



RON CHAPMAN, MD, MPH  
Director & State Health Officer

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



EDMUND G. BROWN, JR.  
Governor

April 29, 2014  
System No. 2400166

Mr. James Marnatti  
Director of Environmental Affairs  
Foster Farms Chicken Livehaul  
1333 Swan Street  
Livingston, CA 95334

**COMPLIANCE ORDER FOR VIOLATION OF THE NITRATE DRINKING WATER STANDARD**

The California Department of Public Health (Department) has issued a Compliance Order No. 03-11-14R-001 (enclosed) to Foster Farms Chicken Livehaul Water System (hereinafter Water System) for violation of the nitrate drinking water standard. Domestic water produced by Well No. 1 (PS Code: 2400166-001) of the Water System contains nitrate at levels exceeding the Maximum Contaminant Level (MCL) of 45 mg/L.

As required in the Compliance Order, the Water System is expected to propose a solution and implement a project to ensure that water delivered to customers meets the nitrate drinking water standard. It is noted that the Water System is already providing bottled water, collecting quarterly nitrate sample at Well No. 1 and providing quarterly notification to the employees. Until the Department determines that the Water System is in compliance with the nitrate MCL, you must continue to provide quarterly public notification for nitrate MCL exceedance, provide bottled water and also conduct quarterly nitrate monitoring of Well No. 1.

After providing quarterly public notification, a copy of the public notice along with a completed proof of notification form should be submitted to the Merced District office. Your written response to the compliance order should be also submitted to our office. Failure to comply will result in additional enforcement action by the Department. If you have any questions regarding this matter, please contact Kassy Chauhan at (559) 447-3316.

Sincerely,

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

cc: Merced County Environmental Health Department (via email)  
Westside Water Conditioning 45 West G Street Los Banos, CA 93635

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**STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC HEALTH**

IN RE: **Foster Farms Chicken Livehaul**  
Water System No. 2400166

TO: Mr. James Marnatti  
Director of Environmental Affairs  
Foster Farms Chicken Livehaul  
1333 Swan Street  
Livingston, CA 95334

**COMPLIANCE ORDER FOR NONCOMPLIANCE WITH  
THE NITRATE MAXIMUM CONTAMINANT LEVEL  
Issued on April 29, 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 Foster Farms Livehaul Water System (Water System) is a nontransient, noncommunity water system, located in Merced County at 1333 Swan Street in Livingston, CA. The Water System supplies water to a chicken live haul processing plant through one service connection. The Water System serves a nontransient, noncommunity population of at least one hundred (100) individuals for more than six months of the year. The Water System uses untreated groundwater obtained from one onsite well (Well No. 1).



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2 Prior to April 1, 2014, jurisdiction for regulatory oversight of the Water System was  
3 maintained by the Merced County Environmental Health Department (County). Effective  
4 April 1, 2014, jurisdiction oversight of the Water system was transferred of the California  
5 Department of Public Health (Department). In the third quarter of 2012, a sample collected  
6 at Well No. 1 had a nitrate result of 69.0 mg/l. The confirmation sample collected on  
7 October 12, 2012, had a nitrate result of 59.3 mg/l. With both the original and  
8 confirmation samples exceeding the nitrate MCL of 45 mg/l, the County directed the Water  
9 system to increase nitrate monitoring of Well No. 1 to quarterly and provide quarterly Tier  
10 1 public notification to the employees. The Water System currently provides bottled water  
11 to its employees. Nitrate analysis results in the Department's database are shown in the  
12 table below:  
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**Table 1: Nitrate Analysis Results**

| Sample Date | Sample Result<br>(mg/L as NO <sub>3</sub> ) |
|-------------|---|
| 9/12/2012   | 69.0*                                       |
| 10/12/2012  | 59.3*                                       |
| 12/19/2012  | 61.0*                                       |
| 4/11/2013   | 63.0*                                       |
| 7/11/2013   | 67.0*                                       |
| 10/9/2013   | 130.0*                                      |
| 1/8/2014    | 59.0*                                       |

\*Sample Result Exceeds MCL

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**CONCLUSIONS OF LAW**

Based on the above Findings, the Department has determined that the Foster Farms Chicken Livehaul 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 Foster Farms Chicken Livehaul 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 Foster Farms Chicken Livehaul 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 64654(a): Specifically, the water produced by Well No. 1 has exceeded the nitrate maximum contaminant level of 45 mg/L (as NO<sub>3</sub>), as shown in Table 1 above, and therefore does not comply with a primary drinking water standard.

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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 Foster Farms Chicken Livehaul Water System is ordered to take the following actions:

1. 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.
2. The Foster Farms Chicken Livehaul Water System shall prepare 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 plan shall include a time schedule for completion of various phases of the project such as evaluation of alternatives, design, construction, and startup.
3. The Corrective Action Plan required under Order No. 2 above shall be presented to the Department no later than July 1, 2014.
4. The Foster Farms Chicken Livehaul Water System shall submit quarterly progress reports to the Department beginning in the third quarter (deadline of September 30,

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2 2014). The quarterly reports shall discuss the progress the Water System has made  
3 to comply with the nitrate MCL, as detailed in the plan to be submitted pursuant to  
4 Order No. 2.

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6 5. The Foster Farms Chicken Livehaul Water System shall continue to provide the  
7 following:

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

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16 b) Public notification to all water users on a quarterly basis until a project is  
17 completed to correct the problem. The first notice shall be posted by May 10,  
18 2014.

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20 c) Proof of public notification to the Department by the 10<sup>th</sup> day of the month  
21 following the issuance of the initial notification and each subsequent quarterly  
22 notification. Attachment B shall be used to satisfy this requirement. The first  
23 proof of public notification shall be submitted by June 10, 2014.

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26 6. Continued quarterly monitoring of Well No. 1 for nitrate shall be conducted,  
27 preferably before each quarterly notice is released, so the notice can reflect the most



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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): 2400166-001.

7. The Foster Farms Chicken Livehaul Water System shall submit a written response to this order by May 10, 2014, indicating its willingness to comply with the directives of this Compliance Order.

8. The Foster Farms Chicken Livehaul Water System shall complete a project to resolve the nitrate MCL violation no later than May 10, 2017.

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

Kassy D. Chauhan, P.E.  
Senior Sanitary Engineer  
Department of Public Health  
Southern California Branch  
Drinking Water Field Operations  
265 W. Bullard Avenue, Suite 101  
Fresno, CA 93704

10. If the Foster Farms Chicken Livehaul Water System is unable to perform the tasks specified in this Order for any reason, whether within or beyond its control, and if the Foster Farms Chicken Livehaul notifies the Department in writing no less than

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five days in advance of the due date, the Department may extend the time for performance if the Foster Farms Chicken Livehaul Water System demonstrates that it has used its best efforts to comply with the schedule and other requirements of this Order.

11. If the Foster Farms Chicken Livehaul 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 Foster Farms Chicken Livehaul 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 CHSC 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 Foster Farms Chicken Livehaul 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 Foster Farms Chicken Livehaul Water System or its agents in carrying out activities pursuant to this Order.



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**PARTIES BOUND**

This Order shall apply to and be binding upon the Foster Farms Chicken Livehaul Water System, its officers, directors, agents, employees, contractors, successors, and assignees.

**SEVERABILITY**

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

4-29-2014



Date

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

CLC/MLM

**Attachments:**  
Attachment A: Public Notification  
Attachment B: Proof of Notification Form



## Instructions for Tier 1 Nitrate Notice Template

### Template Attached

Since exceeding the nitrate maximum contaminant level is a Tier 1 violation, you must provide public notice to persons served as soon as practical but within 24 hours after you learn of the violation [California Code of Regulations, Title 22, Chapter 15, Section 64463.1(b)]. **During this time period, you must also contact the Department. Each water system required to give public notice must submit the notice to the Department for approval prior to distribution or posting, unless otherwise directed by the Department [64463(b)].** You should also coordinate with your local health department.

### Notification Methods

You must use one or more of the following methods to deliver the notice to consumers [64463.1(c)]:

- Radio or television
- Posting in conspicuous locations throughout the area served by the water system
- Hand delivery to persons served by the water system

You may need to use additional methods (e.g., newspaper, delivery of multiple copies to hospitals, clinics, or apartment buildings), since notice must be provided in a manner reasonably calculated to reach all persons served. If you post or hand-deliver, print your notice on letterhead, if available.

The notice attached is appropriate for hand delivery or a newspaper notice. However, you may wish to modify it before using it for radio, TV, or posting. If you do, you must still include all required elements and leave the health effects and notification language in italics unchanged. This language is mandatory [64465].

### Multilingual Requirement

Spanish. Each public notice must contain information in Spanish regarding (1) the importance of the notice or (2) contain a telephone number or address where Spanish-speaking residents may contact the water system to obtain a translated copy of the public notice or assistance in Spanish.

Non-English Speaking Groups Other than Spanish-Speaking. For each group that exceeds 1,000 residents or 10% of the residents in the community served, whichever is less, the public notice must (1) contain information in the appropriate language(s) regarding the importance of the notice or (2) contain a telephone number or address where such residents may contact the water system to obtain a translated copy of the notice or assistance in the appropriate language.

## **Population Served**

Make sure it is clear who is served by your water system -- you may need to list the areas you serve.

## **Alternative Sources of Water**

If you are providing alternative sources of water for infants or pregnant women, your notice should say where to obtain it. If you choose to provide bottled water, remember that bottled water can also be contaminated or high in nitrates if the bottler uses water from your system. If you are providing bottled water, make sure it meets standards by contacting the bottler and asking for the most recent test results.

## **Corrective Action**

In your notice, describe corrective actions you are taking. The bullet below describes one action commonly taken by water systems with nitrate/nitrite violations. Use this language, if appropriate, or develop your own:

- "We are investigating water treatment and other options. These may include drilling a new well, mixing the water with low-nitrate water from another source, or buying water from another water system."

## **After Issuing the Notice**

Send a copy of each type of notice and a certification that you have met all the public notice requirements to the Department within ten days after issuing the notice [64469(d)]. You should also issue a follow-up notice in addition to meeting any repeat notice requirements the Department sets.

It is recommended that you notify health professionals in the area of the violation. People may call their doctors with questions, and the doctors should have the information they need to respond appropriately. They also need to make sure the water is not provided to infants and pregnant women in their care.

It is a good idea to issue a "problem corrected" notice when the violation is resolved.

## 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

Foster Farms Chicken Livehaul 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 January 8, 2014 showed nitrate levels of 59.0 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

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For more information, please contact \_\_\_\_\_ at phone # \_\_\_\_\_ or at 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 Foster Farms Chicken Livehaul.

State Water System ID#: 2400166. Date distributed: \_\_\_\_\_.



RON CHAPMAN, MD, MPH  
Director & State Health Officer

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



EDMUND G. BROWN JR.  
Governor

**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 \_\_\_\_\_ Water System of the failure to meet the Nitrate MCL sampling for the \_\_\_\_\_ quarter of \_\_\_\_\_ calendar year.

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

Hand Delivery / Publication / Posting / Mailing/ Other written notice.  
(circle all that apply)

\_\_\_\_\_  
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: May 10, 2014  
Nitrate MCL violation  
System Number: 2400249  
EL#: 03-11-14R-001