



Ron Chapman, MD, MPH
Director & State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health

DRINKING WATER FIELD OPERATIONS BRANCH

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EDMUND G. BROWN JR.
Governor

March 28, 2013

Water System No. 2110510

Kevin Lunny/Ginny Cummings
Drakes Bay Oyster Company
17171 Sir Francis Drake Boulevard
Inverness, CA 94937

**RE: CITATION NO. 02-18-13C-014- MONITORING AND REPORTING VIOLATION
FOR JANUARY 2013**

Enclosed is a Citation issued to the Drakes Bay Oyster Company (System) water system.

Your System will be billed at the Department's hourly rate (currently estimated at \$126.00) for the time spent on issuing this citation since this is an enforcement action for noncompliance with State regulations. At this time, we have spent approximately one hour on enforcement activities associated with this violation.

You will receive a bill sent from our Fee Billing Unit in Sacramento by August 1, 2013. This bill will contain fees for any enforcement time spent on your System.

If you have any questions regarding this matter, please contact Cindi Lee of my staff at (707) 576-2422 or me at (707) 576-2006.

Sincerely,

for Janice M. Thomas, P.E.
Sonoma District Engineer
Drinking Water Field Operations Branch

Enclosure

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

Name of Public Water System: Drakes Bay Oyster Company

Water System Number: 2110510

To: Kevin Lunny/Ginny Cummings
Drakes Bay Oyster Company
17171 Sir Francis Drake Boulevard
Inverness, CA 94937

Issued: March 28, 2013

CITATION FOR NONCOMPLIANCE

**With Title 22 of the California Code of Regulations Sections 64423(c),
64423.1(c) and 64424**

Section 116650 of the California Health and Safety Code (CHSC), authorizes the issuance of a citation for failure to comply with a requirement of California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4, commencing with Section 116270), or any regulation, standard, permit or order issued thereunder.

The Division of Drinking Water and Environmental Management of the State of California Department of Public Health (Department) hereby issues a citation to the Drakes Bay Oyster Company (System) for failure to comply



1 with Title 22, California Code of Regulations (CCR) Sections 64423(c),
2 64423.1(c) and 64424.

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4 **APPLICABLE AUTHORITIES**

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6 Section 116650 of the CHSC states in relevant part:

- 7
- 8 (a) If the department determines that a public water system is in violation of this
9 chapter or any regulation, permit, standard, citation, or order issued or adopted
10 thereunder, the department may issue a citation to the public water system.
11 The citation shall be served upon the public water system personally or by
12 certified mail. Service shall be deemed effective as of the date of personal
13 service or the date of receipt of the certified mail. If a person to whom a citation
14 is directed refuses to accept delivery of the certified mail, the date of service
15 shall be deemed to be the date of mailing.
- 16 (b) Each citation shall be in writing and shall describe the nature of the violation or
17 violations, including a reference to the statutory provision, standard, order,
18 citation, permit, or regulation alleged to have been violated.
- 19 (c) A citation may specify a date for elimination or correction of the condition
20 constituting the violation.
- 21
- 22 (d) A citation may include the assessment of a penalty as specified in subdivision
23 (e).
- 24
- 25 (e) The department may assess a penalty in an amount not to exceed one
26 thousand dollars (\$1,000) per day for each day that a violation occurred, and for
27 each day that a violation continues to occur. A separate penalty may be
assessed for each violation.



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California Code of Regulations, Section 64423(c) states in relevant part:

If any routine, repeat, or replacement sample is total coliform-positive, then the water supplier shall collect repeat samples in accordance with Section 64424.

California Code of Regulations, Section 64423.1 states in relevant part:

Analytical results of all required samples collected for a system in a calendar month shall be reported to the Department not later than the tenth day of the following month.

California Code of Regulations, Section 64424(a) states in relevant part:

(a) If a routine sample is total-coliform positive, the water supplier shall collect a repeat sample set as described in paragraph (a)(1) within 24 hours of being notified of the positive result. The repeat samples shall all be collected within the same 24 hour time period. A single service connection system may request that the Department allow the collection of the repeat sample set over a four-day period.

(1) For a water supplier that normally collects more than one routine sample a month, a repeat sample set shall be at least three samples for each total coliform-positive sample. For a water supplier that normally collects one or fewer samples per month, a repeat sample set shall be at least four samples for each total coliform-positive sample.

STATEMENT OF FACTS

The System is required to collect one routine bacteriological sample per month. The System collected a routine bacteriological sample on January 8,

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2013. The result of this sample was total coliform-positive. Pursuant to Section 64424, a System shall collect a repeat sample set consisting of four distribution samples within 24 hours of being notified by the laboratory of the positive result.

As of the date of this citation, the Department has not received the appropriate repeat bacteriological results from the System in January 2013.

DETERMINATIONS

THE DEPARTMENT HAS DETERMINED:

The System violated Title 22 of the CCR, Sections 64423, 64423.1 and 64424, in that the System failed to collect the required number of repeat bacteriological water samples during January 2013.

DIRECTIVES

Drakes Bay Oyster Company is hereby directed to take the following actions:

- 1. Comply with Sections 64423, 64423.1 and 64424 in all future monitoring periods.

- 2. Notify all persons served by the System of the failure to sample, in conformance with Section 64463.4 and Section 64465, Title 22 of the CCR, and as follows:
 - a) Completion of Attachment A to include the name, address, and telephone number of a System representative as a source of

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additional information concerning the public notice. **You must also give a legible, written description of the corrective actions taken by the water system to prevent this violation from occurring in the future. You must use the space provided on Attachment A for this written description.**

b) Post the notice contained in Attachment A, **after it has been completed in accordance with (a) above**, in conspicuous locations throughout the area served by the System. Posting must begin no later than **April 19, 2013** and must continue for seven days.

c) Provide public notice for this violation in accordance with Section 64465(c), Title 22 or the CCR, which requires for each non-English speaking group that exceeds 1,000 residents or 10% of the residents in a community (whichever is less) that the public notice contain information in the appropriate language(s) regarding the importance of the notice, or contain a telephone number or address where such residents may contact the water system to receive a translated copy of the notice or to receive assistance in the appropriate language.

3. Publish the notice contained in Attachment A, **after it has been completed in accordance with (a) above**, in a local newspaper of general circulation in the area served by the System (or weekly newspaper if no daily paper is available) for one day. The publication in a local newspaper must be completed by **April 26, 2013**.



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4. Pursuant to Section 64424(d), Title 22 of the CCR, the Water System shall collect five (5) routine bacteriological samples by **April 19, 2013**. The results of these samples shall be submitted with the attached Compliance Certification form.

5. The System shall complete the attached Compliance Certification form and return it to the Department within 10 days of the public notice being given to system customers but in no case later than **May 3, 2013**. **A copy of the notice published in the newspaper and a copy of the notice posted to the customers must be attached to the form.**

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

Nothing in this Citation relieves the System of its obligation to meet the requirements of the California Safe Drinking Water Act (CHSC, Division 104, Part 12, Chapter 4, commencing with Section 116270), or any regulation, standard, permit or order issued thereunder.

All submittals required by this Citation shall be submitted to the Department at the following address:

Janice M. Thomas, P.E., District Engineer
Department of Public Health
Drinking Water Field Operations Branch
50 D Street, Suite 200
Santa Rosa, CA 95404



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PARTIES BOUND

This Citation shall apply to and be binding upon the System, its officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The directives of this Citation are severable, and the System shall comply with each and every provision thereof notwithstanding the effectiveness of any provision.

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FURTHER ENFORCEMENT ACTION

Division 104, Part 12, Chapter 4, (commencing with Section 116270) of the California Health and Safety Code authorizes the Department to: issue additional citations with assessment of penalties if the System continues to fail to correct a violation identified in a citation; take action to suspend or revoke a permit that has been issued to a public water system if the System has violated applicable law or regulations or has failed to comply with orders of the Department; and petition the superior court to take various enforcement measures against a public water system that has failed to comply with orders of the Department. The Department does not waive any further enforcement action by issuance of this citation.



Stefan Cajina, P.E.
Regional Engineer, North Coastal Region
Drinking Water Program

March 28, 2013
Date

Attachments
Certified Mail No. _____



COMPLIANCE CERTIFICATION

Citation Number 02-18-13C-014

Name of Water System: **Drakes Bay Oyster Company**

System Number: **2110510**

Certification

I certify that the users of the water supplied by this water system were notified of the repeat sampling violations of Title 22, California Code of Regulations (CCR) for the compliance period of January 2013.

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Required Action

Date Completed

Complete Attachment A, as required by Directive 2(a)

Public Notification – Posting

Public Notificaiton - Newspaper

Five Bacteriological Samples Collected & Analyzed

Signature of Water System Representative

Date

Attach a copy of the notice posted in the System, a copy of the notice published in the newspaper, and the laboratory results of the 5 water samples.

**THIS FORM MUST BE COMPLETED AND RETURNED TO THE DEPARTMENT
NO LATER THAN MAY 3, 2013**

Disclosure: Be advised that Section 116725 and 116730 of the California Health and Safety Code states that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached order may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in county jail not to exceed one year, or by both the fine and imprisonment.

To all School Administrators, Rental Property Owners, and Business Property Owners:

You must provide public notification within 10 days of the receipt of the following notice from **Drakes Bay Oyster Company** [Health and Safety Code Section 116450(g)]. The notification must be provided as follows:

SCHOOLS: Must give written notification to school employees, students, and parents (if the students are minors).

RESIDENTIAL RENTAL PROPERTY OWNERS OR MANAGERS (including but not limited to apartment complexes, nursing home facilities, other care facilities): Must give written notification to tenants/patients. Must give written notification to employees (if applicable).

BUSINESS PROPERTY OWNERS, MANAGERS, OR OPERATORS (including but not limited to restaurants, stores, hospitals, churches, clubs, daycare facilities, offices, other businesses): Must give written notification to employees and members. Must post in conspicuous places for customers/visitors (if applicable).

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

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

Drakes Bay Oyster Company Monitoring and Reporting Violation for January 2013

Our water system failed to perform follow up testing on our drinking water during January 2013 after a routine water sample was tested and found to contain coliform bacteria. Although this is not an emergency, as our customers, you have a right to know about this violation – what happened, what you should do, and what we did to correct the situation. Please share this information with other people who drink this water, especially those who may not have received this notice directly. You can do this by posting this notice in a public place or giving out copies by hand or mail.

What happened? We are required by state regulations to monitor our drinking water for specific contaminants on a regular basis. Results of this routine monitoring are an indication of whether or not the drinking water meets health standards. Our routine sample tested positive for coliform bacteria during January 2013. No fecal coliform or *E. coli* bacteria were found. However, we failed to collect the required follow up (or repeat) samples and, therefore, we cannot be sure of the quality of our drinking water during that time period. Our February 2013 routine sample tested coliform-absent from the same sample location.

What does this mean? Coliform bacteria are indicators of potential contamination and may originate from human, animal, or soil sources. If water is tested for coliform bacteria and it is found to be absent, the water can be considered safe from bacteria. If the water is not tested, consumption of the water may not necessarily result in illness, but that possibility exists. Routine and repeat sampling are important to periodically verify the quality of drinking water. Our failure to perform repeat sampling for coliform bacteria during January 2013 was a violation of Section 64424, Title 22 of the California Code of Regulations (CCR).

What should I do? If you have health concerns, you may wish to consult your doctor. General guidelines on ways to lessen the risk of infection by microbes are available from EPA’s Safe Drinking Water Hotline at (800) 426-4791.

What corrective actions have been taken to prevent this violation from occurring in the future?

All staff have been made aware of proper sampling procedures.

This notification of the public is being done in compliance with Section 64463.4, Title 22 of the CCR as a means of keeping the public informed.

Persons wishing more information should contact: _____
(water system contact name)

(address)

(phone number)