



KAREN ELLISON, RECORDER

Assessor's Parcel Number: N/A

Date: APRIL 20, 2015

Recording Requested By:

Name: NIKKI SCHMIDT, PUBLIC WORKS  
(RR)

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A

**FINDING OF ALLEGED VIOLATION &  
ADMINISTRATIVE ORDER #2015.078**

(Title of Document)



NEVADA DIVISION OF  
**ENVIRONMENTAL  
 PROTECTION**

STATE OF NEVADA

Department of Conservation & Natural Resources

RECEIVED

Brian Sandoval, Governor  
 Leo M. Drozdoff, P.E., Director  
 Colleen Cripps, Ph.D., Administrator

APR 13 2015

April 8, 2015

DOUGLAS COUNTY  
 PUBLIC WORKS

Carl Ruschmeyer P.E.  
 Douglas County Water  
 PO Box 218  
 Minden, NV 89423

CERTIFIED MAIL

9171 9690 0935 0012 7001 93

NO. 2015-028  
 2015 APR 20 AM 11:18  
 DOUGLAS COUNTY  
 CLERK  
 JENNIFER L. CARR  
 FILED

**RE: SIERRA COUNTRY ESTATES WATER SYSTEM (NV0000931)  
 Finding of Alleged Violation & Administrative Order on Consent**

Dear Mr. Ruschmeyer,

The enclosed Finding of Alleged Violation (FOAV) and Administrative Order on Consent (AOC) are issued under the authority of the Administrator of the Nevada Division of Environmental Protection (NDEP) pursuant to Nevada Revised Statutes (NRS) 445A.800 to 445A.955, inclusive. The enclosed documents relate to the alleged failure of Sierra Country Estates (SCE), Public Water System (PWS) ID# NV0000931 to comply with applicable State Public Water Systems Laws and regulations.

It is the policy of the State of Nevada "to provide for water which is safe for drinking and other domestic purposes and thereby promote the public health and welfare." See NRS 445A.800. As a Public Water System (PWS) owner, you are required to comply with all drinking water standards and regulations adopted by the State Environmental Commission to meet the intent of this policy.

NDEP credits Douglas County's leadership in taking ownership of this PWS in September, 2013 as a result of the prior owner's abandonment of the system and NDEP's action in District Court requesting appointment of a receiver. Douglas County has ensured that the majority of original violations accrued by the previous owner have returned to compliance. However, due to the long-term nature of capital construction projects required to return the remaining items to compliance, the attached FOAV details the Laws and Regulations for which the SCE PWS still must address. The enclosed AOC is an agreement between the NDEP and Douglas County. The AOC includes certain activities for the water system to complete, by the timeframes listed therein, to bring the water system back into compliance with drinking water standards and operation of the PWS. The FOAV and AOC are final and not subject to review.

Should you have any questions or concerns, please do not hesitate to contact me at 775-687-9515.

Sincerely,

*Jennifer L. Carr*  
 Jennifer L. Carr, P.E., C.E.M.  
 Chief, Bureau of Safe Drinking Water

Cc's on pg 2:

Mr. Carl Ruschmeyer  
SCE FOAV & Order  
April 8, 2015  
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Enc (2): Finding of Alleged Violation; Administrative Order

cc w/:Katie Armstrong, Deputy Attorney General

James Nichols, County Manager, Douglas County, P.O. Box 218, Minden, NV 89423

Douglas Ritchie, Chief Civil Deputy District Attorney, Douglas County, P.O. Box 218, Minden, NV 89423

Doug Johnson, Chair, Douglas County Commission, P.O. Box 218, Minden, NV 89423

Jacob Jenzen, U.S. EPA Region 9 (WTR-6), 75 Hawthorne St., San Francisco, CA 94105

Hillary Hecht, U.S. EPA Region 9 Enforcement Division (ENF-3-3), 75 Hawthorne St., San Francisco, CA 94105

Elaine Flynn, SCE Homeowners Association, 205 Sierra Country Circle, Gardnerville, NV 89460  
File NV0000931

cc w/:Colleen Cripps, PhD, Administrator, NDEP

Dave Gaskin, PE, Deputy Administrator, NDEP

Andrea Seifert, PE Compliance Branch Supervisor, NDEP BSDW

Ross Cooper, Facility Manager, NDEP BSDW

Kim Davis, Nevada Division of Water Resources

**FINDING OF ALLEGED VIOLATION**

- I. This finding is issued on the basis of the following relevant law and facts:
- A. The State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water (BSDW), under the authority of Nevada Revised Statutes (NRS) 445A.925, has the power and duty to enforce the provisions of the Nevada Public Water Systems Law set forth in NRS 445A.800 to 445A.955, inclusive, and regulations adopted pursuant thereto and is authorized by NRS 445A.930 and 445A.943 to make Findings and issue Orders.
  - B. Sierra Country Estates (SCE) water system, having at least 15 existing service connections that are available for use anytime to serve year-round residents, is a Community PWS and subject to regulation under the Nevada Public Water Systems Law, in the appropriate sections of NRS 445A.800 to 445A.955, inclusive.
    - 1. NRS 445A.808 defines a Community Water System as a public water system (PWS) that: (1) has at least 15 service connections used by year-round residents of the area served by the system; or (2) regularly serves at least 25 year-round residents of the area served by the system.
  - C. The State Environmental Commission (SEC) under authority of NRS 445A.855 has adopted, by regulation, primary drinking water standards which prescribe maximum permissible levels for contaminants in any public water system (PWS) and provide for the monitoring and reporting of water quality. The SEC under authority of NRS 445A.860 and NRS 445A.880 has adopted, by regulation, requirements for operating a public water system and for certification of operators.
  - D. Upon information and belief, the former Owner of the SCE PWS, Ms. Marsha Tomerlin, abandoned the water system through her actions and subsequent to the United States Bankruptcy Court for the District of Nevada (Bankruptcy Court) approval of abandonment of the SCE PWS by the Trustee back to the Tomerlins as debtor (Case No. BK-N-12-52078-BTB).
    - 1. Subsequent to the Bankruptcy Court's decision, the NDEP issued Ms. Tomerlin a Finding of Alleged Violation (FOAV) and Administrative Order (AO) on February 22, 2013.
    - 2. On August 7, 2013, NDEP filed a Motion for a Preliminary Injunction and Petition for Appointment of a Receiver (Case 13-CV-0149). A hearing on the Motion was held in Nevada's 9<sup>th</sup> Judicial District Court on August 27, 2013, at which NDEP requested the Court to appoint Douglas County as the PWS Receiver.
  - E. Upon information and belief, Douglas County assumed Ownership of the SCE PWS on or about September 19, 2013. (Do.Co. Recorder Doc #0831034, Bk. 0913, Pg. 4951)
    - 1. At a September 5, 2013 meeting of the Douglas County Commission, the Commission determined that, "it is in the best interest of Douglas County to assume

immediate control and ownership of the SCE Water System to protect the health, safety and welfare of the water users” pursuant to authorities in NRS 445A.910. (Do.Co. Recorder Doc #0831034)

2. Findings related to remaining elements of SCE PWS non-compliance within this FOAV originate from the February 22, 2013 FOAV and Order.
- F. Based upon information gathered by the BSDW, records researched, and the factual allegations set forth herein, the NDEP has determined that the SCE PWS is allegedly in violation of the following provisions of the NRS, Nevada Administrative Code (NAC), and federal drinking water regulations in Title 40 of the Code of Federal Regulations Part 141 (40 CFR §141), as identified in items F.1 through F.3:
1. **Finding:** SCE is in violation of NAC 445A.453 for failing to comply with the Action Level for lead as defined by 40 CFR §141.80(c)(1). Action Levels for Lead in the SCE PWS have been documented at 0.019 mg/l – 0.065 mg/l while the Action Level is 0.015 mg/l.

On June 17, 2011, the NDEP summarized previous documentation by letter and informed the former Owner of SCE PWS that on the following dates, the values for the 90<sup>th</sup> percentile lead levels exceeded the 0.015 mg/l Action Level for lead:

- September 13, 2006 at 0.019 mg/l;
- December 7, 2006 at 0.024 mg/l;
- June 8, 2009 at 0.065 mg/l; and
- December 28, 2009 at 0.045 mg/l.

NAC 445A.453 establishes that all public water systems must meet the requirements of NAC 445A.450 to 5405, inclusive, and of the “National Primary Drinking Water Regulations,” and related federal regulations applicable to public water systems, as adopted by reference in NAC 445A.4525.

- a. NAC 445A.4525 establishes an Action Level (AL) for the primary drinking water contaminants Lead in PWSs. The AL provision of Title 40 of the Code of Federal Regulations Part 141 (40 CFR §141) listed below is adopted by reference:
  1. Pursuant to 40 CFR §141 Subpart I – Control of Lead and Copper:
    - a. 40 CFR §141.80(c)(1): the AL for Lead is exceeded if the concentration of lead in more than 10% of tap water samples collected during any monitoring period (i.e. the “90<sup>th</sup> percentile” lead level) is greater than 0.015 milligrams per liter (mg/l).
2. **Finding:** SCE is in violation of NAC 445A.453 and NAC 445A.66675 for failing to investigate, recommend, install, and operate optimal corrosion control treatment as required by 40 CFR §141 – Subpart I.

In the June 17, 2011 letter from the NDEP, SCE PWS was required to submit a recommendation for optimal corrosion control treatment in accordance with 40 CFR §141.82(a). This recommendation and submittal has not been received.

**NAC 445A.453** requires compliance with federal regulations adopted by reference in NAC 445A.4525. The provisions in 40 CFR §§141.80 to 141.91, inclusive, for control of lead and copper are adopted by reference.

a. **NAC 445A.4525** establishes Treatment Techniques (TT) for primary drinking water contaminants in PWSs. The TT provisions of Title 40 of the Code of Federal Regulations Part 141 (40 CFR §141) listed below are adopted by reference:

1. Pursuant to 40 CFR §141 Subpart I – Control of Lead and Copper:
  - a. 40 CFR §141.80(d)(1): All water systems shall install and operate optimal corrosion control treatment.
  - b. 40 CFR §141.80(e): Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the State.
  - c. 40 CFR §141.82(a): small water systems exceeding the AL for lead shall recommend installation of one or more of the corrosion control treatments listed in that section.

**NAC 445A.66675** requires a supplier of water to install and operate a system for the control of corrosion when warranted by the presence of lead and copper in a PWS.

## II. Injunctive Relief and Penalties:

- A. Pursuant to NRS 445A.945, the NDEP may apply to the district court to enjoin the continuance or occurrence of any act or practice which violates the provisions of NRS 445A.800 to 445A.955, inclusive, or of any regulation adopted or order issued pursuant thereto.
- B. Pursuant to NRS 445A.950, any supplier of water who: (a) Violates any standard established pursuant to NRS 445A.855; (b) Violates or fails to comply with an emergency order issued pursuant to NRS 445A.930; (c) Violates any condition imposed by the Commission upon granting a variance or exemption under NRS 445A.935; (d) Violates a regulation adopted by the Commission pursuant to NRS 445A.860; or (e) Fails to give a notice as required by NRS 445A.940, is liable for a civil penalty of not more than \$5,000 for each day of the violation. In addition, the NDEP may impose an administrative fine of not more than \$2,500 per day for each such violation.
- C. Pursuant to NRS 445A.955, any person who violates the provisions of NRS 445A.800 to 445A.955, inclusive, or any regulation adopted pursuant to those provisions is guilty of a misdemeanor. Each day of violation constitutes a separate offense.

III. Conclusion:

On the basis of the facts listed above, the Division of Environmental Protection, of the State Department of Conservation and Natural Resources, finds and alleges that the Sierra Country Estates PWS, owned by Douglas County, is in violation of: NAC 445A.453 and NAC 445A.66675; and 40 CFR §141 Subpart I (40 CFR §141.80 to §141.91, inclusive); all as adopted by NAC 445A.4525.

*R Cooper*

\_\_\_\_\_  
Ross Cooper, MS  
Environmental Scientist III  
Bureau of Safe Drinking Water

*4-7-15*

\_\_\_\_\_  
Date

COOPER

**ADMINISTRATIVE ORDER**

This Administrative Order on Consent (AOC) is issued under the authority vested in the Administrator of the Nevada Division of Environmental Protection (NDEP) of the State Department of Conservation and Natural Resources through Nevada Revised Statutes (NRS) 445A.925 to enforce the provisions of NRS 445A.800 to 445A.955, inclusive, and regulations adopted pursuant thereto.

On the basis of the Finding of Alleged Violation (FOAV), attached hereto and made a part of this AOC, the Administrator of the NDEP has alleged that the Sierra Country Estates (SCE) Public Water System (PWS) is in violation of NAC 445A.453 and NAC 445A.66675; and 40 CFR §141 Subpart I (40 CFR §141.80 to §141.91, inclusive); all as adopted by NAC 445A.4525.

**IT IS HEREBY AGREED AND ORDERED:**

That Douglas County, for the SCE PWS, shall complete the following acts by the specified date(s):

1. **Upon Execution of the AOC by both parties and while this Order remains in effect SCE PWS shall:**
  - a. Provide Notice of Tap Water Monitoring, Public Notice, and Public Education pursuant to 40 CFR §141.85:
    1. After monitoring events for Lead are conducted, provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that are tested. (See 40 CFR §141.85(d)) Notice shall be provided no later than **30 days** after SCE PWS learns of the monitoring results. Please refer to 40 CFR §141.85(d)(3) for the required content of the notice.
    2. **No less often than quarterly**, Public Notice must be included on the SCE PWS water bill exactly as written in 40 CFR §141.85(b)(2)(iii).
    3. During the term of this AOC, continue to deliver Public Education materials to every household served by the system by **November 5, 2015** with delivery **repeated every twelve months** as required by 40 CFR §141.85(b)(3). The mandatory content of the Public Education materials is detailed in 40 CFR §141.85(a)(1-2). SCE PWS must submit all written public education materials to Mr. Ross Cooper prior to delivery to the Community, as required by 40 CFR §141.85(a)(1).
  - b. **By January 10, April 10, July 10, and October 10** of each year that this AOC remains in effect, provide Quarterly Progress Reports regarding the Ordered elements on the timeline herein.

All required Public Notices, Public Education and Reports shall be submitted to Mr. Ross Cooper, NDEP / BSDW, 901 S. Stewart Street, Suite 4001, Carson City, NV 89701.



2. **By November 24, 2015:** Submit Engineering Designs, Specifications and NDEP Plan Review Fees for NDEP review and approval.
3. **Within 90 days of BSDW approval of the Engineering Design:** Complete Permitting, Bidding, Contract Award, and Execution of Contracts for the compliance alternative approved through the plan review approved in item 4.
4. **Within 210 days of the execution of construction contracts:**
  - a. Complete construction and system startup to deliver water to customers of SCE PWS that will ensure compliance with the Lead Action Level at the consumer's tap, as required by NAC 445A.453.
  - b. Prior to initial delivery of water to customers, submit bacteriological monitoring results for new construction in accordance with NAC 445A.65505 to 445A.6731 verifying that the new construction has been properly disinfected and samples are absent for total coliform.
    1. Disposal of any spent chlorine solution must be coordinated with the Bureau of Water Pollution Control.
5. **Within 30 days of completion of the water project(s):** The PWS must certify to the BSDW that the water project was completed in substantial compliance with the approved plans and specifications, per NAC 445A.66715.
6. **Within 90 days of initial delivery of water to customers:** Submit monitoring results verifying that the PWS is providing water that meets all drinking water standards, including Lead, as required by NAC 445A.450 to 445A.5405, inclusive, and of the "National Primary Drinking Water Regulations," as adopted by reference in NAC 445A.4525.
7. **The SCE PWSs obligations under this AOC shall terminate upon the completion of:**
  - a. The submission of monitoring results to the BSDW in accordance with Items #4.b and #6, above.
  - b. Submission of updated operation and maintenance documents including:
    1. A Revised Operation and Maintenance Manual;
    2. A Current Cross Connection Control Plan; and
    3. A Current Emergency Response Plan.

Since both parties agree to the terms of this AOC, Douglas County/Sierra Country Estates PWS hereby waives its right to appeal.

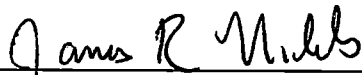
IN THE MATTER OF )  
SCE PWS - AOC )  
March 17, 2015 )  
Page 3 of 3 )

Provided that Douglas County/Sierra Country Estates PWS remains in compliance with the terms of the AOC contained herein, the NDEP will not pursue Civil Penalties or Administrative Fines permitted by NRS 445A.950 for the violations cited in the associated FOAV.



Colleen Cripps, Ph.D., Administrator  
Division of Environmental Protection

4/7/15  
Date



James Nichols, P.E.  
Douglas County Manager  
Sierra Country Estates PWS

4/6/15  
Date

Douglas County

State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

20~~th~~ day of April 20~~14~~ 15  
By  Deputy

