CALIFORNIA
Water Boards

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ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

September 26, 2018

System No. 4300638

Joe Briones, Board President
San Martin Foothills Water Company
12496 Creekview Court
San Martin, CA 95046

CITATION NO. 02-17-18C-040
FAILURE TO SUBMIT THE 2017 ELECTRONIC ANNUAL REPORT

Enclosed is Citation No. 02-17-18C-040 (hereinafter "Citation"), issued to the San Martin Foothills Water Company (hereinafter "SMFWC") public water system. Please note that there are legally enforceable deadlines associated with this Citation.

Any person who is aggrieved by a citation, order or decision issued under authority delegated to an officer or employee of the State Water 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 Water 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 Philip Dutton of my staff at (510) 620-3654.

Sincerely,

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

Enclosures

Certified Mail No. 7011 0470 0002 9557 5436

cc: Santa Clara County Environmental Health

Citation No. 02-17-18C-040

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF DRINKING WATER

Name of Public Water System: San Martin Foothills Water Company

Water System No: 4300638

Attention: Joe Briones, Board President
12496 Creekview Court
San Martin, CA 95046

Issued: September 26, 2018

CITATION FOR NONCOMPLIANCE

CALIFORNIA HEALTH AND SAFETY CODE, DIVISION 104, PART 12

CHAPTER 4, ARTICLE 7, SECTION 116530

FAILURE TO SUBMIT 2017 ANNUAL REPORT VIOLATION

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.

COURT PAPER
STATE OF CALIFORNIA
STD. 113 (REV. 3-95)
OSP 98 10924

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. 02-17-18C-040 (hereinafter "Citation"), pursuant to Section 116650 of the CHSC to the San Martin Foothills Water Company (hereinafter "SMFWC") public water system, for violation of CHSC, Division 104, Part 12, Chapter 4, Article 7, Section 116530.

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

STATEMENT OF FACTS

SMFWC is classified as a community public water system with a population of 145, serving 44 connection(s).

Pursuant to Section 116530 of the CHSC, SMFWC must submit a technical report to the State Water Board when requested. The State Water Board has established a requirement for public water systems to annually submit a technical report specifying contact and operational information for the prior calendar year. On April 4, 2018, the State Water Board sent to all public water systems an email notification that the Annual Report for Calendar Year 2017 was due to be submitted by June 1, 2018. This notice also included instructions on how to submit the report electronically to the State Water Board. SMFWC failed to submit the report by the due date. As of the date of this Citation, the State Water Board has not received the report from SMFWC.

DETERMINATION

SMFWC has failed to submit an electronic Annual Report for the calendar year 2017. Consequently, the State Water Board has determined that SMFWC violated CHSC, Division 104, Part 12, Chapter 4, Article 7, Section 116530.

DIRECTIVES

SMFWC is hereby directed to take the following actions:

1. By **November 10, 2018** complete an Annual Report for 2017 and submit it to the State Water Board at http://drinc.ca.gov/ear in accordance with the instructions provided in the notice contained in Appendix 2.

All submittals required by this Citation, with the exception of the 2017 Annual Report, 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 Lacy, P.E.
District Engineer, Santa Clara District
Division of Drinking Water
State Water Resources Control Board
DWPDist17@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 deemed effective upon issuance.

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

PARTIES BOUND

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

SEVERABILITY

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

September 26, 2018

Eric Lacy, P.E.

Date

District Engineer, Santa Clara District

Division of Drinking Water

State Water Resources Control Board

Appendices:

1. Applicable Statutes and Regulations
2. 2017 Annual Report Notification

Certified Mail No. 7011 0470 0002 9557 5436

APPENDIX 1. APPLICABLE STATUTES AND REGULATIONS FOR CITATION NO. 02-17-18C-040 FAILURE TO SUBMIT A 2017 ANNUAL REPORT

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. Transition of CDPH duties to State Board 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. Definitions states in relevant part:

(b) "Department" means the state board.

(ab) "State board" means the State Water Resources Control Board.

(ac) "Deputy director" means the deputy director appointed by the state board pursuant to subdivision (k) of Section 116271.

Section 116530. Technical report states:

A public water system shall submit a technical report to the department as part of the permit application or when otherwise required by the department. This report may include, but not be limited to, detailed plans and specifications, water quality information, and physical descriptions of the existing or proposed system, and financial assurance information.

Section 116555. Operational requirements 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. Citations states:

(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.

This is a message from the State Water Resources Control Board.

Hello Public Water System Representative:

It is again time to report to the State Water Resources Control Board's (State Board) Division of Drinking Water (DDW), formerly the California Department of Public Health (CDPH), on the operation of your public water system during the past year (2017). This annual report is intended to provide DDW with updated information regarding your water system, including contact information, population served, number of service connections, modifications made in the previous year, etc. Information in the report is also used by the Department of Water Resources (DWR) as well as other State Board divisions and offices. Your accurate and timely completion of this report is appreciated.

In addition, if you have prepared the 2017 Consumer Confidence Report (CCR), you can also upload it at this time by going to the MY CCR UPLOADS tab.

The 2017 electronic Annual Report to the Drinking Water Program (2017 eARDWP) is due to be submitted by **June 1, 2018**.

Since 2010, DDW (CDPH at the time) has instituted procedures for submittal of the annual reports in an electronic format via the eARDWP Portal website. Please note that if you have previously registered for access to the eARDWP website, you do not need to register again to begin completing the 2017 eARDWP. Simply login to the eARDWP Portal using your user name (email address) and password; then go to the **MY EAR REPORTS** tab. Each previously submitted report will have a link on this page. At the bottom of the page is a link to start the 2017 eARDWP.

To access the eARDWP online page, please go to the following link for our DRINC Portal at http://drinc.ca.gov and then select the Electronic Annual Report link on the left-hand side of the page or go directly to http://drinc.ca.gov/ear/. You may find that some of the report is "pre-populated" with information from our Safe Drinking Water Information System (SDWIS) database. To assist you in completing this year's report, you can also pre-populate each section of the report (except for the Water Supplied, Water Rates and Deliveries, Improvements, Complaints, and Conservation sections) with information from last year's report by clicking "**Prefill this Section**" on the left-hand side just above the section tabs. Please check all pre-populated information to make sure it is still correct and current, and update as needed.

Previous	Save and Exit	Next
Prefill this Section	Clear and Reset the Entire Report	Clear and Reset this Section Only

Large Water System (LWS) EAR Form

Intro	Contacts	Population	Connections	Sources	Water Supplied	Water Rates and Deliveries	Water Quality	Backflow	CCR

Certification | Improvements | Complaints | Recycled | Treatment | Distribution | Emergency | Conservation | Climate Change | LSLR

SWS EAR Form

Intro | Contacts | Population | Connections | Sources | Water Supplied | Water Rates and Deliveries | Water Quality | Treatment | Backflow

CCR | Certification | Improvements | Complaints | Distribution | Violations | Conservation | Climate Change | LSLR | Finalize

If you need to add another water system to your registered list: You must ensure you are registered for each water system for which you must submit a report. *To register for a new system*, you must login to the eARDWP Portal using your user name (email address) and password, then go to the **MY PROFILE** tab and add a water system from the list. Within 3 to 5 days after you have added the new water system to your list, and we have reviewed your registration, you will receive an email to allow you access to start a report for that new public water system(s). You may begin creating the 2017 eARDWP for any water systems for which you have prior approval while you are waiting for the approval for the newly added water system.

If you forgot your password: You must first login using your user name (email address). When you are at the screen requiring your password, click on the link **FORGOT PASSWORD?**. Your password will be forwarded to your email account.

If you are not a registered user of the EARDWP portal: You will need to register for access to the EARDWP site. Go to the following link for our DRINC Portal at http://drinc.ca.gov, select the Electronic Annual Report link on the left-hand side of the page, and then select the **REGISTRATION** tab, or go directly to http://drinc.ca.gov/EAR/registration.aspx. All of the 'required' fields must be completed. You must then select and ADD each water system you represent. Be sure to select the correct DISTRICT if your water system is regulated by DDW or the correct Local Primacy Agency (LPA) if your water system is regulated by the county. Otherwise, you water system will not show up on the list. You need only register once to complete reports for multiple systems for which you are responsible. Within 3 to 5 days after you have registered and your local regulatory agency has approved your registration, you will receive an email from the DRINC Portal Administrator to allow you access to complete and submit a report for your Public Water System(s). **Remember to keep a record of your password created during the registration process.**

Any documents that you wish to accompany the eARDWP other than an updated Water Quality Emergency Notification Plan (WQENP), the Disadvantage Community (DAC) certification and the Lead Service Line Replacement (LSLR) inventory certification and maps must be submitted **to the water system's local regulatory agency**. DAC and LSLR are new for this year and are described below. You may submit your updated Water Quality Emergency Notification Plan via the eARDWP portal in the same manner that you submit your CCR and CCR Certification by going to the MY WQENP UPLOADS tab. For a map identifying DDW District Offices, please click HERE. For contact information of county environmental health agencies, please click HERE.

This year, we are again providing a Frequently Asked Questions (FAQ) posted on the eARDWP portal. We strongly suggest that you read the FAQ before starting a report. You do not need to be logged in to view the FAQ. If you have any questions that are not addressed in the FAQ related to the 2017 eARDWP, please contact your local regulatory agency or send an email to DRINC@waterboards.ca.gov.

What is new in the 2017 eARDWP form?

There are three sections of the LWS EAR with changes:

a. The Service Connection section (Section 3C) has a new question.
b. The Water Rates subsection was revised with additional detailed questions on water affordability while the Water Efficiency subsection for large water systems was moved to the section on "Conservation".
c. The System Operation – Distribution has new subsections E. Infrastructure and Pressure Management and F. Real Loss Reduction Measures. Only Community Water Systems with more than 3,000 service connections or supply more than 3,300 acre feet/year need to complete these new sections.
d. A question was moved from the Water Efficiency subsection to the Conservation section.

There are four sections of both the SWS and LWS EARs with changes:

a. The Introduction section of the EAR now includes certification for reduction of annual fees for public water systems serving disadvantaged communities (DAC), which is for Community Water systems only. Required documentation can be submitted by going to the MY DAC UPLOADS tab.
b. In the Water Produced, Purchased and Sold section (Section 5 for both forms) additional guidance on the table column headers and unit of measure selection on the SWS EAR.
c. A new section on Climate Change was added for Community Systems only, LWS – Section 18 and SWS – Section 17.

c. A new section on lead service line replacement (LSLR) was added for Community Systems only, LWS – Section 19 and SWS – Section 18. The lead service line inventory certification and maps as applicable must be uploaded by **July 1, 2018** by going to the MY LSLR UPLOADS tab.
The Division recommends you to edit, or if you have not done so create, your service area boundaries and enter them in the **Drinking Water Systems Geographic Reporting Tool**, also known as the **Water Boundary Tool**. The Tool could be accessed through the DRINC Portal website or directly at http://cehtp.org/page/water/main. This web-based tool is designed to produce high resolution, digital maps of drinking water system customer service areas for the entire state of California. The tool enables water systems to digitizing their customer service area boundaries and creates a geographic information system (GIS) layer which is useful for identifying neighboring systems and emergency preparedness, for public health prevention and response, and for public health research.

Thank you for your cooperation in completing the Annual Report.

Division of Drinking Water