



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

February 13, 2014
System No. 1000515

Ed Pendola
Michelsen Packaging
P.O. Box 10109
Fresno, CA 93745

RE: Compliance Order No. 03-23-14R-004 For Non-Compliance with the Nitrate MCL

Dear Mr. Pendola:

The California Department of Public Health (Department) has issued Compliance Order No. 03-23-14R-004 to the Michelsen Packaging Water System (Water System) for violation of the Nitrate Maximum Contaminant Level (MCL). The Compliance Order requires your water system to present to the Department a Corrective Action Plan for improvements to the Water System 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 Compliance Order also requires that the Water System complete a project to resolve the Nitrate MCL violation no later than **March 31, 2017**.

Please submit a written response to our office by February 28, 2014, regarding your intent to comply with the attached Compliance Order. The Compliance Order also requires the submission of quarterly progress reports to the Department, even if no progress has been made. **The first progress report is due no later than June 30, 2014.**

Please note that Departmental approval is required before proceeding with any changes or additions to your treatment or source of supply. Compliance Order Item No. 3 requires that the Corrective Action Plan be presented to the Department no later than **March 31, 2014**. Arrangement for presenting the plan can be made by contacting Ellen Lennon or me at (559) 447-3039.

Sincerely,

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

BSL/MH

**STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH**

IN RE: **MICHELSEN PACKAGING**
WATER SYSTEM NO. 1000515

TO: **MR. ED PENDOLA, PLANT MANAGER**
MICHELSEN PACKAGING
P.O. BOX 10109
FRESNO, CA 93745

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

Issued on February 13, 2014

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 Michelsen Packaging Water System (Water System) is a transient noncommunity water system, located on the south end of Fresno County at 4165 S. Cherry, Fresno, CA. The Water System supplies water to a produce packaging manufacturer and distributor through one service connection. The Water System's 2012 electronic Annual Report indicates a year-round transient population of at least twenty-five (25) individuals served



1 for more than sixty day of the year. The Water System uses untreated groundwater obtained
2 from one onsite well, Well 01 (PSCode 1000515-001). The Water System operates under
3 Domestic Water Supply Permit issued by the Fresno County Environmental Health
4 Division (County) in May 1997.
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7 Prior to September 2007, jurisdiction for regulatory oversight of the Water System was
8 maintained by the Fresno County Environmental Health Division (County). The
9 Department's Water System Evaluation and Inspection Report, attached to the Permit,
10 describes the Handwashing Exemption issued to the Water System, in accordance with
11 California Health and Safety Code Section 116282. The Handwashing Exemption
12 exempted the Water System from complying with the water quality requirements
13 applicable to transient noncommunity water systems, including compliance with the nitrate
14 maximum contaminant level (MCL).
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18 On October 7, 2011, Governor Brown signed Assembly Bill (AB) 1194. AB 1194 included
19 a provision repealing California Health & Safety Code Section 116282, which provided
20 statutory authority to issue Handwashing Exemptions. The repeal of the Handwashing
21 Exemptions was necessary to ensure that the California Safe Drinking Water Act conforms
22 to the provisions of the federal Safe Drinking Water Act. The repeal of the Handwashing
23 Exemptions became effective on January 1, 2012.
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25
26 By letter dated March 5, 2012, the Department provided notice to the Water System of the
27 repeal of the Handwashing Exemption and the repeal's effect on the Water System.



1 Specifically, the Department (a) required an acknowledgement that the Handwashing
 2 Exemption had been repealed; (b) required an application for a new Domestic Water
 3 Supply Permit; (c) notified the Water System that it must comply with the California Safe
 4 Drinking Water Act, including the nitrate maximum contaminant level (MCL) and the
 5 monitoring and reporting requirements appropriate for a transient noncommunity Water
 6 System.
 7

8 A water sample taken from Well 01 was collected on January 20, 2014 and showed a
 9 nitrate result of 49 mg/L (as NO₃). A confirmation sample was collected on January 22,
 10 2014 and showed a nitrate result of 51 mg/L. Ed Pendola, Plant Manager, contacted and
 11 informed the Department of both nitrate results failing to comply with the nitrate MCL and
 12 a public notice was electronically sent on January 22, 2014 for public notification. The
 13 Department's review has concluded that the Water System fails to comply with the nitrate
 14 MCL of 45 mg/L. Nitrate analysis results in the Department's database are shown in the
 15 table below:
 16
 17

18 **Table 1: Nitrate Analysis Results**

Sample Date	Sample Result (mg/L as NO ₃)	Sample Date	Sample Result (mg/L as NO ₃)
1/9/2008	20.0	1/17/2011	12
7/1/2008	38.0	1/16/2012	6.6
4/8/2009	24.0	1/21/2013	9.7
7/2/2009	49.0*	1/20/2014	49*
10/2/2009	17.0	1/22/2014	51*
1/6/2010	21	-	-

*Sample Result Exceeds MCL



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CONCLUSIONS OF LAW

Based on the above Findings, the Department has determined that the Michelsen Packaging Water System has violated provisions contained in Title 22, California Code of Regulations (CCR) and in the California Health and Safety Code (CHSC). These violations include, but are not limited to the following:

1. CHSC Section 116555(a)(1). Specifically, the Michelsen Packaging Water System is a public Water System that produces water that does not comply with a primary drinking water standard.

2. CHSC Section 116555 (a)(3): Specifically, the Michelsen Packaging Water System has failed to ensure that a reliable and adequate supply of pure, wholesome, healthful, and potable water is provided to all of its consumers.

3. CCR Section 64431(a): Specifically, the water produced by Well 01 has exceeded the nitrate maximum contaminant level of 45 mg/L (as NO₃), as shown in Table 1 above, and therefore does not comply with a primary drinking water standard.

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

1 Safety Code, the Michelsen Packaging Water System is ordered to take the following
2 actions:
3

- 4
- 5 1. Cease and Desist from failing to comply with CHSC Sections 116555(a)(1) and
6 116555(a)(3) by ensuring that the system is provided with a reliable and adequate
7 source of pure, wholesome, healthful, and potable water that is in compliance with
8 all primary drinking water standards.
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 - 10 2. The Michelsen Packaging Water System shall prepare a Corrective Action Plan for
11 improvements to the Water System to correct the water quality problem (violation
12 of the nitrate MCL) and eliminate the need to deliver water to consumers that does
13 not meet primary drinking water standards. The plan shall include a time schedule
14 for completion of various phases of the project such as evaluation of alternatives,
15 design, construction, and startup.
16
 - 17 3. The Corrective Action Plan required under Order No. 2 above shall be presented to
18 the Department in an office meeting no later than March 31, 2014.
19
 - 20 4. The Michelsen Packaging Water System shall submit quarterly progress reports to
21 the Department beginning in the second quarter (deadline of June 30, 2014). The
22 quarterly reports shall discuss the progress the Water System has made to comply
23 with the nitrate MCL, as detailed in the plan to be submitted pursuant to Order No.
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5. The Michelsen Packaging Water System shall provide the following:
- a) 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.
 - b) Public notification to all water users on a quarterly basis until a project is completed to correct the problem. The first notice shall be posted immediately on receipt of this notice.
 - c) Proof of public notification to the Department by the 10th day of the month following the issuance of the initial notification and each subsequent quarterly notification. Attachment B shall be used to satisfy this requirement. The first proof of public notification shall be submitted by February 28, 2014.
6. Quarterly monitoring of the well for nitrate shall be conducted, preferably before each quarterly notice is released, so 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): 1000515-001.

1 7. The Michelsen Packaging Water System shall submit a written response by February
2 28, 2014, indicating its willingness to comply with the directives of this Compliance
3 Order.
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6 8. The Michelsen Packaging Water System shall complete a project to resolve the
7 nitrate MCL violation no later than March 31, 2017.
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10 9. The Department reserves the right to make such modifications to this Order as it
11 may deem necessary to protect public health and safety. Such modifications may be
12 issued as amendments to this Order and shall be effective upon issuance. All
13 submittals required by this Order shall be addressed to:

14 Betsy S. Lichti, P.E.
15 Senior Sanitary Engineer
16 Department of Public Health
17 Southern California Branch
18 Drinking Water Field Operations
265 W. Bullard Avenue, Suite 101
Fresno, CA 93704

19
20 10. If the Michelsen Packaging Water System is unable to perform the tasks specified in
21 this Order for any reason, whether within or beyond its control, and if the Michelsen
22 Packaging Water System notifies the Department in writing no less than five days in
23 advance of the due date, the Department may extend the time for performance if the
24 Michelsen Packaging Water System demonstrates that it has used its best efforts to
25 comply with the schedule and other requirements of this Order.
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11. If the Michelsen Packaging Water System fails to perform any of the tasks specified in this Order by the time described herein or by the time subsequently extended pursuant to Item 10 above, the Michelsen Packaging Water System shall be deemed to have not complied with the obligations of this Order and may be subject to additional judicial action, including civil penalties specified in H&S Code, Section 116725 and 116730.

12. The State of California shall not be liable for any injuries or damages to persons or property resulting from acts of omissions by the Michelsen Packaging 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 Michelsen Packaging 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 Michelsen Packaging Water System, its officers, directors, agents, employees, contractors, successors, and assignees.



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SEVERABILITY

The requirements of this Order are severable, and the Michelsen Packaging Water System shall comply with each and every provision thereof notwithstanding the effectiveness of any provisions.

2-13-14



Date

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



CLC/MH

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

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

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

DRINKING WATER WARNING

Michelsen Packaging water has high levels of nitrate

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

Water sample results received [date] showed nitrate levels of 49 mg/L. This is above the nitrate standard, or maximum contaminant level (MCL), of 45 milligrams per liter. 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, storm water run-off, and fertilizers). Levels of nitrate in drinking water can vary throughout the year. We will let you know if the amount of nitrate is again below the limit.

[Describe corrective action, seasonal fluctuations, and when system expects to return to compliance.]

For more information, please contact [name of contact] at [phone number] or [mailing address].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this public notice in a public place or distributing copies by hand or mail.

Secondary Notification Requirements

Upon receipt of notification from a person operating a public water system, the following notification must be given within 10 days [Health and Safety Code Section 116450(g)]:

- **SCHOOLS:** Must notify school employees, students, and parents (if the students are minors).
- **RESIDENTIAL RENTAL PROPERTY OWNERS OR MANAGERS** (including nursing homes and care facilities): Must notify tenants.
- **BUSINESS PROPERTY OWNERS, MANAGERS, OR OPERATORS:** Must notify employees of businesses located on the property.

This notice is being sent to you by Michelsen Packaging.
State Water System ID#: 1000515.

Date distributed: [date].

DRINKING WATER WARNING

Agua de Michelsen Packaging 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 NO₃. Estos niveles están por encima de la norma, o nivel máximo de contaminante (MCL), de 45 mg / L de NO₃. 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.

Michelsen Packaging esta [Describe corrective action planned and applicable interim solution(s)].

Sistema de Michelsen Packaging agua debe proporcionar una notificación pública al menos una vez cada tres meses hasta que se solucione el problema. El Departamento ha ordenado a Michelsen Packaging 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 Michelsen Packaging
Sistema de Agua del Estado Número 1000515

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 **Michelsen Packaging** water system of the failure to meet the **nitrate MCL** for the 1st, 2nd, 3rd, or 4th (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 10th day of the following month for each month or quarter that public notification was conducted.

Violation No. 03-23-14R-004
System Name: Michelsen Packaging
System No.: 1000515

DATE: 01/22/14
REPORT: R-040/2-3

STATE OF CALIFORNIA
DRINKING WATER PROGRAM

PAGE: 1

DRINKING WATER ANALYSES RESULTS REPORT
ALL SAMPLES FOR SELECTED CHAPTER 15 GROUPS - ALL RESULTS
FOR SAMPLE DATE RANGE OF 19940101 THRU 20140122
REPORT OF COUNTY: 10 FRESNO

SYSTEM NO: 1000515 NAME: MICHELSEN PACKAGING COUNTY: FRESNO
SOURCE NO: 001 NAME: WELL 01 PSCODE: 1000515-001 CLASS: TNC1 STATUS: AU

GROUP IDENTIFICATION CONSTITUENT IDENTIFICATION	SAMPLE DATE	RESULT	MCL	DLR	TRIGGER	UNIT

NI NITRATE/NITRITE						
71850 NITRATE (AS NO3)	01/09/2008	20.0000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	07/01/2008	38.0000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	04/08/2009	24.0000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	07/02/2009	49.0000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	10/02/2009	17.0000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	01/06/2010	21.0000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	01/17/2011	12.0000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	01/16/2012	6.6000	45.0000	2.0000	23.0000	MG/L
71850 NITRATE (AS NO3)	01/21/2013	9.7000	45.0000	2.0000	23.0000	MG/L
00620 NITRITE (AS N)	01/21/2013 <	.0000	1,000.0000	400.0000	500.0000	UG/L

NOTE1: = RESULT IS EQUAL TO OR GREATER THAN TRIGGER

NOTE2: .000 = RESULT WAS REPORTED AS NON-DETECTED EXCEPT FOR RAD

BSK Associates

EDT

Date of Report: 14|01|27|1723
Laboratory Name: BSK Analytical Laboratories
Name of Sampler: Ryan Harris

Sample ID No.: A4A1472-01
Signature Lab Director: 

Date/Time Sample Collected: 14|01|20|1306 **Date/Time Sample Received @ Lab:** 14|01|20|1330 **Date Analyases Completed:** 14|01|20

System Name: MICHELSEN PACKAGING **System Number:** 1000515
Name or Number of Sample Source: WELL 01

User ID: CYA **Station Number:** 1000515-001
Date/Time of Sample: 14|01|20|1306 **Laboratory Code:** 6810
Submitted by: BSK Associates **Date Analyases Completed:** 14|01|20 **Phone #:** 559-497-2888

MCL	REPORTING UNITS	CHEMICAL	ENTRY #	ANALYSES RESULTS	DLR
45	mg/L	Nitrate (as NO3) (mg/L)	71850	49	2.0
Total Anions Meq/L Value:		0.79			

BSK Associates

EDT

Date of Report: 14|01|27|1725

Sample ID No.: A4A1696-01

Laboratory Name: BSK Analytical Laboratories

Signature Lab Director: 

Name of Sampler: Ryan Harris

Date/Time Sample

Date/Time Sample

Date Analyses

Collected: 14|01|22|1455

Received @ Lab: 14|01|22|1510

Completed: 14|01|23

System Name: MICHELSEN PACKAGING

System Number: 1000515

Name or Number of Sample Source: WELL 01

User ID: CYA

Station Number: 1000515-001

Date/Time of Sample: 14|01|22|1455

Laboratory Code: 5810

Submitted by: BSK Associates

Date Analyses Completed: 14|01|23

Phone #: 559-497-2888