CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

August 11, 2016
System No. 2400333

Mr. Duanne Hutton, General Manager
Yagi Brothers, Inc.
P.O. Box 515
Livingston, CA 95334

Re: COMPLIANCE ORDER FOR VIOLATION OF THE NITRATE DRINKING WATER STANDARD

The Division of Drinking Water of the State Water Resources Control Board (Division) has issued Compliance Order No. 03-11-16R-005 (enclosed) to Yagi Brothers Inc. water system (hereinafter "Water System") for violation of the nitrate drinking water standard. Domestic water produced by Well 1 (PS Code: 2400333-001) of the Water System contains nitrate at levels exceeding the Maximum Contaminant Level (MCL) of 10 mg/l as Nitrogen.

As required in the Compliance Order, the Water System is expected to propose a solution and implement a plan to ensure that water delivered to customers meets the nitrate drinking water standard. The Water System must continue providing bottled water, conducting quarterly nitrate monitoring of Well 1 and provide quarterly public notification whenever the nitrate MCL is exceeded. 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 Division. If you have any questions regarding this matter, please contact Lourdes Mertens at (559) 447-3139.

Sincerely,

Kassy D. Chauhan

Kassy D. Chauhan, P.E.
Senior Sanitary Engineer
Merced District
Central California Section
SOUTHERN CALIFORNIA BRANCH
DRINKING WATER FIELD OPERATIONS

cc: Merced County Environmental Health Department
Jared Steeley, System Operator, 2705 Big Tree Avenue, Denair, CA 95316

CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF DRINKING WATER

IN RE: Yagi Brothers Produce Inc.
Water System No.: 2400333

TO: Mr. Duane Hutton, General Manager
P.O. Box 515
Livingston, CA 95334

COMPLIANCE ORDER NO.: 03-11-16R-005
FOR
VIOLATION OF HEALTH AND SAFETY CODE SECTION 1166555 (a)(1)
AND THE PRIMARY DRINKING WATER STANDARD FOR NITRATE

Issued August 11, 2016

The State Water Resources Control Board (hereinafter "Board"), acting by and through its Division of Drinking Water (hereinafter "Division") and the Deputy Director for the Division (hereinafter "Deputy Director"), hereby issues this compliance order (hereinafter "Order") pursuant to Section 116655 of the California Health and Safety Code (hereinafter "CHSC") to Yagi Brothers Produce Inc. Water System (Water System) and its owner of record for violation of CHSC section 116555(a)(1) and Title 22, California Code of Regulations (hereinafter "CCR"), Section 64431.

APPLICABLE AUTHORITIES

The applicable statutes and regulations are provided in Attachment A, attached hereto and incorporated by reference.

STATEMENT OF FACTS

The Yagi Brothers Produce Incorporated Water System (Water System) is a privately owned water system located in Merced County that supplies water for domestic purposes to approximately 45 employees through three (3) service connections. The Water System was unregulated until March 2016 and will be newly permitted as a nontransient-noncommunity public water system as defined in CHSC, section 116275.

The Water System utilizes one groundwater well (Well No. 1) as its source of domestic water. Title 22, CCR, Division 4, Chapter 15, Article 4, establishes primary drinking water standards and monitoring and reporting requirements for inorganic constituents. All public water systems must comply with the maximum contaminant level (MCL) for nitrate as nitrogen (N) of 10 mg/l, as established in Title 22 CCR Section 64431.

The sample collected from Well No. 1 on July 12, 2016, had a nitrate concentration of 14.4 mg/L as nitrogen. A confirmation sample was collected on July 27, 2016, and the nitrate concentration was 15.0 mg/L as nitrogen. Based on the average of the initial and confirmation nitrate samples, which is 14.7 mg/L (as N), the Division has determined that the Water System has violated the nitrate MCL. The Water System continuously provides bottled water to the employees for human consumption.

DETERMINATIONS

Based on the above Statement of Facts, the Division has determined that the Water System and its owner of record have violated CHSC, Section 116555 and Section 64431 in that the water produced by Well No. 1 during the third quarter of 2016 exceeded the nitrate MCL.

DIRECTIVES

The Water System and its owner of record are hereby directed to take the following actions:

1. On or before August 11, 2019, comply with Title 22, CCR, Section 64431 and remain in compliance.

2. On or before September 30, 2016, submit a written response to the Division indicating its agreement to comply with the directives of this Order and with the Corrective Action Plan addressed herein.

3. Commencing on the date of service of this Order, provide quarterly public notification in accordance with Attachment B, hereto, of the Water System's failure to meet the nitrate MCL. The quarterly notification must include the most recent quarterly nitrate results.

4. Commencing on the date of service of this Order, submit proof of each public notification conducted in compliance with Directive No. 3, herein above, within 10 days following each such notification, using the form provided as Attachment C, hereto.

5. Commencing on the date of service of this Order collect quarterly samples for nitrate (as N) from Well No. 1, as required by Section 64432, and ensure that the analytical results are reported to the Division electronically by the analyzing laboratory no later than the 10th day following the month in which the analysis was completed.

6. Prepare for the Division approval a Corrective Action Plan identifying improvements to the water system designed to correct the water quality problem (violation of the nitrate MCL) and ensure that the Water System delivers water to consumers that meets primary drinking water standards. The plan shall include a time schedule for completion of each of the phases of the project such as design, construction, and startup, and a date as of which the Water System will be in compliance with the nitrate MCL, which date shall be no later than August 11, 2019.

7. On or before September 30, 2016, submit the Corrective Action Plan required under Directive No. 6, above, to the Division's offices located at 265 W. Bullard Avenue, Suite 101, Fresno, CA 95704.

8. Timely perform the Division-approved Corrective Action Plan and each and every element of said plan according to the time schedule set forth therein.

9. On or before September 30, 2016, and every three months thereafter, submit a report to the Division in the form provided as Attachment D, hereto, showing actions taken during the previous calendar three months to comply with the Corrective Action Plan.

10. On or before September 30, 2016, and every three months thereafter, submit copy of receipts of bottled water provided to the employees.

11. Not later than ten (10) days following the date of compliance with the nitrate MCL, demonstrate to the Division that the water delivered by Water System complies with the nitrate MCL.

12. Notify the Division in writing no later than five (5) days prior to the deadline for performance of any Directive set forth herein if Water System anticipates it will not timely meet such performance deadline.

All submittals required by this Order shall be addressed to:

Kassy Chauhan, Senior Sanitary Engineer
State Water Resources Control Board
Division of Drinking Water, Merced District
265 W. Bullard Avenue, Suite 101
Fresno, CA 93704

As used in this Order, the date of issuance shall be the date of this Order; and the date of service shall be the date of service of this Order, personal or by certified mail, on the Water System.

The Division reserves the right to make such modifications to this Order and/or to issue such further order(s) as it may deem necessary to protect public health and safety. Such modifications may be issued as amendments to this Order and shall be deemed effective upon issuance.

Nothing in this Order relieves Water System or its owner of record of its obligation to meet the requirements of the California SDWA, or any regulation, standard, permit or order issued thereunder.

PARTIES BOUND

This Order shall apply to and be binding upon the Water System, its owners, shareholders, officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The Directives of this Order are severable, and Water System and its owner of record shall comply with each and every provision hereof, notwithstanding the effectiveness of any other provision.

FURTHER ENFORCEMENT ACTION

The California SDWA authorizes the Board to: issue a citation with assessment of administrative penalties to a public water system for violation or continued violation of the requirements of the California SDWA or any regulation, permit, standard, citation, or order issued or adopted thereunder including, but not limited to, failure to correct a violation identified in a citation or compliance order. The California SDWA also authorizes the Board to take action to suspend or revoke a permit that has been issued to a public water system if the public water system has violated applicable law or regulations or has failed to comply with an order of the Board; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with an order of the Board. The Board does not waive any further enforcement action by issuance of this Order.

8-11-2016

Carl Carlucci, P.E., Chief
Central California Section
State Water Resources Control Board
Division of Drinking Water

Date

Certified Mail No. 7015 1660 0000 0781 9708

KDC/mlm

Attachments:
Attachment A: Applicable Authorities
Attachment B: Tier 1 Public Notification Template
Attachment C: Proof of Notification Template
Attachment D: Quarterly Progress Report Template

ATTACHMENT A

APPENDIX 1

Applicable Statues and Regulations for Compliance Order No. 03-11-16R-005
Violation of Nitrate MCL

CHSC, Section 116555(a)(1) states in relevant part:

(a) Any person who owns a public water system shall ensure that the system does all of the following:
(1) Complies with primary and secondary drinking water standards.

CHSC, Section 116655 states in relevant part:

(a) Whenever the department determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:
(1) Directing compliance forthwith.
(2) Directing compliance in accordance with a time schedule set by the department.
(3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:
(1) That the existing plant, works, or system be repaired, altered, or added to.
(2) That purification or treatment works be installed.
(3) That the source of the water supply be changed.
(4) That no additional service connection be made to the system.
(5) That the water supply, the plant, or the system be monitored.
(6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the department.

Title 22, CCR, Section 64431 (hereinafter "Section 64431"), states in relevant part:

Public water systems shall comply with the primary MCLs in table 64431-A as specified in this article.

Table 64431-A
Maximum Contaminant Levels
Inorganic Chemicals

Chemical	*Maximum Contaminant Level,*
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Hexavalent chromium	0.010

Mercury	0.002
Nickel	0.1
Nitrate (as N)	10.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 um in length.

Title 22, CCR Section 64432.1 (hereinafter "Section 64432.1") provides in relevant part:

Section 64432.1

(a) 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, and all community and nontransient-noncommunity systems using approved surface water shall monitor quarterly.

(1) The water supplier shall require the laboratory to notify the supplier within 24 hours whenever the level of nitrate in a single sample exceeds the MCL, and shall ensure that a contact person is available to receive such analytical results 24-hours a day. The water supplier shall also require the laboratory to immediately notify the Department of any acute nitrate MCL exceedance if the laboratory cannot make direct contact with the designated contact person within 24 hours. Within 24 hours of notification, the water supplier shall:

(A) Collect another sample, and

(B) Analyze the new sample; if the average of the two nitrate sample results exceeds the MCL, report the result to the Department within 24 hours. If the average does not exceed the MCL, inform the Department of the results within seven days from the receipt of the original analysis.

(C) If a system is unable to resample within 24 hours, it shall notify the consumers by issuing a Tier 1 Public Notice pursuant to section 64463.1 and shall collect and analyze a confirmation sample within two weeks of notification of the results of the first sample.

(2) For public water systems using groundwater, the repeat monitoring frequency shall be quarterly for at least one year following any one sample in which the concentration is greater than or equal to 50 percent of the MCL. After four consecutive quarterly samples are less than the MCL, a system may request that the Department reduce monitoring frequency to annual sampling.

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

Yagi Brothers Water System 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 _____ showed nitrate levels of ____ mg/l. This is above the nitrate standard, or maximum contaminant level (MCL), of 10 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 <u>under six months of age</u> 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.

Correction action:

_____

_____

_____

For more information, please contact _____ at phone no.:_____

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 Yagi Bros. Water System.

State Water System ID#: 2400333. Date distributed: _____.

INFORMACIÓN IMPORTANTE SOBRE SU AGUA POTABLE

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

ADVERTENCIA SOBRE EL AGUA POTABLE

El agua de Yagi Brothers Inc. tiene altos niveles de nitratos

NO DE ÉSTA AGUA A BEBÉS MENORES DE 6 MESES O A MUJERES EMBARAZADAS. TAMPOCO USE ÉSTA AGUA PARA PREPAPAR FORMULA INFANTIL

Los resultados de las pruebas del agua recibidas el _____mostraron niveles de nitrato de _____ mg/l. Estos niveles exceden el estándar o nivel máximo de contaminante (MCL) de 10 milígramos por litro (mg/l). Los nitratos en el agua potable son una preocupación seria en bebés menores de seis meses.

¿Qué debe hacer?

- **NO DE ÉSTA AGUA A BEBÉS MENORES DE 6 MESES.** *Los bebés menores de 6 meses que toman agua con nitrato en exceso del nivel máximo de contaminante (MCL), se pueden enfermar seriamente y rápidamente. Y si los bebés no reciben atención médica, pueden morir debido a que los altos niveles de nitratos pueden interferir con la capacidad de la sangre de los bebés para transportar oxígeno. Los síntomas incluyen falta de aire y coloración azulada de la piel.* Los síntomas en los bebés se pueden desarrollar rápidamente y la salud se deteriora en cuestión de días. Si hay síntomas de intoxicación por altos niveles de nitratos, busque atención médica de inmediato.

- **LAS MUJERES EMBARAZADAS NO DEBEN CONSUMIR AGUA CON ALTOS NIVELES DE NITRATOS.** *Los altos niveles de nitrato también pueden afectar la capacidad de la sangre de mujeres embarazadas para transportar oxígeno.*

- No use agua de la llave para preparar jugo, agua, y formula para bebés menores de 6 meses. Use agua embotellada u otra agua baja en nitratos para los bebés menores de 6 meses hasta nuevo aviso.

- **NO HIERVA EL AGUA.** Hervir, congelar, filtrar, o dejar reposar el agua, no reduce el nivel de nitratos. Hervir el agua en exceso puede causar que los nitratos se concentren más, porque los nitratos se quedan cuando el agua se evapora.

- Si tiene otros problemas de salud por el consumo de ésta agua, usted debería consultar con su doctor.

¿Qué sucedió? ¿Qué se está haciendo al respecto?

El nitrato en el agua potable puede originar de fuentes naturales, industriales, o agriculturales (incluyendo sistemas sépticos, escorrentía de agua de lluvia, y fertilizantes). Los niveles de nitrato en el agua potable pueden variar a través del año. Le informaremos si el nivel de nitratos vuelve a estar debajo del límite.

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

Para más información, por favor contacte a [name of contact] al [phone number] o [mailing address]

Por favor comparta esta información con todas las demás personas que tomen de esta agua, especialmente aquellos que no hayan recibido éste aviso directamente (por ejemplo, las personas en apartamentos, asilos, escuelas, y negocios). Puede hacerlo poniendo este aviso en un lugar público o distribuyendo copias en persona o por correo.

Requisitos de Notificación Secundaria

Al recibir la notificación de alguien que opere un sistema de agua público, se debe dar la siguiente notificación dentro de 10 días conforme a la Sección 116450(g) del Código de Salud y Seguridad:

- ESCUELAS: Deben notificar a los empleados de la escuela, estudiantes, y a los padres (si los estudiantes son menores).
- DUEÑOS O GERENTES DE PROPIEDAD PARA ALQUILER RESIDENCIAL (incluyendo asilos e instituciones de cuidado): Deben notificar a sus inquilinos.
- DUEÑOS DE PROPIEDAD DE NEGOCIOS, GERENTES, U OPERADORES: Deben notificar a los empleados de los negocios situados en la propiedad.

Este aviso es enviado por Yagi Bros Water System.

Núm. de Identificación del Sistema Estatal de Agua: 2400333.

Fecha de distribución: _____.

Certification of Completion of Public Notification

This form, when completed and returned to the Division of Drinking Water - Merced District (265 W. Bullard Ave. #101, Fresno, CA 93704 or fax to 559-447-3304), serves as certification that public notification to water users was completed as required by Title 22, California Code of Regulations, Sections 64463-64465.

Public Water System Name: _____

Public Water System No.: _____

Public notification for **failure to comply with the Nitrate MCL for the ____ quarter of 20___** was performed by the following method(s) (check and complete those that apply):

The notice was published in conspicuous places on: _____
A copy of the notice is attached.
A list of locations the notice was posted is attached.

I hereby certify that the above information is factual.

_____
Printed Name

_____
Title

_____
Signature

_____
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 each day that the 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 Division of Drinking Water within 10 days of issuance of notice to customers
System Number: 2400333
Enforcement Action No. 03-11-16R-005

Attachment D

Quarterly Progress Report

Water System:	**Yagi Bros**	Water System No.:	**2400333**
Compliance Order No.:	**03-11-16R-005**	Violation:	**Nitrate MCL**
Calendar Quarter:		Date Prepared:	

This form should be prepared and signed by Water System personnel with appropriate authority to implement the directives of the Compliance Order and the Corrective Action Plan. Please attach additional sheets as necessary. The quarterly progress report must be submitted by the 10th day of each subsequent quarter, to the Division of Drinking Water, Merced District Office.

Summary of Compliance Plan:

Tasks completed in the reporting quarter:

Tasks remaining to complete:

Anticipate compliance date:

Name

Signature

Title

Date