



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

Division of Drinking Water

Water System No. 4900924

December 18, 2014

Erika Thorkelson
Fremont Diner
2698 Fremont Drive
Sonoma, CA 95476

CITATION NO. 02-18-14C-039

FECAL COLIFORM MAXIMUM CONTAMINANT LEVEL (MCL) VIOLATION AND MONITORING AND REPORTING VIOLATION FOR OCTOBER 2014

Enclosed is a Citation issued to the Fremont Diner (System) public water system.

Fremont Diner will be billed at the State Water Resources Control Board Division of Drinking Water's (Division) hourly rate (currently estimated at \$128.00) for the time spent on issuing this Citation. Health and Safety Code Section 116577 provides that a public water system must reimburse the Division for actual costs incurred by the Division for specified enforcement actions, including, but not limited to, preparing, issuing, and monitoring compliance with a citation. At this time, the Division has spent approximately 1.5 hours on enforcement activities associated with this violation.

Fremont Diner will receive a bill sent from our Division of Drinking Water Fee Billing Unit in August of the next fiscal year. This bill will contain fees for any enforcement time spent on Fremont Diner for the current fiscal year.

If you have any questions regarding this matter, please contact Cindi Lee of my staff at (707) 576-2422 or me at (707) 576-2006.

Sincerely,

A handwritten signature in blue ink that reads "Janice M. Thomas".

Janice M. Thomas, P.E., Sonoma District Engineer
Division of Drinking Water
STATE WATER RESOURCES CONTROL BOARD

Enclosures

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

50 D Street, Suite 200, Santa Rosa, CA 95404 | www.waterboards.ca.gov

4900924/Compliance
02_18_14C_039_4900924_21 & 26/cel



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STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF DRINKING WATER

Name of Public Water System: Fremont Diner

Water System No: 4900924

To: Fremont Diner
2698 Fremont Drive
Sonoma, CA 95476

Issued: December 18, 2014

**CITATION FOR NONCOMPLIANCE
WITH FECAL COLIFORM MAXIMUM CONTAMINANT LEVEL AND
MONITORING AND REPORTING VIOLATION**

October 2014

The Division of Drinking Water of the State of California Water Resources Control Board (Division) hereby issues a citation to the Fremont Diner (hereinafter System) for failure to comply with Title 22, California Code of Regulations (CCR) Section 64426.1 and 64463.1

Section 116650 of the California Health and Safety Code (CHSC), authorizes the issuance of a citation for failure to comply with a requirement of California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter



1 4, commencing with Section 116270), or any regulation, standard, permit or
2 order issued thereunder. A copy of the *Applicable Statutes and Regulations*
3 is located in Appendix 1, which is attached hereto and incorporated by
4 reference.

5 6 7 **STATEMENT OF FACTS**

8 Fremont Diner is classified as a transient-noncommunity water system with
9 2 connections serving a population of 50. The Division received laboratory
10 results for one bacteriological sample collected on October 30, 2014 from
11 the kitchen sink. The sample was analyzed for the presence of coliform
12 bacteria and *E. coli* where the **October 30, 2014** routine sample tested
13 positive for *E. coli*.

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16 One repeat sample was collected by the System on **November 3, 2014**.
17 According to Section 64424 of Title 22, California Code of Regulations, the
18 System is required to collect a repeat sample set (4 distribution samples)
19 within 24 hours of being notified by the laboratory of the positive result.

20
21 Pursuant to Section 64430, the System is required to collect a triggered
22 source sample from each well in use at the time the positive routine sample
23 was collected. As of the date of this citation, the Division has not received a
24 total set of 4 repeat samples or a triggered source sample for October 2014.

25
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27 The Division informed the System which collected a repeat sample set and a
wellhead sample on **November 26, 2014** in response to these violations.



1 The restroom repeat sample tested positive for total coliform bacteria and *E.*
2 *coli.*

3
4 **DETERMINATION**

5 The Division has determined that the System is in violation of Title 22, CCR,
6 Section 64426.1, Total Coliform Maximum Contaminant Level. Section
7 64426.1(b)(3) defines a violation of the fecal coliform MCL as more than one
8 sample collected during any month is total coliform-positive and any repeat
9 sample is fecal coliform-positive or *E. coli* positive.
10

11
12 The Division had determined that the System is in violation of Title 22. CCR,
13 Section 64424, Repeat Sampling. Section 64424 defines a violation of
14 repeat sampling as collecting fewer than the minimum number of repeat
15 samples.
16

17
18 The Division had determined that the System is in violation of Title 22. CCR,
19 Section 64430, Ground Water Rule. Section 64430 defines a violation of
20 ground water rule requirements as not collecting a triggered source water
21 sample.
22

23
24 **DIRECTIVES**

25 Fremont Diner is hereby directed to take the following actions:

- 26 1. Comply with Section 64426.1, 64424, and 64430, Title 22, CCR in all
27 future monitoring periods.



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2. Pursuant to Title 22, CCR, Section 64424(d), the System shall collect five (5) routine bacteriological samples on or before **January 22, 2015**.

3. The System shall complete Appendix 3: Compliance Certification. Submit it together with a copy of the public notification and the laboratory results from sampling required in Directive 3 to the Division on or before **February 3, 2015**.

4. The System shall submit to the Division the information described in Title 22, CCR, Section 64426(b)(2) on or before **February 3, 2015**. Appendix 4: Positive Total Coliform Investigation, which is attached to this document, may be used to fulfill this directive.

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 effective upon issuance.

Nothing in this Citation relieves the System of its obligation to meet the requirements of the California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4, commencing with Section 116270), or any regulation, standard, permit or order issued thereunder.

All submittals required by this Citation shall be submitted to the Division



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at the following address: Janice M. Thomas, P.E.
State Water Resources Control Board
Division of Drinking Water
50 D Street, Suite 200
Santa Rosa, CA 95404

PARTIES BOUND

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

SEVERABILITY

The directives of this Citation are severable, and the System shall comply with each provision thereof notwithstanding the effectiveness of any provision.

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FURTHER ENFORCEMENT ACTION

Division 104, Part 12, Chapter 4, (commencing with Section 116270) of the California Health and Safety Code authorizes the Division to: issue additional citations with assessment of penalties if the System continues to fail to correct a violation identified in a citation; 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 orders of the Division; and petition the superior court to take various enforcement measures against a public water system that has failed to comply with orders of the Division. The Division does not waive any further enforcement action by issuance of this citation.

Janice M. Thomas

December 18, 2014

Janice M. Thomas, P.E., Sonoma District Engineer
Division of Drinking Water
STATE WATER RESOURCES CONTROL BOARD

Date

Appendices (3):

- 1. Applicable Statutes and Regulations
- 2. Compliance Certification
- 3. Positive Total Coliform Investigation



Certified Mail No. 70122210000216740700

4900924/Compliance
02_18_14C_039_4900924_21 & 26/cel

APPENDIX 1. APPLICABLE STATUTES AND REGULATIONS FOR CITATION NO. 02-18-14C-039

Section 116650 of the CHSC states in relevant part:

- (a) If the department determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the department may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.
- (b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.
- (c) A citation may specify a date for elimination or correction of the condition constituting the violation.
- (d) A citation may include the assessment of a penalty as specified in subdivision (e).
- (e) The department may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation.

California Code of Regulations (CCR), Section 64424 states in relevant part:

- (d) If a public water system for which fewer than five routine samples/month are collected has one or more total coliform-positive samples, the water supplier shall collect at least five routine samples the following month. If the supplier stops supplying water during the month after the total coliform-positive(s), at least five samples shall be collected during the first month the system resumes operation. A water supplier may request the Department waive the requirement to collect at least five routine samples the following month, but a waiver will not be granted solely on the basis that all repeat samples are total coliform-negative. To request a waiver, one of the following conditions shall be met:
 - (1) The Department conducts a site visit before the end of the next month the system provides water to the public to determine whether additional monitoring and/or corrective action is necessary to protect public health.
 - (2) The Department determines why the sample was total coliform-positive and establishes that the system has corrected the problem or will correct the problem before the end of the next month the system serves water to the public. If a waiver is granted, a system shall collect at least one routine sample before the end of the next month it serves water to the public and use it to determine compliance with §64426.1.

California Code of Regulations (CCR), Section 64426 states in relevant part:

- (a) Any of the following criteria shall indicate a possible significant rise in bacterial count:
 - (1) A system collecting at least 40 samples per month has a total coliform-positive routine sample followed by two total coliform-positive repeat samples in the repeat sample set;
 - (2) A system has a sample which is positive for fecal coliform or E. coli; or
 - (3) A system fails the total coliform Maximum Contaminant Level (MCL) as defined in §64426.1.
- (b) When the coliform levels specified in subsection (a) are reached or exceeded, the water supplier shall:
 - (1) Contact the Department by the end of the day on which the system is notified of the test result or the system determines that it has exceeded the MCL, unless the notification or determination occurs after the Department office is closed, in which case the supplier shall notify the Department within 24 hours; and

- (2) Submit to the Department information on the current status of physical works and operating procedures which may have caused the elevated bacteriological findings, or any information on community illness suspected of being waterborne. This shall include, but not be limited to:
 - (A) Current operating procedures that are or could potentially be related to the increase in bacterial count;
 - (B) Any interruptions in the treatment process;
 - (C) System pressure loss to less than 5 psi;
 - (D) Vandalism and/or unauthorized access to facilities;
 - (E) Physical evidence indicating bacteriological contamination of facilities;
 - (F) Analytical results of any additional samples collected, including source samples;
 - (G) Community illness suspected of being waterborne; and
 - (H) Records of the investigation and any action taken.

California Code of Regulations (CCR), Section 64426.1 states in relevant part:

- (a) A public water system is in violation of the total coliform MCL {maximum contaminant level} when any of the following occurs:
 - (1) For a public water system which collects at least 40 samples per month, more than 5.0 percent of the samples collected during any month are total coliform-positive; or
 - (2) For a public water system which collects fewer than 40 samples per month, more than one sample collected during any month is total coliform-positive; or
 - (3) Any repeat sample is fecal coliform-positive or E. coli-positive; or
 - (4) Any repeat sample following a fecal coliform-positive or E. coli-positive routine sample is total coliform-positive.

California Code of Regulations (CCR), Section 64430 states in relevant part:

A public water system that uses ground water shall comply with the following provisions of 40 Code of Federal Regulations as they appear in the Ground Water Rule published in 71 Federal Register 65574 (November 8, 2006) and amended in 71 Federal Register 67427 (November 21, 2006) and 74 Federal Register 30953 (June 29, 2009), which are hereby incorporated by reference: Sections 141.21(d)(3), 141.28(a), 141.153(h)(6), Appendix A to Subpart O (Consumer Confidence Reports), 141.202(a)(8), 141.203(a)(4), Appendices A and B to Subpart Q (Public Notification), and 141.400 through 141.405, except that in:

- (a) sections 141.402(a)(1)(ii), (a)(2), (a)(2)(ii), (a)(4), (a)(4)(ii)(A), (a)(5)(i), and (a)(5)(ii), the phrase —§141.21(a) is replaced by —22 California Code of Regulations sections 64422 and 64423,
- (b) sections 141.402(a)(1)(ii) and 141.405(b)(4), the phrase —§141.21(c) is replaced by —22 California Code of Regulations section 64425, and
- (c) section 141.402(a)(2)(iii), the phrase —§141.21(b) is replaced by —22 California Code of Regulations section 64424.

California Code of Regulations (CCR), Section 64463.1 states in relevant part:

- (a) A water system shall give public notice pursuant to this section and 64465 if any of the following occurs:
 - (1) Violation of the total coliform MCL when:
 - (A) Fecal coliform or E. coli are present in the distribution system; or
 - (B) When any repeat sample tests positive for coliform and the water system fails to test for fecal coliforms or E. coli in the repeat sample.

California Code of Regulations (CCR), Section 64465 states in relevant part:

- (a) Each public notice given pursuant to this article, except Tier 3 public notices for variances and exemptions pursuant to subsection (b), shall contain the following:
- (1) A description of the violation or occurrence, including the contaminant(s) of concern, and (as applicable) the contaminant level(s);
 - (2) The date(s) of the violation or occurrence;
 - (3) Any potential adverse health effects from the violation or occurrence, including the appropriate standard health effects language from appendices 64465-A through G;
 - (4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in drinking water;
 - (5) Whether alternative water supplies should be used;
 - (6) What actions consumers should take, including when they should seek medical help, if known;
 - (7) What the water system is doing to correct the violation or occurrence;
 - (8) When the water system expects to return to compliance or resolve the occurrence;
 - (9) The name, business address, and phone number of the water system owner, operator, or designee of the water system as a source of additional information concerning the public notice;
 - (10) A statement to encourage the public notice recipient to distribute the public notice to other persons served, using the following standard language: —Please share this information with all the other people who drink this water, especially those who may not have received this public 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; and
 - (11) For a water system with a monitoring and testing procedure violation, this language shall be included: —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 your drinking water meets health standards. During [*compliance period dates*], we [*did not monitor or test* or *did not complete all monitoring or testing*] for [*contaminant(s)*], and therefore, cannot be sure of the quality of your drinking water during that time.
- (c) Each public notice given pursuant to this article shall contain information in Spanish regarding the importance of the notice, or 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. For each non-English speaking group other than Spanish-speaking that exceeds 1,000 residents or 10% of the residents in the community served, whichever is less, the public notice shall:
- (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.
- (d) Each public notice given pursuant to this article shall:
- (1) Be displayed such that it catches people's attention when printed or posted and be formatted in such a way that the message in the public notice can be understood at the eighth-grade level;
 - (2) Not contain technical language beyond an eighth-grade level or print smaller than 12 point; and
 - (3) Not contain language that minimizes or contradicts the information being given in the public notice.

