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Compliance Order No. 03-12-08O-C37

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STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

IN RE: KERN VALLEY STATE PRISON
Water System No. 1510802

TO: Mr. George Jaime, Correctional Plant Manager II
Kern Valley State Prison
3000 West Cecil Avenue
Delano, CA 93216

CC: Kern County Department of Environmental Health

COMPLIANCE ORDER FOR VIOLATION OF THE ARSENIC MAXIMUM CONTAMINANT LEVEL

Issued on December 12, 2008

Section 116655, Chapter 4 of the California Health and Safety Code authorizes the issuance of an Order for failure to comply with a requirement of the California Safe Drinking Water Act, or any regulation, standard, permit, or order issued thereunder.

FINDINGS

The Kern Valley State Prison water system (hereinafter "Prison") is a community water system located to the west of the City of Delano. The Prison is a state facility that serves a population of approximately 4,800 inmates and a maximum of 1,140 staff persons during the peak working hours. The Prison operates under a domestic water supply permit issued by the California Department of Public Health (hereinafter "Department") in April of 2005.

The Prison's water system is supplied by two groundwater wells with storage provided by

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1 two 1.6 million gallon steel tanks (each) for a total of 3.2 million gallons. The water is
2 boosted into the distribution system by three booster pumps.

3
4 Beginning January 23, 2006, the U.S. Environmental Protection Agency (USEPA) adopted
5 a revised maximum contaminant level (MCL) for arsenic of 0.010 mg/L (milligrams per
6 liter). The arsenic MCL of 0.010 mg/L was recently adopted for California and became
7 effective November 28, 2008. Prior to this date, any non-compliance issues were referred
8 to U. S. EPA for enforcement action.

9
10 The Prison was issued a Notice of Violation by the Department on March 10, 2008 due to
11 an exceedance of the federal arsenic MCL during the first quarter of 2008. Based on data
12 submitted to the Department for Wells Nos. 1 and 2 the running annual average range for
13 these wells for the first quarter of 2008 was 0.014 mg/L and 0.022 mg/L respectively. As a
14 result, the Prison failed to comply with the National Revised Primary Drinking Water
15 Regulations, Section 141.62(b)(16), Title 40, Code of Federal Regulations, which
16 established the revised federal MCL for arsenic. Due to the violation, the Prison was
17 required to conduct quarterly public notification beginning with the first quarter of 2008
18 and would be repeated every three months as long as the violation exists. The Department
19 has received a copy of the notices that were issued along with proof of notification for the
20 1st, 2nd and 3rd quarters of 2008.

21
22 With the adoption of the state's arsenic MCL, the water supplied by the Prison's
23 groundwater wells continues to exceed the newly adopted MCL of 0.010 mg/L.

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The analytical results for arsenic sampling from the Prison's wells are tabulated below:

Arsenic Concentration (mg/L)		
Sampling Date	Well No. 1	Well No. 2
7/3/2007	0.017	0.023
10/04/2007	0.0079	0.021
11/08/2007	0.014	0.024
1/9/2008	0.014	0.020
4/02/2008	0.014	0.021
7/1/2008	0.017	0.019
10/1/2008	0.015	0.021

The fourth quarter running annual average arsenic concentration of the most recent four quarterly sample results ending with the fourth quarter of 2008 is 0.015 mg/L for Well No. 1 and 0.023 mg/L for Well No. 2. Specifically, both of the Prison's wells exceeds the arsenic MCL as specified in Section 64431.(a), Title 22, California Code of Regulations (CCR).

CONCLUSIONS OF LAW

Based on the above Findings, the Department has determined that the Kern Valley State Prison's water system has violated provisions contained in the California Health and Safety Code and Title 22, California Code of Regulations (CCR). These violations include, but are not limited to the following:

1. Health and Safety (H&S) Code Section 116555(a)(1). Specifically, the Kern Valley State Prison water system is operating Wells Nos. 1 and 2 that produce water that does not comply with the primary drinking water standards.

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- 1 2. H&S Code Section 116555(a)(3). Specifically, the Kern Valley State Prison water
2 system failed to ensure that a reliable and adequate supply of pure, wholesome,
3 healthful, and potable water is provided to all of its consumers.
4
- 5 3. CCR Section 64431(a). Specifically, the water produced by Kern Valley State
6 Prison water system exceeds the maximum contaminant level of 0.010 mg/L for
7 arsenic, and therefore, does not comply with a primary drinking water standard.
8

9 **ORDER**

10 In order to ensure that the water supplied by the Kern Valley State Prison water system is at
11 all times safe, wholesome, healthful, and potable, and pursuant to Section 116555 of the
12 H&S Code, the water system is ordered to take the following actions:
13

- 14 1. (a) Cease and Desist from failing to comply with H&S Code Section 116555(a)(1) and
15 (3) by ensuring that the system is provided with a reliable and adequate source of
16 pure, wholesome, healthful, and potable water that is in compliance with all primary
17 drinking water standards.
18 (b) By **February 1, 2009**, submit to the California Department of Public Health, for
19 review and approval, a plan to correct the existing water quality problem and
20 eliminate the need to deliver water to the system that does not meet the primary
21 drinking water standards. The plan shall include a time schedule for completion of
22 various phases of the project, such as design, construction, and start-up.
23 (c) Kern Valley State Prison shall submit quarterly progress reports to the Department,
24 beginning **April 10, 2009**.
25
- 26 2. Since Kern Valley State Prison must use the wells to meet system demand, public
27 notification shall be provided in accordance with CCR Section 64463 of its inability

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to meet the arsenic MCL until a project is completed to provide water meeting drinking water standards. The Prison shall continue to distribute the Department-approved notice (Attachment A) to all consumers. Notification to the public shall be **repeated every three months as long as the violation exists**. Proof of public notification (Attachment B) to all water system users shall continue to be provided to the Department following each quarterly notification by the 10th day of the month following notification.

- 3. Quarterly monitoring of the wells for arsenic must be conducted, preferably before each quarterly notice is released, so the notice can reflect the most recent sample results.
- 4. The Department reserves the right to make such modifications to this Order as it may deem necessary to protect public health and safety. Such modifications may be issued as amendments to this Order and shall be effective upon issuance.

All submittals required by this Order shall be addressed to:

Tricia A. Wathen, P.E.
 Senior Sanitary Engineer
 Department of Public Health
 Southern California Branch
 Drinking Water Field Operations
 265 W. Bullard Avenue, Suite 101
 Fresno, CA 93704

- 5. If Kern Valley State Prison is unable to perform the tasks specified in this Order for any reason, whether within or beyond its control, and if Kern Valley State Prison notifies the Department in writing no less than five days in advance of the due date, the Department may extend the time for performance if Kern Valley State Prison

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demonstrates that it has used its best efforts to comply with the schedule and other requirements of this Order.

6. If Kern Valley State Prison fails to perform any of the tasks specified in this Order by the time described herein or by the time subsequently extended pursuant to Item 5 above, Kern Valley State Prison shall be deemed to have not complied with the obligations of this Order and may be subject to additional judicial action, including civil penalties specified in H&S Code, Section 116725 and 116730.

7. The State of California shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by the Kern Valley State Prison, its employees, agents, or contractors in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Kern Valley State Prison or its agents in carrying out activities pursuant to this Order.

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PARTIES BOUND

This Order shall apply to and be binding upon Kern Valley State Prison, its officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The requirements of this Order are severable, and Kern Valley State Prison shall comply with each and every provision thereof notwithstanding the effectiveness of any provisions.

12-12-08

Date

Richard L. Haberman, P.E., Chief
Central California Section
SOUTHERN CALIFORNIA BRANCH
DRINKING WATER FIELD OPERATIONS

RLH/TAW/LR

Attachments:
Attachment A: Public Notification Notice
Attachment B: Proof of Notification Form

1510802 Arsenic CO 1Q&2Q&3Q-08 ID 12-12-08



ATTACHMENT A

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Este informe contiene información muy importante sobre su agua potable.
Tradúzcalo o hable con alguien que lo entienda bien.

Kern Valley State Prison Has Levels of Arsenic Above Drinking Water Standards

Our water system recently failed a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what you should do, what happened and what we are doing to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Based on data gathered through monitoring of our wells over the last four quarters, the arsenic running annual average for Wells Nos. 1 and 2 is _____ mg/L and _____ mg/L respectively. This is above the standard or maximum contaminant level (MCL) of 0.010 milligrams per liter or 10 ug/L.

What should I do?

- **You do not need to use an alternative (e.g., bottled) water supply.** However, if you have specific health concerns, consult your doctor.
- This is not an emergency. If it had been, you would have been notified immediately. However, *some people who drink water containing arsenic in excess of the MCL over many years may experience skin damage or circulatory system problems, and may have an increased risk of getting cancer.*
- If you have other health issues concerning the consumption of this water, you may wish to consult your doctor.

What happened? What was done?

Describe corrective action: _____
We anticipate resolving the problem within **estimated timeframe:** _____

For more information, please contact _____ **insert name of contact** at (____) _____ - _____
insert phone number or at the following mailing address: _____ **insert mailing address**].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

Secondary Notification Requirements

Upon receipt of notification from a person operating a public water system, the following notification must be given within 10 days [Health and Safety Code Section 116450(g)]:

- **SCHOOLS:** Must notify school employees, students, and parents (if the students are minors).
- **RESIDENTIAL RENTAL PROPERTY OWNERS OR MANAGERS** (including nursing homes and care facilities): Must notify tenants.
- **BUSINESS PROPERTY OWNERS, MANAGERS, OR OPERATORS:** Must notify employees of businesses located on the property.

This notice is being sent to you by Kern Valley State Prison.

Date distributed: _____.