

**STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH**

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5 IN RE: CITY OF LIVINGSTON
Water System No. 2410004
6
7 TO: Mr. Humberto Molina, Public Works Director
City of Livingston
8 1416 C Street
Livingston, CA 95334
9
10 CC: Merced County Environmental Health Department
Jose Antonio Ramirez, City Manager (same address)
11 Nanda Gottiparthi, SNG Associates (5776 Stoneridge Mall Road, Suite
12 370, Pleasanton, CA 94588)
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14 **COMPLIANCE ORDER**
15 **FOR VIOLATION OF THE**
16 **ARSENIC MAXIMUM CONTAMINANT LEVEL**

17 **Issued on May 16, 2013**

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

22
23 **FINDINGS**

24 The City of Livingston water system (hereinafter "City") is a community water system
25 located to the north of the City of Merced. The City serves a population of approximately
26 13,920 persons through 2,882 service connections. The City operates under a domestic
27 water supply permit issued by the California Department of Public Health (hereinafter

1 “Department”) in January 1998. The City’s water system is supplied by eight groundwater
2 wells and storage is provided by a 1.0 million gallon steel tank.

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4 As of November 28, 2008, California adopted a revised maximum contaminant level
5 (MCL) for arsenic of 0.010 mg/L. Under the Arsenic Rule, compliance with the 0.010
6 mg/L MCL is based on the average of the monitoring results for four consecutive quarters.

7 If at any time, the average for fewer than four quarters is such that the MCL is certain to be
8 exceeded regardless of additional sampling results; the source is immediately determined to
9 be out of compliance. The water produced by Well No. 13 contains arsenic at a level
10 above the MCL and has been deemed by the Department to be out of compliance.

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12 The analytical results for arsenic sampling from Well No. 13 are tabulated below:

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Sample Date	Arsenic Concentration (mg/L)	Running Annual Average (mg/L)
Arsenic MCL = 0.010 mg/L		
5/26/09	0.011	0.0104 mg/L
7/14/09	0.011	
11/16/10	0.0094	
02/07/12	0.011	
03/01/12	0.0094	
05/22/12	0.010	0.0102 mg/L
03/05/13	0.0106	0.010 mg/L
03/12/13	0.0094	
04/09/13	0.013	0.0107 mg/L
4/30/13	0.0118	

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26 The City recently completed a Feasibility Study which examines adding additional source
27 capacity, adding additional storage capacity, and adding localized or centralized treatment

1 to provide water that complies with all the primary and secondary drinking water standards.
2 A few of the City's wells produce water with arsenic approaching the MCL (Well No. 12),
3 at the MCL (Well No. 15), and over the MCL (Well No. 16). Well No. 16 has an arsenic
4 treatment removal plant onsite which is in the process of having a media change out. Well
5 No. 16 should be back online by June 30, 2013.

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7 With the addition of Well No. 13, the City's combined source capacity is 7,700 gpm,
8 which is enough source capacity to meet the maximum day demand (MDD). The City's
9 MDD is 7,135 gpm (2.5 gpm/service connection). Peak hour demand (PHD) is calculated
10 by multiplying the maximum day by a peaking factor of 1.5. Accordingly, the PHD for the
11 City is 10,703 gpm (3.7 gpm/service connection). The City has just enough source
12 capacity to meet MDD but less than is required to meet PHD.

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14 Well No. 13 was offline for several years and was recently brought back online in April
15 2013. Being that the City's resources are stretched and the drought conditions in
16 California, the urgency of providing wellhead treatment at this site is critical. The
17 Department has requested a plan and schedule for providing additional source capacity
18 from the City. The plan and time schedule are due by **June 30, 2013**.

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20 **CONCLUSIONS OF LAW**

21 Based on the above Findings, the Department has determined that the City of Livingston
22 water system has violated provisions contained in the California Health and Safety Code
23 and Title 22, California Code of Regulations (CCR). These violations include, but are not
24 limited to the following:

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1. Health and Safety (H&S) Code Section 116555(a)(1). Specifically, the City’s water system is operating Well No. 13 that produces water that does not comply with all of the primary drinking water standards.
2. H&S Code Section 116555(a)(3). Specifically, the City’s water system failed to ensure that a reliable and adequate supply of pure, wholesome, healthful, and potable water is provided to all of its consumers.
3. CCR Section 64431(a). Specifically, the water produced by the City’s water system exceeds the maximum contaminant level of 0.010 mg/L for arsenic, and therefore, does not comply with a primary drinking water standard.

ORDER

In order to ensure that the water supplied by the City of Livingston water system is at all times safe, wholesome, healthful, and potable, and pursuant to Section 116655 of the H&S Code, the water system is ordered to take the following actions:

1. (a) Cease and Desist from failing to comply with H&S Code Section 116555(a)(1) and (3) by ensuring that the system is provided with a reliable and adequate source of pure, wholesome, healthful, and potable water that is in compliance with all primary drinking water standards.
- (b) By **June 30, 2013**, submit to the California Department of Public Health, for review and approval, a plan to correct the existing water quality problem and eliminate the need to deliver water to the system that does not meet the primary drinking water standards. The plan shall include a time schedule

1 for completion of various phases of the project, such as design,
2 construction, and start-up.

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4 (c) The City shall submit quarterly progress reports to the Department,
5 beginning June 1, 2013.

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7 (d) The City must be in compliance with the primary drinking water standard
8 for arsenic by **June 1, 2016**.

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10 2. The City shall continue to distribute the Department-approved notice (Attachment
11 A) to all consumers. Notification to the public shall be **repeated every three**
12 **months as long as the violation exists**. Proof of public notification (Attachment B)
13 to all water system users shall continue to be provided to the Department following
14 each quarterly notification by the 10th day of the month following notification. The
15 first notice must be distributed to the City's customers by **June 1, 2013**. A copy of
16 the Notice and Proof of Notification form are due to the Department by **June 10,**
17 **2013**.

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19 3. Quarterly monitoring of the wells for arsenic must be conducted, preferably before
20 each quarterly notice is released, so the notice can reflect the most recent sample
21 results.

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23 4. The Department reserves the right to make such modifications to this Order as it
24 may deem necessary to protect public health and safety. Such modifications may be
25 issued as amendments to this Order and shall be effective upon issuance.

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27 5. All submittals required by this Order shall be addressed to:

1 Carl L. Carlucci, P.E., Supervising Sanitary Engineer
2 California Department of Public Health
3 Drinking Water Field Operations
4 265 W. Bullard Avenue, Suite 101
5 Fresno, CA 93704

6 6. If the City is unable to perform the tasks specified in this Order for any reason,
7 whether within or beyond its control, and if the City notifies the Department in
8 writing no less than five days in advance of the due date, the Department may
9 extend the time for performance if the City demonstrates that it has used its best
10 efforts to comply with the schedule and other requirements of this Order.

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

16 8. The State of California shall not be liable for any injuries or damages to persons or
17 property resulting from acts or omissions by the City, its employees, agents, or
18 contractors in carrying out activities pursuant to this Order, nor shall the State of
19 California be held as a party to any contract entered into by the City or its agents in
20 carrying out activities pursuant to this Order.
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23 **PARTIES BOUND**


24 This Order shall apply to and be binding upon the City, its officers, directors, agents,
25 employees, contractors, successors, and assignees.
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SEVERABILITY

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

5-16-2013
Date


Carl L. Carlucci, P.E.
Supervising Sanitary Engineer
Central California Section
SOUTHERN CALIFORNIA BRANCH
DRINKING WATER FIELD OPERATIONS

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

CLC/mrw/2410004/03-11-13R-002-2410004-02.doc

