Citation No. 03-23-14C-025

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

IN RE: **KELLY'S BEACH RESORT**
Water System No. 1000594

TO: MICHAEL B. KELLY, OWNER
P.O. Box 285
REEDLEY, CA 93654

CITATION FOR NONCOMPLIANCE
ANNUAL NITRATE MONITORING AND REPORTING VIOLATION
For Calendar Year 2013
Issued March 7, 2014

Section 116650, Chapter 4, Part 12, Division 104 of the California Health and Safety Code (CHSC), authorizes the issuance of a citation for failure to comply with a requirement of the California Safe Drinking Water Act, or any regulation, standard, permit, or order issued hereunder.

VIOLATION

The Drinking Water Field Operations Branch of the Department of Public Health (hereinafter 'Department') hereby issues a Citation to KELLY'S BEACH RESORT (hereinafter 'Water System'), for failure to comply with Section 116555 of the CHSC and Sections 64432.1(a) of Title 22, California Code of Regulations (CCR). Specifically the Water System (mailing address: P.O. Box 285, REEDLEY, CA 93654) failed to comply with the following:

Section 116555(a)(1) and (3) of the CHSC,

Section 116555(a)(1) and (3) of the CHSC specifies "Any person who owns a public water system shall ensure that the system does all of the following:

(1) Complies with the primary and secondary drinking water standards.

(3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water."

Section 64432.1(a). Monitoring and compliance – nitrate and nitrite

Section 64432.1(a), Title 22, CCR, specifies "To determine compliance with the MCL for nitrate in Table 64431-A, all public water systems using groundwater and transient-noncommunity systems using approved surface water shall monitor annually." Surface water systems are to monitor quarterly for one year, then annually thereafter.

As specified in Section 64432.1(a), Title 22, CCR, all active sources are required to be tested at least annually for nitrate. In the absence of nitrate data, the Department is unable to determine whether or not water produced by the Water System source(s) meets the nitrate MCL of 45 mg/L (as nitrate).

The Water System has failed to report a nitrate result for the calendar year 2013 for the following active sources:

TABLE 1

Source Name	Primary Station Code
WELL 01	1000594-001

On December 6, 2013, the Department issued a reminder letter to the Water System informing them that the 2013 nitrate samples had not been submitted via Electronic Data Transfer to the State's water quality database. As of the date of this citation, the Department has not received the 2013 nitrate results from the Water System.

NOTIFICATION REQUIREMENTS

Section 64464.6 requires a public water system to notify the Department and the consumers of the water system, whenever the water supplier fails to collect and report the required number of nitrate samples as specified in Section 64432.1. The Department has deemed that Tier 2 public notification is appropriate under Section 64463.4(a)(3)

A Tier 2 Public Notice for violation of paragraph 64432.1 shall be given pursuant to Section 64463.4 and 64465. Section 64463.4(c)(2) allows noncommunity water systems to **post the public notice in conspicuous locations** within the water system **and the use of one or more of the following methods**: publication in a local newspaper or newsletter distributed to customers, delivery to community organizations, posting on the Internet or intranet; or direct delivery to each customer.

CHSC Section 116450(g) requires that upon receipt of notification from a public water system, 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 their tenants and business property owners, managers or operators must notify employees of businesses located on the property. These secondary notification requirements are included in the public notice.

Attachment A is a copy of a public notice that the Water System may use to notify its customers of the failure to conduct nitrate monitoring in 2013. This notice fulfills the public notification requirements for monitoring and reporting violations and includes the mandatory standard monitoring language. The attached notice should be checked for accuracy and any missing information should be completed prior to posting or hand delivery.

Proof of notification is required. Attachment B is a Proof of Notification form that must be completed and returned to the Department.

DIRECTIVES

The KELLY'S BEACH RESORT water system is hereby directed to take the following actions:

1. By **April 15, 2014,** the KELLY'S BEACH RESORT water system shall provide public notification of the nitrate monitoring and reporting procedural failure by **posting the notice in conspicuous locations throughout the area served by the water system for a minimum of seven days.** The Water System is additionally required to use one or more of the following notification methods in order to reach persons not likely to be reached by a public posting: publication in a local newspaper or newsletter distributed to customers, e-mailing the public notice to water system customers, post the public notice on the internet, or by delivery to each employee or customer.

2. By **April 30, 2014,** the Water System shall provide to the Department proof of notification of the nitrate monitoring and reporting procedural violation to each consumer using Attachment B. Upon completion of the public notification, Attachment B shall be completed and submitted to:

   Betsy S. Lichti, Senior Sanitary Engineer
   Department of Public Health
   Drinking Water Field Operations Branch
   265 W. Bullard Avenue, Suite 101
   Fresno, CA 93704

3. The Water System shall ensure that monitoring is conducted annually for nitrate of all its active sources.

4. The Water System shall collect the 2014 annual nitrate sample from each active source by **June 30, 2014**.

5. The Water System shall ensure that the laboratory submits the analytical results to the Department using the Electronic Data Transfer (EDT).

6. By **April 30, 2014**, the Water System shall submit a written response to the Department acknowledging that it has received this citation and will comply with all the directives listed herein.

CIVIL PENALTIES

Sections 116650(d) and 116650(e) of the CHSC allow for the assessment of a civil penalty for failure to comply with requirements of the Safe Drinking Water Act. Failure to comply with any provision of this Citation may result in the Department imposing an administrative penalty of not less than $100 (one hundred dollars per day as of the date of violation of any provision of this Citation.

3/7/14
Date

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

Attachments:
Attachment A: Public Notification Format
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.

Nitrate Monitoring Requirements Not Met for KELLY'S BEACH RESORT Water System

Our water system failed to monitor as required for a drinking water monitoring standard during the year 2013 and, therefore, was in violation of the regulations. Even though this failure was not an emergency, as our customers, you have a right to know what you should do, what happened and what we did to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During the year 2013 we did not monitor or test for nitrate and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

- There is nothing you need to do at this time.
- The table below lists the contaminant we did not properly test for during the year 2013, how many samples we are required to take and how often, how many samples we many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	Number of samples taken	When all samples should have been taken	When samples were or will be taken
Nitrate	Minimum is One Sample Annually	None	In the 2013 year	_____

If you have health issues concerning the consumption of this water, you may wish to consult your doctor.

What happened? What is being done?

Corrective action: _____

For more information, please contact _____ at:

Phone No. (_____) _____ - _____ 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 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 in compliance with the California Domestic Water Quality and Monitoring Regulations as a means of keeping the public informed.

Date Distributed: _____ *Water System No. 1000594*

ATTACHMENT B

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 **KELLY'S BEACH RESORT** water system of the failure to meet the **monitoring and reporting requirement for Nitrate** for the year 2013 as directed by the Department.

Notification was made on _____ by
(date)

_____ **hand delivered** or **mailed** or **posted** or **other (specify)** _____ written notice.
(*circle all that apply*)

_____
Signature of Water System Representative

_____
Printed Name

_____
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 to the Department: April 30, 2014
2013 Nitrate M&R Violation
System Number: 1000594
Enforcement Action Number: 03-23-14C-025