



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

September 1, 2015

Mr. Jerry Heglar
President
Foothill Mutual Water Company
P.O. Box 1613
Morgan Hill, CA 96038-2587

Dear Mr. Heglar:

CITATION NO. : 02-17-15C-022
NITRATE MAXIMUM CONTAMINANT LEVEL VIOLATION
NITRATE MONITORING AND REPORTING VIOLATION
FOOTHILL MUTUAL WATER COMPANY, SYSTEM NO. 4300630

Enclosed is a citation issued to Foothill Mutual Water Company. The citation is issued because the water system failed to comply with Section 64431 and Section 64432.1(a)(1), Chapter 15, Title 22, California Code of Regulations. The nitrate maximum contaminant level and monitoring and reporting requirements were not met during the third quarter of 2015.

The citation consists of seven sections: Applicable Authorities, Statement of Facts, Determination, Directives, Parties Bound, Severability and Further Enforcement Action. The Applicable Authorities, Statement of Facts, and Determination sections describe the events leading up to the issuance of the citation. The Directives section specifies what the Water System needs to do to return to compliance. The Parties Bound, Severability, and Further Enforcement Action sections describe administrative penalties to be assessed for failure to comply with the citation. No administrative penalty is levied with the current citation.

If you have any questions regarding this matter, please contact Karen Nishimoto at (510) 620-3461.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Lacy".

Eric Lacy, P.E.
District Engineer, Santa Clara District
Division of Drinking Water
State Water Resources Control Board

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

850 Marina Bay Parkway, Bldg. P, 2nd Floor, Richmond, CA 94804-6403 | www.waterboards.ca.gov

Attachment: Proof of Notification Form

cc: Santa Clara County Environmental Health Department (w/o attachment)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF DRINKING WATER

TO: Foothill Mutual Water Company
P.O. Box 1613
Morgan Hill, CA 95038-2587

Attn: Jerry Heglar, President
Foothill Mutual Water Company

**CITATION FOR VIOLATION OF CALIFORNIA CODE OF REGULATIONS, TITLE
22, SECTION 64431 AND SECTION 64432.1(a)(1) - WATER SYSTEM NO. 4300630**

C I T A T I O N N O . 02-17-15C-022

Issued on September 1, 2015

Section 116650 of the California Health and Safety Code authorizes the issuance of a citation to a public water system for violation of the California Safe Drinking Water Act (Health and Safety Code, Division 104, Part 12, Chapter 4, commencing with Section 116270) (hereinafter "California SDWA"), or any regulation, standard, permit or order issued or adopted thereunder.

The State Water Resources Control Board, acting by and through its Division of Drinking Water (hereinafter "Division") and the Deputy Director for the Division (hereinafter "Deputy Director"), hereby issues a citation to Foothill Mutual Water Company (hereinafter, FMWC) (P.O. Box 1613, Morgan Hill, CA 95038-2587) for



1
2 violation of California Code of Regulations (CCR), Title 22, Section 64431 and Section
3 64432.1.

4 **APPLICABLE AUTHORITIES**

5 **Section 116650 of California Health and Safety Code provides:**

6
7 (a) If the department determines that a public water system is in violation
8 of this chapter or any regulation, permit, standard, citation, or order issued or adopted
9 thereunder, the department may issue a citation to the public water system. The
10 citation shall be served upon the public water system personally or by certified mail.
11 Service shall be deemed effective as of the date of personal service or the date of
12 receipt of the certified mail. If a person to whom a citation is directed refuses to accept
13 delivery of the certified mail, the date of service shall be deemed to be the date of
14 mailing.

15 (b) Each citation shall be in writing and shall describe the nature of the
16 violation or violations, including a reference to the statutory provision, standard, order,
17 citation, permit, or regulation alleged to have been violated.

18 (c) A citation may specify a date for elimination or correction of the
19 condition constituting the violation.

20 (d) A citation may include the assessment of a penalty as specified in
21 subdivision (e).

22 (e) The department may assess a penalty in an amount not to exceed
23 one thousand dollars (\$1,000) per day for each day that a violation occurred, and for
24 each day that a violation continues to occur. A separate penalty may be assessed for
25 each violation.
26
27



1
2 California Code of Regulations, Title 22, Section 64431, provides, in relevant
3 part:

4
5 Public water systems shall comply with the primary MCLs in table
6 64431-A as specified in this article.

7 **Table 64431-A**

8 **Maximum Contaminant Levels**

9 **Inorganic Chemicals**

10

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Nitrate (as nitrogen)	45

11

12
13 California Code of Regulations, Title 22, Section 64432.1, subsection (a)(1),
14 provides, in relevant part:

15
16 (a)(1) The water supplier shall require the laboratory to notify the
17 supplier within 24 hours whenever the level of nitrate in a single sample
18 exceeds the MCL, and shall ensure that a contact person is available to
19 receive such analytical results 24-hours a day. The water supplier shall
20 also require the laboratory to immediately notify the State Board of any
21 acute nitrate MCL exceedance if the laboratory cannot make direct
22 contact with the designated contact person within 24 hours. Within 24
23 hours of notification, the water supplier shall:

24 A) Collect another sample, and

25 B) Analyze the new sample; if the average of the two nitrate
26 sample results exceeds the MCL, report the result to the State Board
27 within 24 hours. If the average does not exceed the MCL, inform the



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

State Board 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.

STATEMENT OF FACTS

The FMWC water system is operated under Water Supply Permit issued on August 10, 1995 and amended on February 5, 2001.

FMWC serves water to approximately 28 customers via 12 service connections. FMWC is located along Foothill Avenue between Tennant and Maple Avenues. FMWC has one source of water, the South Well. Due to elevated nitrate concentrations, FMWC monitors for nitrate quarterly.

On July 28, 2015 the nitrate result from the South Well was 56 mg/L, which exceeded the MCL of 45 mg/L. As a result, FMWC is in violation of the nitrate MCL.

FMWC failed to resample the South Well within 24 hours, as a result FMWC is in violation of repeat sampling reporting requirements and is required to perform Tier 1 public notification.

DETERMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The Division has determined that FMWC failed to comply with the nitrate maximum contaminant level (MCL) of 45 mg/L and failed repeat sampling and reporting requirements.

DIRECTIVES

FMWC is hereby directed to take the following actions:

1. Forthwith, FMWC shall cease and desist from failing to comply with Subsection 64431, Chapter 15, Title 22, CCR, immediately.
2. Forthwith, FMWC shall cease and desist from failing to comply with Subsection 64432.1(a)(1), Chapter 15, Title 22, CCR, immediately.
3. Conduct public notification for the nitrate Contaminant Level (MCL) violation and within 24 hours in conformance with Section 64431 and 64432.1, Chapter 15, Title 22, CCR. The notification shall be completed in accordance with the following:

Direct delivery to each customer receiving a bill including those that provide their drinking water to others.

Proof of notification must be provided to the Division. This can be met by submitting a completed Proof of Notification form (Attachment enclosed) and a copy of the notice issued within 14 days of completing the notification. The notice must be approved by the Division prior to distribution.
4. Continue to collect quarterly nitrate samples from the South Well as required under Section 64432.1, Title 22, CCR.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

5. Repeat notices shall be given to each customer by direct mail or hand delivery every calendar quarter and to all new users prior to or at the time service begins. The notice shall be updated with the most recent monitoring results and with the updated information regarding the water system's corrective actions taken whenever the notice is distributed. After four consecutive quarterly samples are less than 40 mg/L, the water system may request the Division to discontinue this notification requirement.

6. A Proof of Notification shall be completed and attached for all repeat notices within 10 days following the end of each calendar quarter. The notice shall be published in a daily or weekly newspaper and delivered to the customers. A copy of both notices shall be attached to the Proof of Notification form.

7. Prepare a written Corrective Action Plan (CAP) including an investigation of options to enable the water system to serve water to customers that continually meets the nitrate standard specified under Sections 64431 and 64432.1, Title 22, CCR. This may include drilling a new well, modification of the existing well, installation of treatment, purchasing water from another water system, or consolidation with another water system. The Division recognizes FMWC has an existing planning funding agreement to drill a new well and plan for potential installation of treatment if necessary to address nitrate issues with the South Well. As part of the CAP, FMWC shall investigate means to finish the planning project; whether through a construction funding agreement, self-funding, or alternate means to address the nitrate issue at the South Well. FMWC shall submit a CAP to the Division detailing its investigation findings, proposed course of action, and schedule in addressing the nitrate concentration in its well. The CAP is due no later than November 30, 2015.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The Division reserves the right to make such modifications to this Citation as it may deem necessary to protect public health and safety. Such modifications may be issued as amendments to this Citation, and shall be deemed effective upon issuance.

Nothing in this Citation relieves FMWC of its obligation to meet the requirements of the California Safe Drinking Water Act, or of any regulation, permit, standard, or order issued or adopted thereunder.

All submittals required by this Citation shall be submitted to the Division at the following address:

Mr. Eric Lacy, P.E.
District Engineer, Santa Clara District
Division of Drinking Water
State Water Resources Control Board
850 Marina Bay Parkway
Building P, 2nd Floor
Richmond, CA 94804-6403

PARTIES BOUND

This Citation shall apply to and be binding upon FMWC, its officers, directors, shareholders, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The Directives of this Citation are severable, and FMWC shall comply with each and every provision thereof, notwithstanding the effectiveness of any other provision.

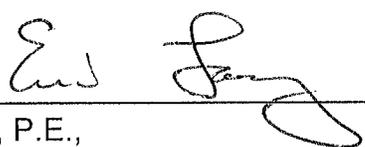
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FURTHER ENFORCEMENT ACTION

The California SDWA authorizes the Division to: issue 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 permit, regulation, permit 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 Division to take action to suspend or revoke a permit that has been issued to a public water system if the system has violated applicable law or regulations or has failed to comply with an order of the Division; and to petition the superior court to take various enforcement measures against a public water system that has failed to comply with violates an order of the Division. The Division does not waive any further enforcement action by issuance of this citation.

September 1, 2015

Date



Eric Lacy, P.E.,
District Engineer
Division of Drinking Water
State Water Resources Control Board

Attachments:

- 1. Proof of Notification Form

cc: Santa Clara County Environmental Health Department

CERTIFIED MAIL # 7014 3490 0001 7031 0529

PROOF OF NOTIFICATION

Water System Name: Foothill Mutual Water Company
Water System Number: 4300630

As required by Section 116450 of the California Health and Safety Code, I notified the users of the water supplied by Foothill Mutual Water Company of the nitrate maximum contaminant level violation. I complied with the directives of the Division of Drinking Water as indicated below:

Required Action

Date Completed

Public Notification by direct delivery.

Signature of Water System Representative

Date

**THIS FORM MUST BE COMPLETED AND RETURNED TO THE DEPARTMENT.
A COPY OF THE PUBLISHED NOTICE, DELIVERED NOTICE, AND POSTED NOTICE
MUST BE ATTACHED TO THIS FORM**

Disclosure: Be advised that Section 116725 and 116730 of the California Health and Safety Code states that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached citation may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each 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 county jail not to exceed one year, or by both the fine and imprisonment.