

April 15, 2019

VIA CERTIFIED MAIL

VIA US MAIL

Mr. Jason Meaders Agent for Service of Process for Valley Water Management Company 7500 Meany Ave. Bakersfield, CA 93308	Public Prosecutors (See attached service list)
Current President/CEO Valley Water Management Company 7500 Meany Ave. Bakersfield, CA 93308	

***NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249.5 et seq. AND
60-DAY NOTICE OF INTENT TO SUE UNDER HEALTH & SAFETY CODE § 25249.5 et seq. (California
Safe Drinking Water and Toxic Enforcement Act, a.k.a. "Proposition 65")***

Dear Hon. Prosecutors and Valley Water Management Company:

This Notice of Violation is provided by the Clean Water Fund ("CWF"), and Association of Irrigated Residents ("AIR") pursuant to and in compliance with Health & Safety Code § 25249.7 (d). The noticing parties are represented by Aqua Terra Aeris Law Group.

CWF is a nonprofit corporation dedicated to ensuring safe clean affordable drinking water, preventing health-threatening pollution, and creating environmentally safe jobs and businesses. Andrew Grinberg is the National Campaigns Special Projects Manager, and is the responsible individual within CWF. CWF brings this action in the public interest, pursuant to Health & Safety Code section 25249.7 (d).

AIR is a nonprofit corporation dedicated to advocating for air quality and environmental health and justice in the San Joaquin Valley, including preventing pollution of groundwater. Tom Frantz is the President and responsible person within AIR. AIR is located at 29389 Fresno Ave., Shafter, California 93263. AIR brings this action in the public interest, pursuant to Health & Safety Code § 25249.7 (d).

This Notice of Violation ("NOV") is provided pursuant to, and in compliance with, California Health and Safety Code Section 25249.7. This letter serves to provide the public prosecutors and Valley Water Management Company, formerly known as Valley Waste Disposal Company, ("Violator"), with notice of alleged violations. CWF and AIR intend to file a private enforcement action in the public interest 60 days

after effective service of this NOV, unless a public prosecutor has commenced and are diligently prosecuting an action to abate these violations. CWF and AIR, in the public interest, seek to stop the Violator from discharging chemicals known to the state to cause cancer or reproductive toxicity into sources of drinking water or into/onto land where such chemicals will probably pass into a source of drinking water.

CWF and AIR have identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code section 25249.5 et seq., concerning the discharges identified below. These violations have occurred and continue to occur because the alleged Violator, Valley Water Management Company, discharges, deposits or releases, into its wastewater percolation and disposal ponds, Proposition 65-listed chemicals, contaminated wastewater or produced water, into existing and/or present sources of drinking water and/or into underground sources of drinking water designated as municipal drinking water supply/ies under the Water Quality Control Plan for the Tulare Lake Basin ("Basin Plan") and/or the Safe Drinking Water Act of 1974 (42 U.S.C. §300(f) et seq.). Violator also discharges these chemicals and hazardous substances onto and/or into land, by and through its disposal/percolation ponds, where they probably will pass into underground sources of drinking water.

For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached Summary provided by California Environmental Protection Agency's Office of Environmental Health Hazard Enforcement. (Note, copies of the same will not be provided to public prosecutors.)

Description of Violation

Violator: **Valley Water Management Company**
7500 Meany Ave.
Bakersfield, CA 93308

Time Period of Violation:

The violations have been occurring since at least April 11, 2018, and are continuing daily.

Provisions of Proposition 65:

This Notice of Violation is brought pursuant to the "Discharge Prohibition" prong of Proposition 65, which can be found at Health and Safety Code Section 25249.5.

Violator is a "person[s] in the course of doing business" as defined in Health & Safety Code § 25249.11.

Information available to CWF and AIR indicates that the Violator has been, and continues, discharging, releasing and/or depositing produced water and/or wastewater from oil and gas production operations in and around the Violator's McKittrick 1 and 1-3 Facility (Facility), located approximately 8.7 miles west

of the community of Buttonwillow. The facilities are made up of approximately 80 pits, including cleaning, passthrough, evaporation, and percolation pits that occupy about 150 acres. Violator discharges and/or disposes as much as 4.83 million gallons of wastewater into these pits in a single day; on average, Violator discharges and/or disposes 2.8 million gallons per day.

Information available to CWF and AIR indicates that such produced water and wastewater discharged or released from Violator's facilities are consistently discharged by Violator in significant amounts, contain significant amounts of Prop. 65-listed chemicals and are not in compliance with all applicable laws, regulations, permits, requirements, and orders. Discharges into McKittrick pits greatly exceed MCLs and Tulare Lake Basin Plan limits, for benzene, electrical conductivity, chloride, boron, and toluene. Violator discharges into waters designated MUN – water that may serve as drinking water or other beneficial uses requiring high quality water. Violator's discharges cause a pollution of ground or surface waters in violation of Waste Discharge Requirements Resolution No. 69-199. Therefore, Violator knowingly discharged, deposited and/or released a significant amount of Proposition 65-listed chemicals into existing and/or present drinking water sources, thereby posing carcinogenic and reproductive toxicity threats to the public and its drinking water sources.

Chemicals Involved:

The name of the listed Chemicals involved in these violations are:

- 1,4-Dioxane
- Arsenic
- Benzene
- Bromoform
- Cumene
- Diethanolamine
- Ethylbenzene
- Ethylene Glycol
- Methanol
- Naphthalene
- Nickel
- Radionuclides
- Residual (heavy) fuel oils
- Toluene
- Trisodium Nitrilotriacetic acid

All of the Chemicals listed above have been on the Proposition 65 list longer than twenty months. (Health & Safety Code § 25249.9(a).) The above-listed Proposition 65 reproductive or developmental toxics and/or carcinogens ("Listed Chemicals") have been knowingly deposited, discharged or released by Violator through its operation of the Facility, and continue to be knowingly deposited, released or discharged, and are likely to continue to be knowingly deposited, released or discharged by Violator in

the future into water or onto or into land where such chemical(s) pass or probably will pass into any source of drinking water. The Violator has been and/or is knowingly discharging, releasing or depositing the Listed Chemicals into groundwater designated as municipal drinking supply, or onto land where they probably will pass into such groundwater. The Violator, through the operations of the Facility and knowing discharges of the Listed Chemicals, violated, violate and threaten to violate the discharge/release prohibition contained in Health & Safety Code § 25249.5.

Description of Discharge:

Valley Water Management Company (“VWMC”), formerly known as Valley Waste Disposal Company, owns and operates oil and gas wastewater processing and disposal facilities, in or near the Cymric Area and Belgian Anticline and McKittrick Oil Fields near the city of McKittrick in Kern County. The Facility, identified below, contains approximately 80 unlined surface impoundments, open-top containment ponds, sumps and/or pits, (hereinafter collectively referred to as “pits”), spanning approximately 150 acres. The wastewater, commonly referred to as “produced water”, is generated as a result of oil and gas exploration and production. This wastewater is disposed of in unlined pits where it is discharged and released by percolation and evaporation. VWMC receives wastewater for disposal through a single distribution pipeline at the Facility with wastewater from California Resource Corporation, Sentinel Peak Resources and Holmes Western. VWMC disposes of the approximately 2.8 million gallons of wastewater daily through unlined pits designed and operated to allow infiltration, permeation, penetration, percolation, seepage, discharges and releases of the wastewater underground. The Regional Water Quality Control Board staff, after investigation, identified discharges from the unlined pits at Violator’s Facility, which have migrated through the soil and caused documented groundwater pollution that has spread past the alluvium and into deeper aquifers. The plume from Violator’s Facility has migrated laterally for miles. The Chemicals present in VWMC’s discharges and releases from its pits do pass, or probably will pass, into sources of drinking water in California, including but not limited to surrounding and underlying groundwater and nearby surface waters.

The Facility, including its wastewater disposal pits, is at or near the following locations:

McKittrick 1

Township 29S, Range 22E, Section 19; Mount Diablo Base & Meridian
Lat./Long. 35.389301, -119.649902

McKittrick 1-3

Township 29S, Range 22E, Section 19; Mount Diablo Base & Meridian
Lat./Long. 35.389301, -119.649902

Sources of Drinking Water:

A “source of drinking water” means either a present source of drinking water or water which is identified or designated in a water quality control plan adopted by a regional water board as being

suitable for domestic or municipal uses. (Health & Safety Code § 25249.11(d).) Moreover, “water” is defined to include both surface and groundwater. (California Code of Regulations, title 27, Section 25102(w).)


The State Water Resources Control Board, Tulare Lake Basin Water Quality Control Plan (“Basin Plan”) establishes Water Quality Objectives for Inland Ground Waters, including groundwater. Pursuant to the Sources of Drinking Water Policy, all ground waters in the Basin are designated as municipal unless specifically exempted and approved. (Tulare Lake Basin Plan at p. II-2 (“Due to the “Sources of Drinking Water Policy,” all ground waters are designated MUN (the use may be existing or potential) unless specifically exempted by the Regional Water Board and approved for exemption by the State Water Board.”) Moreover, Water Quality Objectives require that all covered waters be maintained free of toxic substances, alone or in combination, in concentrations that produce detrimental physiological responses in human, plant, animal or aquatic life. The Sources of Drinking Water Policy and Water Quality Objectives are intended to protect Beneficial Uses of Ground Waters such as the Aquifer.

The Violator’s discharges, releases, and/or depositions of the Listed Chemicals into this sources of drinking water, or into or onto land where each passed, passes or probably will pass into a source of drinking water jeopardize Water Quality Objectives, are in contravention of the Basin Plan and Sources of Drinking Water Policy, and, therefore, are violations of Proposition 65’s discharge prohibition.

Resolution of Noticed and Alleged Violations:

Based on the allegations set forth in this Notice, CWF and AIR intend to file a citizen enforcement action against the alleged violator unless the violator agrees in a binding written instrument to remedy the violations alleged herein by ceasing ongoing and future discharges of the identified Proposition 65-listed chemicals, and paying appropriate costs, fees and civil penalties pursuant to Health & Safety Code Section 25249.7, Code of Civil Procedure Sections 1021.5 and 1033.5 *et seq.* CWF and AIR have retained counsel and are represented in this matter. Thus, please direct all communications regarding this notice to their enforcement counsel: Matthew C. Maclear at Aqua Terra Aeris (ATA) Law Group, 490 43rd Street, Suite 108, Oakland, CA 94609, and (415) 568-5200.

Sincerely,



Matthew C. Maclear
Aqua Terra Aeris Law Group
Attorneys for Noticing Parties

Enclosure: Appendix A – Prop. 65 Summary

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 490 43rd Street, Suite 108, Oakland, California. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Oakland, California.

On April 15, 2019, I served the following documents: **NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President/CEO
Valley Water Management Company
7500 Meany Ave.
Bakersfield, CA 93308

Mr. Jason Meaders
Agent for Service of Process for
Valley Water Management Company
7500 Meany Ave.
Bakersfield, CA 93308

On April 15, 2019, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.; AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On April 15, 2019, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.**; on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by U.S. First Class Mail.

Executed on April 15, 2019, in Oakland, California.



Esmeralda Bustos



MAIL SERVICE LIST

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301