CALIFORNIA
Water Boards

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State Water Resources Control Board
Division of Drinking Water

March 12, 2018

System No. 1410008

Shannon Williams, Deputy Director of Public Works
Inyo County Public Works Department - Independence System
P.O. Drawer Q
Independence, CA 93526
swilliams@inyocounty.us

CITATION NO. 05-13-18C-008

FAILURE TO TEST ALL BACKFLOW PREVENTERS ANNUALLY FOR 2012-2016 AND TO IMPLEMENT A CROSS CONNECTION CONTROL PROGRAM

Enclosed is Citation No. 05-13-18C-008 (hereinafter "Citation"), issued to the Inyo County Public Works Department - Independence System (hereinafter "Inyo County PWD"), public water system. Please note that there are legally enforceable deadlines associated with this Citation.

The Inyo County PWD will be billed at the State Water Resources Control Board's (hereinafter "State Water Board"), hourly rate for the time spent on issuing this Citation. California Health and Safety Code (hereinafter "CHSC"), Section 116577, provides that a public water system must reimburse the State Water Board for actual costs incurred by the State Water Board for specified enforcement actions, including but not limited to, preparing, issuing and monitoring compliance with a citation. At this time, the State Water Board has spent approximately three hour(s) on enforcement activities associated with this violation.

The Inyo County PWD will receive a bill sent from the State Water Board in August of the next fiscal year. This bill will contain fees for any enforcement time spent on the Inyo County PWD for the current fiscal year.

Any person who is aggrieved by a citation, order or decision issued under authority delegated to an officer or employee of the state board under Article 8 (commencing with CHSC, Section 116625) or Article 9 (commencing with CHSC, Section 116650), of the Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4), may file a petition with the State Water Board for reconsideration of the citation, order or decision. Appendix 1 to the enclosed Citation contains the relevant statutory provisions for filing a petition for reconsideration (CHSC, Section 116701).

Petitions must be received by the State Water Board within 30 days of the issuance of the citation, order or decision by the officer or employee of the state board. The date of issuance is the date when the Division of Drinking Water mails a copy of the citation, order or decision. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day by 5:00 p.m.

Information regarding filing petitions may be found at:

http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml

If you have any questions regarding this matter, please contact Amanda Chapman of my staff at 909-383-4320 or me at 909-383-4328.

Sincerely,

Eric J. Zúñiga
District Engineer
San Bernardino District
Southern California Field Operations Branch

Enclosures

Certified Mail No. 7017 0660 0001 1704 7535

cc:

Kathe Barton, Inyo County Environmental Health, via email at kbarton@inyocounty.us

Keith Pearce, Inyo County PWD, via email at kpearce@inyocounty.us

Citation No. 05-13-18C-008

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF DRINKING WATER

Name of Public Water System: Inyo County Public Works Department - Independence System

Water System No: 1410008

Attention: Shannon Williams, Deputy Director of Public Works
P.O. Drawer Q
Independence, CA 93526

Issued: March 12, 2018

CITATION FOR NONCOMPLIANCE WITH CALIFORNIA HEALTH AND SAFETY CODE, SECTION 116555(a)(2) AND CALIFORNIA CODE OF REGULATIONS, TITLE 17, SECTIONS 7584 and 7605(c)

FAILURE TO IMPLEMENT A CROSS-CONNECTION CONTROL PROGRAM AND FAILURE TO TEST EACH BACKFLOW PREVENTION DEVICE ANNUALLY FOR CALENDAR YEARS 2012-2016

The California Health and Safety Code (hereinafter "CHSC"), Section 116650 authorizes the State Water Resources Control Board (hereinafter "State Water Board"), to issue a citation to a public water system when the State Water Board determines that the public water system has violated or is violating the California Safe Drinking Water Act (hereinafter "California SDWA"), (CHSC, Division 104, Part 12, Chapter 4, commencing with Section 116270), or any regulation, standard, permit, or order issued or adopted thereunder.

The State Water Board, acting by and through its Division of Drinking Water (hereinafter "Division"), and the Deputy Director for the Division, hereby issues Citation No. 05-13-18C-008 (hereinafter "Citation"), pursuant to Section 116650 of the CHSC to the Inyo County Public Works Department - Independence System (hereinafter "Inyo County PWD"), for violation of California Health and Safety Code Section 116555(a)(2) and California Code of Regulations, Title 17, Section 7605(c).

A copy of the applicable statutes and regulations are included in Appendix 1, which is attached hereto and incorporated by reference.

STATEMENT OF FACTS

The Inyo County PWD is classified as a community public water system with a population of 669, serving 359 connections. The Inyo County PWD operates under Domestic Water Supply Permit No. 03-13-04P-006 issued by the State Water Board in 2004.

California Health and Safety Code, Section 116555(a)(2) requires all public water systems to not be subject to backflow under normal operating conditions. California Code of Regulations, Title 17, Section 7584 requires the water supplier to protect the public water supply from contamination by implementation of a cross-connection control program. California Code of Regulations, Title 17, Section 7584(f) requires the maintenance of records of locations, tests, and repairs of backflow preventers. California Code of Regulations, Title 17, Section 7605(c) requires all backflow preventers to be tested at least annually or more frequently if determined to be necessary by the health agency or water supplier. When devices are found to be defective, they shall be repaired or replaced in accordance with the provisions of Title 17, Code of Regulations, Division 1, Chapter 5.

During the Division's 2017 Sanitary Survey Inspection, it was noted that no backflow assemblies (total number, total installed, total tested, total failed, total repaired/replaced) were reported in the 2012-2016 electronic annual reports. There was little to no documentation available during the survey for at least three years of backflow device tests and maintenance as well as a survey of the water system identifying water user premises where cross-connections are likely to occur.

DETERMINATION

The State Water Board has determined that the Inyo County PWD has failed to comply with the California Health and Safety Code, Section 116555(a)(2) as well as California Code of Regulation, Title 17, Sections 7584, and 7605(c).

DIRECTIVES

The Inyo County PWD is hereby directed to take the following actions:

1. By **April 26, 2018**, start implementing a cross-connection control program, identifying any potential cross connections are likely to occur on water user premises, identifying the total number of backflow preventers in the distribution system, and creating an inventory of all backflow preventers in the distribution system and a schedule of when all backflows will be tested annually. There shall be at least one person trained in cross-connection control to carry out the cross-connection program.

2. By **August 31, 2018**, Inyo County PWD shall assure that all of its backflow prevention devices are tested. Inyo County PWD shall also submit a backflow prevention device testing status report, copies of the individual device test reports, and an inventory of all identified backflow prevention devices in the distribution system to the State Water Board by **September 10, 2018**.

3. By **September 10, 2018,** Inyo County PWD shall submit a plan to the State Water Board for review and approval that outlines a process to ensure that all backflow prevention devices are tested at least annually.

4. By **October 1, 2018,** Inyo County PWD shall have a complete system survey identifying where cross-connections are likely to occur.

5. Inyo County PWD shall include this violation in the 2018 Consumer Confidence Report.

6. On or before **March 30, 2018,** complete and return to the State Water Board the "Notification of Receipt" form attached to this Citation as Appendix 2. Completion of this form confirms that the Inyo County PWD has received this Citation and understands that it contains legally enforceable directives(s) with due dates.

All submittals required by this Citation shall be electronically submitted to the State Water Board at the following address. The subject line for all electronic submittals corresponding to this Citation shall include the following information: Water System name and number, citation number and title of the document being submitted.

Eric J. Zúñiga, District Engineer
Dwpdist13@waterboards.ca.gov

The State Water Board reserves the right to make 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 Inyo County PWD of its obligation to meet the requirements of the California SDWA (CHSC, Division 104, Part 12, Chapter 4, commencing with Section 116270), or any regulation, standard, permit or order issued or adopted thereunder.

PARTIES BOUND

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

SEVERABILITY

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

FURTHER ENFORCEMENT ACTION

The California SDWA authorizes the State Water Board to: issue a citation or order 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 State Water 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 State Water 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 State Water Board. The State Water Board does not waive any further enforcement action by issuance of this Citation.

Eric J. Zúñiga — 3/12/18

Eric J. Zúñiga — Date

District Engineer

Appendices 2:

1. Applicable Statutes and Regulations
2. Notification of Receipt Form

Certified Mail No. 7017 0660 0001 1704 7535

APPENDIX 1. APPLICABLE STATUTES AND REGULATIONS FOR CITATION NO. 05-13-18C-008 FAILURE TO IMPLEMENT A CROSS-CONNECTION CONTROL PROGRAM AND FAILURE TO TEST EACH BACKFLOW PREVENTION DEVICE ANNUALLY

NOTE: The following language is provided for the convenience of the recipient, and cannot be relied upon as the State of California's representation of the law. The published codes are the only official representation of the law. Regulations related to drinking water are in Titles 22 and 17 of the California Code of Regulations. Statutes related to drinking water are in the Health & Safety Code, the Water Code, and other codes.

California Health and Safety Code (CHSC):

Section 116271 states in relevant part:

(a) The state board succeeds to and is vested with all of the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Public Health, its predecessors, and its director for purposes of all of the following:

(1) The Environmental Laboratory Accreditation Act (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101).

(2) Article 3 (commencing with Section 106875) of Chapter 4 of Part 1.

(3) Article 1 (commencing with Section 115825) of Chapter 5 of Part 10.

(4) This chapter and the Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760)).

(5) Article 2 (commencing with Section 116800), Article 3 (commencing with Section 116825), and Article 4 (commencing with Section 116875) of Chapter 5.

(6) Chapter 7 (commencing with Section 116975).

(7) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).

(8) The Water Recycling Law (Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code).

(9) Chapter 7.3 (commencing with Section 13560) of Division 7 of the Water Code.

(10) The California Safe Drinking Water Bond Law of 1976 (Chapter 10.5 (commencing with Section 13850) of Division 7 of the Water Code).

(11) Wholesale Regional Water System Security and Reliability Act (Division 20.5 (commencing with Section 73500) of the Water Code).

(12) Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code).

(b) The state board shall maintain a drinking water program and carry out the duties, responsibilities, and functions described in this section. Statutory reference to "department," "state department," or "director" regarding a function transferred to the state board shall refer to the state board. This section does not impair the authority of a local health officer to enforce this chapter or a county's election not to enforce this chapter, as provided in Section 116500...

(k)

(1) The state board shall appoint a deputy director who reports to the executive director to oversee the issuance and enforcement of public water system permits and other duties as appropriate. The deputy director shall have public health expertise.

(2) The deputy director is delegated the state board's authority to provide notice, approve notice content, approve emergency notification plans, and take other action pursuant to Article 5 (commencing with Section 116450), to issue, renew, reissue, revise, amend, or deny any public water system permits pursuant to Article 7 (commencing with Section 116525), to suspend or revoke any public water system permit pursuant to Article 8 (commencing with Section 116625), and to issue citations, assess penalties, or issue orders pursuant to Article 9 (commencing with Section 116650). Decisions and actions of the deputy director taken pursuant to Article 5 (commencing with Section 116450) or Article 7 (commencing with Section 116525) are deemed decisions and actions taken by the state board, but are not subject to reconsideration by the state board except as provided in Section 116540. Decisions and actions of the deputy director taken pursuant to Article 8 (commencing with Section 116625) and Article 9 (commencing with Section 116650) are deemed decisions and actions taken by the state board, but any aggrieved person may petition the state board for reconsideration of the decision or action. This subdivision is not a limitation on the state board's authority to delegate any other powers and duties.

Section 116275 states in relevant part:

(c) "Primary drinking water standards" means:

(1) Maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons.

(2) Specific treatment techniques adopted by the state board in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

(3) The monitoring and reporting requirements as specified in regulations adopted by the state board that pertain to maximum contaminant levels.

Section 116555 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.

(2) Will not be subject to backflow under normal operating conditions.

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

Section 116577. Enforcement fee states:

(a) Each public water system shall reimburse the state board for actual costs incurred by the state board for any of the following enforcement activities related to that water system:

(1) Preparing, issuing, and monitoring compliance with, an order or a citation.

(2) Preparing and issuing public notification.

(3) Conducting a hearing pursuant to Section 116625.

(b) The state board shall submit an invoice for these enforcement costs to the public water system that requires payment before September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the state board. The costs set forth in the invoice shall not exceed the total actual costs to the state board of enforcement activities specified in this section.

(c) Notwithstanding the reimbursement of enforcement costs of the local primacy agency pursuant to subdivision (a) of Section 116595 by a public water system under the jurisdiction of the local primacy agency, a public water system shall also reimburse enforcement costs, if any, incurred by the state board pursuant to this section.

(d) "Enforcement costs," as used in this section, does not include "litigation costs" pursuant to Section 116585.

(e) The state board shall not be entitled to enforcement costs pursuant to this section if a court determines that enforcement activities were in error.

(f) Payment of the invoice shall be made within 90 days of the date of the invoice. Failure to pay the invoice within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.

(g) The state board may, at its sole discretion, waive payment by a public water system of all or any part of the invoice or penalty.

Section 116625 (Revocation and suspension of permits) states:

(a) The state board, after providing notice to the permittee and opportunity for a hearing, may suspend or revoke any permit issued pursuant to this chapter if the state board determines pursuant to the hearing that the permittee is not complying with the permit, this chapter, or any regulation, standard, or order issued or adopted thereunder, or that the permittee has made a false statement or representation on any application, record, or report maintained or submitted for purposes of compliance with this chapter. If the permittee does not request a hearing within the period specified in the notice, the state board may suspend or revoke the permit without a hearing. If the permittee submits a timely request for a hearing, the hearing shall be before the state board or a member of the state board, in accordance with Section 183 of the Water Code and the rules for adjudicative proceedings adopted under Section 185 of the Water Code. If the permit at issue has been temporarily suspended pursuant to subdivision (b), the notice shall be provided within 15 days of the effective date of the temporary suspension order. The commencement of the hearing under this subdivision shall be as soon as practicable, but no later than 60 days after the effective date of the temporary suspension order, unless the state board grants an extension of the 60 day period upon request of the permittee.

(b) The state board may temporarily suspend any permit issued pursuant to this chapter before any hearing when the action is necessary to prevent an imminent or substantial danger to health. The state board shall notify the permittee of the temporary suspension and the effective date of the temporary suspension and, at the same time, notify the permittee that a hearing has been scheduled. The hearing shall be held as soon as possible, but not later than 15 days after the effective date of the temporary suspension unless the state board grants an extension of the 15 day period upon request of the permittee, and shall deal only with the issue of whether the temporary suspension shall remain in place pending a hearing under subdivision (a). The hearing shall be conducted under the rules for adjudicative proceedings adopted by the state board under Section 185 of the Water Code. The temporary suspension shall remain in effect until the hearing under this subdivision is completed and the state board has made a final determination on the temporary suspension, which shall be made within 15 days after the completion of the hearing unless the state board grants an extension of the 15 day period upon request of the permittee. If the determination is not transmitted within 15 days after the hearing is completed, or any extension of this period requested by the permittee, the temporary suspension shall be of no further effect. Dissolution of the temporary suspension does not deprive the state board of jurisdiction to proceed with a hearing on the merits under subdivision (a).

Section 116650 states in relevant part:

(a) If the state board 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 state board 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 state board 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 and shall be in addition to any liability or penalty imposed under any other law.

Section 116701 (Petitions to Orders and Decisions) states:

(a)

(1) Within 30 days of issuance of an order or decision under authority delegated to an officer or employee of the state board under Article 8 (commencing with Section 116625) or Article 9 (commencing with Section 116650), an aggrieved person may petition the state board for reconsideration.

(2) Within 30 days of issuance of an order or decision under authority delegated to an officer or employee of the state board under Section 116540, the applicant may petition the state board for reconsideration.

(3) Within 30 days of final action by an officer or employee of the state board acting under delegated authority, the owner of a laboratory that was the subject of the final action may petition the state board for reconsideration of any of the following actions:

(A) Denial of an application for certification or accreditation under Section 100855.

(B) Issuance of an order directing compliance under Section 100875.

(C) Issuance of a citation under Section 100880.

(D) Assessment of a penalty under subdivision (e) of Section 100880.

(b) The petition shall include the name and address of the petitioner, a copy of the order or decision for which the petitioner seeks reconsideration, identification of the reason the petitioner alleges the issuance of the order was inappropriate or improper, the specific action the petitioner requests, and other information as the state board may prescribe. The petition shall be accompanied by a statement of points and authorities of the legal issues raised by the petition.

(c) The evidence before the state board shall consist of the record before the officer or employee who issued the order or decision and any other relevant evidence that, in the judgment of the state board, should be considered to implement the policies of this chapter. The state board may, in its discretion, hold a hearing for receipt of additional evidence.

(d) The state board may refuse to reconsider the order or decision if the petition fails to raise substantial issues that are appropriate for review, may deny the petition upon a determination that the issuance of the order or decision was appropriate and proper, may set aside or modify the order or decision, or take other appropriate action. The state board's action pursuant to this subdivision shall constitute the state board's completion of its reconsideration.

(e) The state board, upon notice and hearing, if a hearing is held, may stay in whole or in part the effect of the order or decision subject to the petition for reconsideration.

(f) If an order or decision is subject to reconsideration under this section, the filing of a petition for reconsideration is an administrative remedy that must be exhausted before filing a petition for writ of mandate under Section 100920.5 or 116700.

California Code of Regulations (CCR), Title 22:

§7584. Responsibility and scope of program.
The water supplier shall protect the public water supply from contamination by implementation of a cross-connection control program. The program, or any portion thereof, may be implemented directly by the water supplier or by means of a contract with the local health agency, or with another agency approved by the health agency. The water supplier's cross-connection control program shall for the purpose of addressing the requirements of Sections 7585 through 7605 include, but not be limited to, the following elements:
(a) The adoption of operating rules or ordinances to implement the cross-connection program.
(b) The conducting of surveys to identify water user premises where cross-connections are likely to occur,
(c) The provisions of backflow protection by the water user at the user's connection or within the user's premises or both,
(d) The provision of at least one person trained in cross-connection control to carry out the cross-connection program,
(e) The establishment of a procedure or system for testing backflow preventers, and
(f) The maintenance of records of locations, tests, and repairs of backflow preventers.

§7605. Testing and maintenance of backflow preventers.
(a) The water supplier shall assure that adequate maintenance and periodic testing are provided by the water user to ensure their proper operation.
(b) Backflow preventers shall be tested by persons who have demonstrated their competency in testing of these devices to the water supplier or health agency.
(c) Backflow preventers shall be tested at least annually or more frequently if determined to be necessary by the health agency or water supplier. When devices are found to be defective, they shall be repaired or replaced in accordance with the provisions of this Chapter.
(d) Backflow preventers shall be tested immediately after they are installed, relocated or repaired and not placed in service unless they are functioning as required.
(e) The water supplier shall notify the water user when testing of backflow preventers is needed. The notice shall contain the date when the test must be completed.
(f) Reports of testing and maintenance shall be maintained by the water supplier for a minimum of three years.

Appendix 2- Notification of Receipt

Citation Number: 05-13-18C-008

Name of Water System: Inyo County Public Works Department - Independence System

System Number: 1410008

Certification

I certify that I am an authorized representative of the Inyo County Public Works Department - Independence System and that Citation No. 05-13-18C-008 was received on _____. Further I certify that the Citation has been reviewed by the appropriate management staff of the Inyo County Public Works Department - Independence System and it is clearly understood that Citation No. 05-13-18C-008 contains legally enforceable directives with specific due dates.

_____ _____

Signature of Water System Representative Date

THIS FORM MUST BE COMPLETED AND RETURNED TO THE STATE WATER BOARD, DIVISION OF DRINKING WATER, NO LATER THAN MARCH 30, 2018

Disclosure: Be advised that the California Health and Safety Code, Sections 116725 and 116730 state that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the Safe Drinking Water Act may be liable for, respectively, a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues, or be punished by a fine of not more than $25,000 for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment.