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***Via Certified Mailing – Return Receipt***

May 2, 2013

County of Madera  
Resource Management Agency  
Department of Engineering  
Special Districts Division  
2037 West Cleveland Ave  
Madera, CA 93637-8720

Tanna Boyd  
Chief Clerk of the Board  
Board of Supervisors  
County of Madera  
200 West Fourth St.  
Madera, CA 93637

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

To Whom it May Concern:

## **NOTICE**

The Safe Drinking Water (“SDWA” or the “Act”) §300j-8(b)(1)(A) 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.

California River Watch (“River Watch”) hereby gives notice to the County of Madera, Department of Engineering, Special Districts Division, (hereafter referred to as “the Discharger,”) 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 Discharger 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 four (4) public water systems identified below, operated by the Discharger as maintenance districts and/or service areas:

Maintenance District 6 - Lake Shore  
Maintenance District 24 - Teaford Meadows  
Maintenance District 42 - Still Meadow  
Maintenance District 46 - Ahwahnee.

The SDWA requires that any Notice regarding an alleged violation of any requirement proscribed 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 the results of “All Source Chemical Monitoring” obtained from the California Department of Public Health’s Division of Drinking Water and Environmental Management identifying repeated non-compliance with SDWA MCLs at source wells in violation of the SDWA’s regulation of the maximum permissible level of contaminants in water delivered to any user of a public water, and failure to conduct required sampling, all in violation of SDWA §300fg-1, 42 U.S.C. §1412.

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

Maintenance District 6 - Lake Shore is located on the north shore of Bass Lake on Road 274 and provides drinking water to a population of over 150 residents. It is regulated under California Water Permit No. CA2000550 issued by the California Department of Public Health. Lake Shore Park’s water supply is groundwater. River Watch has set forth narratives below describing “positive” detections above the MCLs for arsenic, radionuclides, and total coliforms; and, failure to conduct required sampling, all occurring during specific quarterly reports between 2008 and 2012.

Maintenance District 24 - Teaford Meadows is located west of the community of North Fork and provides drinking water to a population of over 150 residents. It is regulated under California Water Permit No. CA2000552 issued by the California Department of Public Health. Teaford Meadows’ water supply is groundwater. River Watch has set forth narratives below describing “positive” detections above the MCLs for arsenic and total coliforms; and, failure to conduct required sampling, all occurring during specific quarterly reports between 2008 and 2012.

Maintenance District 42 - Still Meadow is located in the area of Still Meadow Drive and Road 426 in the community of Oakhurst, and provides drinking water to a population of over 100 residents, regulated under California Water Permit No. CA2000737 issued by the California Department of Public Health. Still Meadow's water supply is groundwater. River Watch has set forth narratives below describing "positive" detections above the MCLs for arsenic and radionuclides; and, failure to conduct required sampling, all occurring during specific quarterly reports between 2008 and 2012.

Maintenance District 46 - Ahwahnee is located northwest of Oakhurst near State Highway 49 and Harmony Lane, and provides drinking water to a population of over 300 residents and visitors to the district, regulated under California Water Permit No. CA2000293 issued by the California Department of Public Health. Still Meadow's water supply is groundwater. River Watch has set forth narratives below describing "positive" detections above the MCLs for arsenic and radionuclides; and, failure to conduct required sampling, all occurring during specific quarterly reports between 2008 and 2012.

The violations for each of these Maintenance Districts are described in this Notice with particularity, and are based on data detailed in public reports and other documents in the Discharger's possession or otherwise available to the Dischargers. In addition to these reported violations, River Watch could find no evidence in any public reports that the Dischargers has determined the quality of water delivered to end-users in any of the identified Maintenance Districts. 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 County of Madera, Resource Management Agency, Department of Engineering, Special Districts Division and those of 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 Maintenance Districts 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 Discharger. The range of dates covered by this Notice is from May 2, 2008 to May 2, 2013. River Watch will from time to time update this Notice to include violations

which occur after the range of dates covered by this Notice. 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, 290 S. Main Street, #817, Sebastopol, CA 95472, referred to throughout this Notice as “River Watch.” River Watch is 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 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.  
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David Weinsoff, Esq.  
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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 levels 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 the Discharger, as operator of the four (4) Maintenance Districts identified in this Notice 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 MCLs for nitrates and total coliform.

## **VIOLATIONS**

River Watch contends that between May 2, 2008 and May 2, 2013, the Discharger violated the SDWA and the Code of Federal Regulations by failing to ensure the drinking water supplied to its customers met and continues to meet the standards required by law including, but not limited to: exceeding MCLs for arsenic, radionuclides and total coliforms; 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 Discharger. Monitoring dates and reported exceedances were taken from the EPA ECHO database.

## **MAINTENANCE DISTRICT 6 - LAKE SHORE**

### **MCL - Arsenic 0.010 ppm**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Quarters out of Compliance):

1Q 2009 - 0.075 ppm  
2Q 2009 - 0.085 ppm  
3Q 2009 - 0.128 ppm  
4Q 2009 - 0.114 ppm  
1Q 2010 - 0.105 ppm  
2Q 2010 - 0.105 ppm  
3Q 2010 - 0.083 ppm  
4Q 2010 - 0.079 ppm  
1Q 2011 - 0.080 ppm  
2Q 2011 - 0.080 ppm  
3Q 2011 - 0.075 ppm

**MCL – Combined Uranium - 20 µg/L**

1Q 2009 - 102 µg/L

**MCL - Total Coliform 5%**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Months Out of Compliance):

2010 - July

**MAINTENANCE DISTRICT 24 - TEAFORD MEADOWS**

**MCL - Arsenic 0.010 ppm**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Quarters out of Compliance):

2Q 2010 - 0.011 ppm

3Q 2010 - 0.011 ppm

**MCL - Total Coliform 5%**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Months Out of Compliance):

2010 - August

**MAINTENANCE DISTRICT 42 - STILL MEADOW**

**MCL - Arsenic 0.010 ppm**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Quarters out of Compliance):

3Q 2008 - 0.014 ppm

1Q 2009 - 0.022 ppm

2Q 2009 - 0.022 ppm

3Q 2009 - 0.022 ppm

4Q 2009 - 0.022 ppm

1Q 2010 - 0.022 ppm

2Q 2010 - 0.022 ppm

3Q 2010 - 0.022 ppm  
4Q 2010 - 0.022 ppm  
1Q 2011 - 0.022 ppm  
2Q 2011 - 0.022 ppm  
3Q 2011 - 0.022 ppm  
4Q 2011 - 0.022 ppm  
1Q 2012 - 0.022 ppm  
2Q 2012 - 0.022 ppm

**MCL - Combined Uranium - 20 µg/L**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Months Out of Compliance):

4Q 2009 - 29 µg/L

**MCL - Gross Alpha Emitters - 15 picoCuries per Liter**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Months Out of Compliance):

November 2008 - December 2010 - 27 picoCuries per Liter

**MAINTENANCE DISTRICT 46 - AHWAHNEE**

**MCL - Arsenic 0.010 ppm**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Quarters out of Compliance):

1Q 2009 - 0.0126 ppm  
2Q 2009 - 0.0109 ppm  
3Q 2009 - 0.0106 ppm  
1Q 2010 - 0.011 ppm  
2Q 2010 - 0.011 ppm  
3Q 2010 - 0.011 ppm

**MCL - Combined Uranium - 20 µg/L**

Monitoring Dates and Reported Exceedances  
(Running Annual Averages - Months Out of Compliance):

1Q 2009 - 27.2 mg/L  
3Q 2009 - 27.2 mg/L  
1Q 2012 - 30.5 mg/L  
2Q 2012 - 26.8 mg/L

### Point of Use Quality Assurance

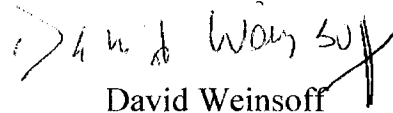
Although drinking water suppliers tend to sample water quality from a central location, such as directly after treatment, the water supplier is responsible for water quality either at the point of use or point of delivery. There is no evidence in the public record that the Discharger has ever assured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

### CONCLUSION

It is presumed that the supplier 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.

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 Discharger for the violations identified and described in this Notice. During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations identified in this Notice. However, if the Discharger 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,

Handwritten signature of David Weinsoff in black ink, written over a horizontal line.

David Weinsoff

DW:lmh

cc: Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Washington, D.C. 20460



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