptoms occur, seek medical attention immediately.*
- **PREGNANT WOMEN SHOULD NOT CONSUME THE WATER.** *High nitrate levels may also affect the oxygen-carrying ability of the blood of pregnant women.*
- Water, juice, and formula for children under six months of age should not be prepared with tap water. Bottled water or other water low in nitrates should be used for infants until further notice.
- **DO NOT BOIL THE WATER.** Boiling, freezing, filtering, or letting water stand does not reduce the nitrate level. Excessive boiling can make the nitrates more concentrated, because nitrates remain behind when the water evaporates.
- If you have other health issues concerning the consumption of this water, you may wish to consult your doctor.

### What happened? What is being done?

Nitrate in drinking water can come from natural, industrial, or agricultural sources (including septic systems and run-off). Levels of nitrate in drinking water can vary throughout the year. We will let you know when the amount of nitrate is again below the limit.

Cal Produce Sales Corp. is [Describe corrective action planned and applicable interim solution(s)].

The Cal Produce Sales Corp. water system must provide public notification at least once every three months until the problem is corrected. The Department has ordered Cal Produce Sales Corp. to submit a plan to correct the nitrate problem.

For more information, please contact [Name] at [Contact].

## DRINKING WATER WARNING

### Agua de Tessengerlo Kerley, Inc. tiene altos niveles de nitrato.

#### NO LE DE ESTA AGUA A BEBES MENORES DE 6 MESES DE EDAD NI UTILICE PARA HACERLECHE DE FORMULA

Las muestras de agua recogidas de la [FECHA], del Pozo Numero X, presentaron niveles de nitrato de XX mg / L de NO<sub>3</sub>. Estos niveles están por encima de la norma, o nivel máximo de contaminante (MCL), de 45 mg / L de NO<sub>3</sub>. El nitrato en el agua potable es un problema de salud grave para los bebés de menos de seis meses de edad.

#### ¿Qué debo hacer?

- **NO LE DE ESTA AGUA A BEBES.** *Los bebés menores de seis meses que beben agua que contiene nitratos en exceso del MCL rápidamente pueden enfermarse gravemente y, si no es tratada, puede morir debido a los altos niveles de nitrato pueden interferir con la capacidad de la sangre del bebé para transportar oxígeno. Los síntomas incluyen dificultad para respirar y amoratamiento de la piel. Los síntomas en los bebés pueden desarrollar rápidamente, con deterioro de la salud durante un período de días. Si se presentan síntomas, busque atención médica inmediatamente.*
- **MUJERES EMBARAZADAS NO DEBEN CONSUMIR EL AGUA.** *Los altos niveles de nitratos también pueden afectar a la capacidad transportadora de oxígeno de la sangre de mujeres embarazadas.*
- Agua, jugo, y leche en polvo para niños menores de seis meses de edad no debe prepararse con agua del grifo. El agua embotellada o bajo otro tipo de agua de nitratos se debe utilizar para los niños hasta nuevo aviso.
- **NO HIERVA EL AGUA.** Hervir, congelar, filtrar o dejar reposar el agua no reduce el nivel de nitrato. Hervir el agua puede hacer que la mayor concentración de nitratos, debido a que los nitratos permanecen cuando el agua se evapora.
- Si usted tiene otros problemas de salud sobre el consumo de esta agua, es posible que desee consultar a un médico.

#### ¿Qué pasó? ¿Qué se hace?

Sources of nitrates in drinking water sources can be natural, industrial or agricultural (including septic systems and runoff). Nitrate levels in drinking water can vary throughout the year. We will let you know when the amount of nitrate is again below the limit.

Cal Produce Sales Corp. esta [Describe corrective action planned and applicable interim solution(s)].

Sistema de Cal Produce Sales Corp. agua debe proporcionar una notificación pública al menos una vez cada tres meses hasta que se solucione el problema. El Departamento ha ordenado a Cal Produce Sales Corp. para presentar un plan para corregir el problema de los nitratos.

Para obtener más información, póngase en contacto con [Contact Information].

Este aviso ha sido publicado por Tessengerlo Kerley, Inc.

Sistema de Agua del Estado Número 1000485

Fecha de distribución: \_\_\_\_\_

**PROOF OF NOTIFICATION**

(Return with copy of Notice)

As required by Section 116450 of the California Health and Safety Code, I notified all users of water supplied by the **Franzia Winery - Sanger** water system of the failure to meet the **nitrate MCL** for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> (circle) quarter of \_\_\_\_\_ (year).

Notification was made on \_\_\_\_\_ (date) by

\_\_\_\_\_ **hand delivered** or **mailed/posted** \_\_\_\_\_ written notice.  
(circle all completed)

\_\_\_\_\_  
Name of Water System Representative

\_\_\_\_\_  
Signature of Water System Representative

\_\_\_\_\_  
Date

**DISCLOSURE:** Be advised that Section 116725 and 116730 of the California Health and Safety Code state that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached order may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in the county jail not to exceed one year, or by both the fine and imprisonment.

**Due by the 10<sup>th</sup> day of the following month for each month or quarter that public notification was conducted.**

**Violation No. 03-23-13R-011**  
**System Name: Franzia Winery - Sanger**  
**System No.: 1000479**