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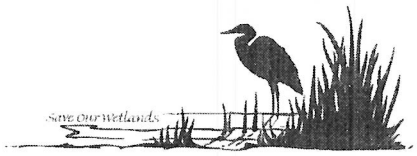

Via Certified Mailing –
Return Receipt Requested

August 5, 2014

Michael Bevins, Public Works Director
Anthony Langin, Utilities Manager
City of California City
21000 Hacienda Blvd.
California City, CA 93505

City Council
City of California City
21000 Hacienda Blvd
California City, CA 93505

Re: Notice of Violations and Intent to File Suit under the Safe Drinking Water Act

Dear Mr. Bevins, Mr. La
ngin and Members of the City Council:

NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Safe Drinking Water Act ("SDWA" or the "Act"), 42 U.S.C. §§ 300f to 300j-26, that River Watch believes are occurring from operations of the City of California City water system. This Notice addresses violations of the SDWA including failure to comply with maximum contaminant levels for total trihalomethanes (TTHM) in drinking water.

The Act requires that sixty (60) days prior to the initiation of a civil action under SDWA §300j-8(a)(1), 42 U.S.C. §1449(a)(1), a citizen must give notice of the intent to sue to the alleged violator and applicable federal and state authorities. River Watch is sending you this Notice to preserve its rights under the SDWA.

River Watch hereby gives notice to the City of California City including its Public Works Department, (hereafter referred to as "the City,") that following the expiration of sixty

(60) days from the date of receipt of this Notice, River Watch will be entitled to bring suit in the United States District Court against the City for violations of requirements prescribed by or under the SDWA including, but not limited to: non-compliance with maximum contaminant levels ("MCLs") issued under SDWA §300g-1, 42 U.S.C. §1412 and the Code of Federal Regulations, as exemplified by the incidents of non-compliance identified and outlined in this Notice; failure to properly monitor water quality delivered to end-users; and, failure to conduct required sampling with respect to the City's community water system.

The SDWA requires that any Notice regarding an alleged violation of any requirement prescribed by or under the Act shall include sufficient information to permit the recipient to identify the following:

1. *The specific requirement alleged to have been violated.*

In addition to the narratives below, River Watch identifies documents obtained from the California Department of Public Health's Division of Drinking Water and Environmental Management identifying repeated non-compliance with the SDWA's regulation of the maximum permissible level of contaminants in water delivered to any user of a public water system, and failure to conduct required sampling, in violation of SDWA §300fg-1, 42 U.S.C. §1412.

2. *The activity alleged to constitute a violation.*

The City's water system serves a population of approximately 14,718 persons via 4,482 service connections. The City's water supply comes from 6 groundwater wells in addition to treated surface water purchased from Antelope Valley East Kern Water Agency. It is regulated under Domestic Water Supply Permit No. 03-12-95P-004 issued by the California Department of Public Health. River Watch has set forth narratives below describing "positive" detections above the MCLs for the disinfection byproduct TTHM, and failure to conduct required sampling, all occurring during specific quarterly reporting periods between 2009 and 2014.

The violations are described in this Notice with particularity, and are based on data detailed in public reports and other documents in the City's possession or otherwise available to the City. In addition to these reported violations, River Watch could find no evidence in any public reports that the City has determined the quality of water delivered to end-users. River Watch incorporates by reference the records cited below from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violation is the City of California City including

its Public Works Department, and its operators and employees responsible for compliance with the SDWA and compliance with any applicable state and federal regulations and permits.

4. *The location of the alleged violation.*

The location or locations of the various violations are the locations identified in the permits of the City identified in this Notice.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined records on file with the California Department of Public Health and the City. The range of dates covered by this Notice is from August 1, 2009 to August 1, 2014. River Watch will from time to time update this Notice to include violations which occur after the range of dates covered. Specific violations occurring on specific dates are listed herein. Some of the violations are continuous in nature, such as failure to monitor water quality at point of delivery. Therefore, each day constitutes a separate violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving notice is California River Watch, referred to throughout this Notice as "River Watch", a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to protect, enhance and help restore the groundwater and surface water environs of California including, but not limited to, its rivers, creeks, streams, wetlands, vernal pools, and tributaries. River Watch's southern California mailing address is 3655 Westwood Blvd., #17, Los Angeles, CA, 90034. River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys.

River Watch has retained legal counsel with respect to the violations set forth in this Notice. All communications should be addressed to:

Jack Silver, Esq.
Law Offices of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
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STATUTORY BACKGROUND

SDWA, 42 U.S.C. §§300f to 300j-26, was enacted in 1974 to "assure that water supply systems serving the public meet minimum national standards for protection of public health." Safe Drinking Water Act, Legislative History, H.R. Rep. No. 93-1185 (1974), reprinted at 1974 U.S.C.C.A.N. 6454. The Act authorizes the EPA to "establish federal standards applicable to public water supplies from harmful contaminants, and establish a joint federal–state system for assuring compliance with these standards and for protecting underground sources of drinking water." *Id.* at 6454-55.

Section 1412(b)(1)(A) of the SDWA requires the EPA to identify contaminants in public water supply systems that may have an adverse human health effect and for which regulation would present a "meaningful opportunity" for reduction of that health risk. 42 U.S.C. §300g-1(b)(1)(A). For each of the contaminants identified under Section 1412(b)(1), Section 1412(b)(1)(E) requires the EPA to establish maximum contaminant level goals ("MCLGs") as well as MCLs. 42 U.S.C. §300g-1(b)(1)(E). A violation of the SDWA occurs when testing/monitoring indicates that the level of a contaminant in treated water exceeds the MCL.

Private parties may bring citizens' suits pursuant to 42 U.S.C. §300j-8 to enforce violations of MCLs. River Watch contends that the City is, among its other activities, a supplier of drinking water regulated under the SDWA and, as detailed in the most recent monitoring reports provided by the California Department of Public Health, violating the MCL for TTHM.

VIOLATIONS

River Watch contends that between August 1, 2009 and August 1, 2014, the City violated the SDWA and the Code of Federal Regulations by failing to ensure that the drinking water supplied to its customers met and continues to meet the standards required by law including, but not limited to: exceeding MCL for TTHM; failure to conduct required sampling; and, inadequate compliance with monitoring requirements obligating the supplier to confirm water quality at the point of delivery.

The violations listed below are derived from records publically available, or records in the possession and control of the City. Monitoring dates and reported exceedances were taken from California Department of Public Health documents, and detailed in Compliance Order No. 03-19-13O-003, issued on June 14, 2013.

SAMPLE LOCATION F-1 RESERVOIR, CITY WATER SYSTEM (Stage 2 Monitoring)

MCL - TTHM - 80 ug/L

Monitoring Dates and Reported Exceedances:

June 20, 2012 - 84 ug/L
September 18, 2012 - 100 ug/L
December 19, 2012 - 86 ug/L

Running Annual Averages - Quarters out of Compliance:

1st Qtr 2013 - 87 ug/L

SAMPLE LOCATION F-A, CITY WATER SYSTEM (Stage 2 Monitoring)

MCL - TTHM - 80 ug/L

Monitoring Dates and Reported Exceedances:

September 18, 2012 - 94 ug/L
December 19, 2012 - 99 ug/L
March 29, 2013 - 120 ug/L

Running Annual Averages - Quarters out of Compliance:

1st Qtr 2013 - 98 ug/L

SAMPLE LOCATION D-1, CITY WATER SYSTEM (Stage 2 Monitoring)

MCL - TTHM - 80 ug/L

Monitoring Dates and Reported Exceedances:

June 20, 2012 - 83 ug/L
September 18, 2012 - 100 ug/L
December 19, 2012 - 80 ug/L
March 29, 2013 - 110 ug/L

Running Annual Averages - Quarters out of Compliance:

1st Qtr 2013 - 93 ug/L

SAMPLE LOCATION F-B, CITY WATER SYSTEM (Stage 2 Monitoring)

MCL - TTHM - 80 ug/L

Monitoring Dates and Reported Exceedances:

September 18, 2012 - 86 ug/L
December 19, 2012 - 86 ug/L
March 29, 2013 - 110 ug/L

Running Annual Averages - Quarters out of Compliance:

1st Qtr 2013 - 89 ug/L

COMPLIANCE WITH MONITORING REQUIREMENTS

Failure to conduct required monitoring (In violation of Section 64432, Title 22, California Code of Regulations.)

As detailed in the findings of California Department of Public Health Sanitary Survey of the City's water system on May 23, 2013, the City has neglected to monitor source water as required at all 6 wells for secondary contaminants, inorganic chemicals, nitrate / nitrite, and volatile organic compounds. The City has neglected to monitor for radiological compounds at 2 wells.

POINT OF USE QUALITY ASSURANCE

Although drinking water suppliers tend to sample water quality from a central location, such as directly after treatment, the water supplier is responsible for water quality either at the point of use or point of delivery. There is no evidence in the public record that the City has ever assured its water quality at point of use or point of delivery.

CONCLUSION

It is presumed that the City is in continual violation of the applicable standard until constituent measurements are below that applicable standard. Therefore, each day after an exceedance and until the supplier is in compliance, is considered a separate violation of the SDWA, and the court can grant relief in the form of requiring that the drinking water be

brought to meet drinking water standards, awarding of attorney fees, and in some cases, penalties.

The importance of quality drinking water cannot be overstated. MCLs are set with the biology of healthy young adults in mind. The same standards are set for everyone, including children, pregnant women, the elderly and infirm.

River Watch is understandably concerned about the health effects of water systems which continue to provide contaminants above MCLs. Disinfection byproducts in drinking water have been linked to health problems including cancer, and reproductive / developmental effects. It is the City's responsibility to provide healthful drinking water and to conform to the standards set forth in the SDWA, as well as to ensure that water has been tested at the point of delivery.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter, River Watch has cause to file a citizen's suit under SDWA §1449 against the City for the violations of the Act identified and described in this Notice.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations identified herein. However, if the City wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,

Jack Silver

JS:lhm

cc: Administrator
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Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Washington, D.C. 20460

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U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105