CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board
Division of Drinking Water

November 3, 2017

System No. 5400987

Marisela Ortega
Fountain Springs El Tapatio
1741 N Lime
Porterville, CA 93257

CITATION NO. 03-24-17C-088
ELECTRONIC ANNUAL REPORT TO THE STATE WATER BOARD REPORTING VIOLATION FOR 2016

Enclosed is Citation No. 03-24-17C-088 (hereinafter "Citation"), issued to the Fountain Springs El Tapatio Water System (hereinafter "Water System").

The citation includes a penalty of $250 (two hundred and fifty dollars) and is due by December 10, 2017. Please note that Directive Nos. 3 and 4 of the Citation describe how to pay the penalty. If the Water System fully complies with Directive No. 2 before the payment becomes due, and upon a written request from the Water System, the State Board will consider, at its sole discretion, terminating the requirement to pay the penalty.

The State Board previously issued Citation No. 03-24-17C-063 on September 13, 2017, for the same violations. The Water System failed to comply with the directives listed in Citation No. 03-24-17C-063. **Please note that the Water System is subject to additional enforcement action by the State Board if the Water System fails to comply with the directives of the Citation.**

The Water System 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, 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 one (1) hour on enforcement activities associated with this violation.

The Water System 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 Water System for the current fiscal year.

Any person who is aggrieved by a citation, order or decision issued by the Deputy Director of the Division of Drinking Water under Article 8 (commencing with Health and Safety Code, Section 116625) or Article 9 (commencing with Health and Safety Code, Section 116650), of the Safe Drinking Water Act (Chapter 4, Part 12, Division 104, of the Health and Safety Code), 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 (Health and Safety Code, 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 Deputy Director. 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

Within 10 days of receipt of this Citation, the Water System shall submit a written response to the State Water Board indicating its willingness to comply with the directives of this Citation.

If you have any questions regarding this matter, please contact Tulare District staff at (559) 447-3300 or by email at dwpdist24@waterboards.ca.gov.

Sincerely,

Chad Fischer, P.E.
Senior Sanitary Engineer, Tulare District
SOUTHERN CALIFORNIA BRANCH
DRINKING WATER FIELD OPERATIONS

Certified Mail No. 7016 3010 0000 0446 0334

cc: Tulare County Environmental Health Department

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Citation No. 03-24-17C-088

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF DRINKING WATER

Name of Public Water System: Fountain Springs El Tapatio

Water System No: 5400987

Attention: Marisela Ortega
Fountain Springs El Tapatio
1741 N Lime
Porterville, CA 93257

Issued: November 3, 2017

CITATION FOR NONCOMPLIANCE WITH

2016 ELECTRONIC ANNUAL REPORT TO THE STATE WATER BOARD

CALIFORNIA HEALTH AND SAFETY CODE, SECTION 116530

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. 03-24-17C-088 (hereinafter "Citation"), pursuant to Section 116650 of the CHSC, to the Fountain Springs El Tapatio (hereinafter "Water System"), for violation of CHSC, 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

The Water System is classified as a transient noncommunity public water system with a population of 25, serving 2 connections. The Water System operates under the authority of Permit No. 03-24-17P-056, issued on June 20, 2017. The Water System is required to complete and submit an electronic annual report (hereinafter "EAR") on an annual basis to the State Water Board. Due to non-receipt of the 2016 EAR, the State Board issued Citation No. 03-24-17C-063 to the Water System on September 13, 2017, and directed the Water System to submit the 2016 EAR by October 13, 2017. The State Water Board has not yet received the 2016 EAR from the Water System.

DETERMINATION

CHSC, Division 104, Part 12, Article 7, Section 116530 states that a public water system shall submit a technical report to the State Water Board as part of the permit application or when otherwise required by the State Board.

The Water System has not submitted the 2016 EAR to the State Water Board. Therefore, the State Water Board has determined that the Water System failed to comply with CHSC, Division 104, Part 12, Article 7, Section 116530 for the 2016 reporting year.

ADMINISTRATIVE PENALTIES

Section 116650(a) of the CHSC allows for the issuance of a citation for failure to comply with the requirements of the California Safe Drinking Water Act, or any regulation, permit, standards, citation, or order issued thereunder. Section 116650(d) and (e) allow for the assessment of a penalty not to exceed on thousand dollars ($1,000) per day for each day that a violation continues to occur. A separate penalty may be assessed for each violation.

The Water System has repeatedly failed to comply with the provisions of the CHSC by not submitting the 2016 EAR. Therefore, the State Board hereby assesses an administrative penalty of two hundred and fifty dollars ($250) upon the Water System. Directive Nos. 3 and 4 below describe the requirements for payment of the Penalty and conditions under which the State Board may waive the requirement to pay the penalty.

DIRECTIVES

The Water System is hereby directed to take the following actions:

1. The Water System shall comply with CHSC, Section 116530 in all future reporting periods.

2. By **November 30, 2017,** the Water System shall complete and submit the 2016 EAR to the State Water Board via electronic submittal at http://drinc.ca.gov/ear/.

3. Pay the Penalty of two hundred fifty dollars ($250) by **December 10, 2017**. Payment shall be made payable to the State Water Resources Control Board – Division of Drinking Water. Further instructions on submittal of the payment are provided in Appendix 2, Notice of Citation Issuance.

4. If the Water System fully complies with Directive No. 2 before the payment becomes due, and upon a written request from the Water System, the State Board will consider, at its sole discretion, terminate the requirement to pay the penalty.

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

The State Water Board 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 Water System 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 Water System, its owners, shareholders, officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

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

FURTHER ENFORCEMENT ACTION

The California SDWA authorizes the State 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 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 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 Board. The State Board does not waive any further enforcement action by issuance of this Citation.

11-3-2017

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

Date

Appendices (2):

1. Applicable Statutes and Regulations
2. Notice of Citation Issuance

Certified Mail No. 7016 3010 0000 0446 0334

APPENDIX 1: APPLICABLE STATUTES AND REGULATIONS FOR CITATION NO. 03-24-17C-088
Electronic Annual Report to the State Water Board Reporting Violation

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 Water Resources Control 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 Water Resources Control 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 Water Resources Control Board shall refer to the State Water Resources Control 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 Water Resources Control 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 Water Resources Control 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, but are not subject to reconsideration, by the State Water Resources Control Board. 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 Water Resources Control Board, but any aggrieved person may petition the State Water Resources Control Board for reconsideration of the decision or action. This subdivision is not a limitation on the State Water Resources Control Board's authority to delegate any other powers and duties.

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 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 116625 (Revocation and suspension of permits) states:

(a) The department, after a hearing noticed and conducted as provided in Section 100171, may suspend or revoke any permit issued pursuant to this chapter if the department 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 permit at issue has been temporarily suspended pursuant to subdivision (c), the accusation shall be served and notice of the hearing date given within 15 days of the effective date of the temporary suspension order. The commencement of the hearing shall be as soon as practicable, but in no case later than 60 days after the effective date of the temporary suspension order.

(b) The permittee may file with the superior court a petition for a writ of mandate for review of any decision of the department made pursuant to subdivision (a). Failure to file a petition shall not preclude a party from challenging the reasonableness or validity of a decision of the department in any judicial proceeding to enforce the decision or from pursuing any remedy authorized by this chapter.

(c) The department may temporarily suspend any permit issued pursuant to this chapter prior to any hearing when the action is necessary to prevent an imminent or substantial danger to health. The director shall notify the permittee of the temporary suspension and the effective date thereof 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 and shall deal only with the issue of whether the temporary suspension shall remain in place pending a hearing on the merits. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the temporary suspension, that in any event shall be made within 15 days after the completion of the hearing. If the determination is not transmitted within 15 days after the hearing is completed, the temporary suspension shall be of no further effect. Dissolution of the temporary suspension does not deprive the department 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) Within 30 days of issuance of an order or decision issued by the deputy director under Article 8 (commencing with Section 116625) or Article 9 (commencing with Section 116650), an aggrieved person may petition the state board for reconsideration. Where the order or decision of the deputy director is issued after a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, this section shall apply instead of Section 11521 of the Government Code.

(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 deputy director 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 of the deputy director.

(f) If an order of the deputy director 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 116625 or 116700.

APPENDIX 2: NOTICE OF CITATION ISSUANCE FOR CITATION NO. 03-24-17C-088

Electronic Annual Report to the State Water Board Reporting Violation

DRINKING WATER FIELD OPERATIONS BRANCH

NOTICE OF CITATION ISSUANCE
PENALTY

BACKGROUND STATEMENT

The State Water Resources Control Board, Division of Drinking Water, issued **Citation No. 03-24-17C-088** to **Fountain Springs El Tapatio** (Public Water System No. **5400987**) for failure to submit the 2016 Electronic Annual Report.

This Citation carries a penalty of $250.00 (two hundred and fifty dollars).

METHOD OF PAYMENT

By December 10, 2017, submit a check for $250.00 made payable to:

SWRCB – Division of Drinking Water

and mail to:

SWRCB Accounting Office
ATTN: Drinking Water Program Fees
P.O. Box 1888
Sacramento, CA 95812-1888

(Please indicate the Citation No. 03-24-17C-088 on the Check)

(Attach Check Here)