



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

SEP 30 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Terri McGuigan  
General Manager  
Pla-Vada Community Association  
P.O. Box 94  
Norden, CA 95724

Subject: Federal Administrative Order, EPA Docket No. PWS-AO-2008-6024  
Pla-Vada Community Association  
Public Water System (ID# CA2910011)

Dear Ms. McGuigan:


Please find enclosed a copy of an Administrative Order ("Order") issued by the United States Environmental Protection Agency ("EPA") to you in accordance with Section 1414(g) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300g-3(g). Pursuant to this Order, EPA has determined that the Pla-Vada Community Association public water system ("the System") is out of compliance with the SDWA's arsenic regulation after exceeding the maximum contaminant level ("MCL") for arsenic in 2006.

The Order requires, among other things, that you submit a compliance plan to EPA within 30 days of your receipt of this Order that describes how you intend to bring the System back into compliance with the SDWA's arsenic rule by no later than **December 31, 2010**. Violation of any term of this Order may subject you to (i) a civil judicial penalty of up to \$32,500 per day of violation for each day in which such violation occurs, assessed by the United States District Court, under SDWA sections 1414(b) and 1414(g)(3), 42 U.S.C. §§ 300g-3(b) and 300g-3(g)(3), and 40 C.F.R. § 19.4, or (ii) an administrative penalty of up to \$27,500, after notice and opportunity for a hearing, under SDWA section 1414(g)(3), 42 U.S.C. § 300g-3(g)(3). Also enclosed is an information sheet entitled "U.S. EPA Small Business Resources" that may be helpful if you are a qualified small business.

We would appreciate your cooperation and look forward to working together to meet the timeframes set forth within the Order. If you or anyone on your staff has technical

questions, please call Patrick Chan at (415) 972-3551. Legal questions should be directed to Rich Campbell in our Office of Regional Counsel at (415) 972-3870, or via e-mail at [campbell.rich@epa.gov](mailto:campbell.rich@epa.gov).

Sincerely,

  
Corine Li  
Manager  
Drinking Water Office

Enclosure:

1. Pla-Vada Community Association Order
2. U.S. EPA Small Business Information Sheet

cc: Richard L. Hinrichs, P.E., CA Department of Public Health, Redding (w/encl)  
Gary Schultz, CA DPH, Redding (w/o encl)  
Charles Brenneman, President, Pla-Vada Community Association,  
Sacramento, CA (w/o encl)  
Nick Nieffenegger, Vice President, Pla-Vada Community Association,  
Soda Springs, CA (w/o encl)  
William Ribeiro, Secretary, Pla-Vada Community Association,  
Napa, CA (w/o encl)  
Eric Lombardi, Treasurer, Pla-Vada Community Association,  
Auburn, CA (w/o encl)

1 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
2 REGION IX

3 IN THE MATTER OF:  
4 )  
5 )  
6 )  
7 )  
8 )  
9 )  
10 )  
11 )  
12 )  
13 )  
14 )

Docket No.: PWS-AO-2008-6024

Charles Brenneman, President,  
Nick Nieffenegger, Vice President,  
William Ribeiro, Secretary,  
Eric Lombardi, Treasurer,  
Terri McGuigan, General Manager,  
Pla-Vada Community Association,  
5000 Pla-Vada Drive  
Soda Springs, CA 95728

ADMINISTRATIVE ORDER

Respondents.

(California ID. No. CA2910011)

Proceedings pursuant to Section 1414(g) of the  
Federal Safe Drinking Water Act, 42 U.S.C. §  
300g-3(g)

15 I. JURISDICTION

16  
17 1. This Administrative Order ("Order") is issued under the authority vested in the  
18 Administrator of the United States Environmental Protection Agency ("EPA") by Safe Drinking  
19 Water Act ("SDWA") section 1414(g), 42 U.S.C. § 300g-3(g), and duly delegated to the  
20 Manager of the Drinking Water Office of EPA Region 9.

21 II. STATEMENT OF PURPOSE

22 2. EPA is issuing this Order to place Respondents on an enforceable schedule to comply  
23 with the SDWA's "maximum contaminant level" ("MCL") for arsenic in the drinking water  
24 delivered by Respondents to their customers. MCL is defined under 40 C.F.R. § 141.2 as the  
25 maximum permissible level of a contaminant in water that is delivered to any user of a public  
water system.

1 **III. FINDINGS**

2 3. Charles Brenneman, Nick Nieffenegger, William Ribeiro, Eric Lombardi and Terri  
3 McGuigan are individuals, and the Pla-Vada Community Association is a corporation duly  
4 incorporated under the laws of the State of California, and each is therefore a “person” within the  
5 meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, and all  
6 such persons are hereinafter referred to collectively as “Respondents.”

7 4. Respondents own and/or operate a public water system known to EPA as the “Pla-Vada  
8 Community Association public water system” (hereinafter referred to as the “System”), located  
9 in the Pla-Vada Woodlands community, Nevada County, California, for the provision to the  
10 public of piped water for human consumption.

11 5. The System has at least 15 service connections used by year-round residents or regularly  
12 serves at least 25 year-round residents and is therefore a “public water system” as that term is  
13 defined in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and a “community water system”  
14 as that term is defined in Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15), and 40 C.F.R. §  
15 141.2.

16 6. As an owner and/or operator of a public water system, each Respondent is a “supplier of  
17 water” as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40  
18 C.F.R. § 141.2. Each Respondent is therefore subject to the requirements of Part B of the  
19 SDWA, 42 U.S.C. § 300g *et seq.*, and its implementing regulations at 40 C.F.R. part 141.

20 7. The source of the System’s water is ground water from two wells described in paragraph  
21 14 below. The System serves an average of about 100 year-round residents daily through  
22 approximately 232 service connections.

23 8. On January 22, 2001, EPA lowered the arsenic MCL specified at 40 C.F.R. § 141.62(b)  
24 from 50 micrograms per liter (ug/L) to the current arsenic MCL of 10 ug/L.  
25

1 9. The State of California ("State"), acting through the California Department of Public  
2 Health ("CDPH"), has primary enforcement responsibility under Section 1413(a) of the SDWA,  
3 42 U.S.C. § 300g-2(a), to ensure that suppliers of water in California comply with the  
4 requirements of the SDWA. However, to date, CDPH has not obtained primary enforcement  
5 responsibility for the current arsenic MCL of 10 ug/L specified at 40 C.F.R. § 141.62(b).  
6 Therefore, EPA is the primacy agency responsible for enforcing the current arsenic MCL.

7 10. 40 C.F.R. § 141.6(j) provides that the current arsenic MCL of 10 ug/L specified at 40  
8 C.F.R. § 141.62(b) became effective for the purpose of compliance on January 23, 2006.

9 11. 40 C.F.R. § 141.23 requires all community water systems to conduct monitoring to  
10 determine compliance with the arsenic MCL specified at 40 C.F.R. § 141.62(b).

11 12. 40 C.F.R. § 141.23(a)(1) requires groundwater systems to take a minimum of one sample  
12 at every entry point to the distribution system after any application of treatment or in the  
13 distribution system at a point that is representative of each well after treatment (hereinafter called  
14 a sampling point). The system is required to take each sample at the same sampling point unless  
15 conditions make another sampling point more representative of each source or treatment plant.

16 13. 40 C.F.R. § 141.23(c)(1) requires groundwater systems to take one sample every 3 years  
17 at each sampling point.

18 14. In the first quarter of 2006, Respondents performed arsenic sampling at two sampling  
19 points. Specifically, on March 8, 2006, in the first quarter of 2006, Respondents collected water  
20 samples from two ground water wells referred to by Respondents as "Well 03" and "Well 04."  
21 Respondents collected water samples from "Well 03" and "Well 04" for purposes of determining  
22 compliance with the arsenic MCL in accordance with 40 C.F.R. § 141.23(c)(1). The analytical  
23 results of the sampling performed at Wells 03 and 04 revealed arsenic in drinking water at each  
24 of the two sampling points above the arsenic MCL at levels of 16.5 ug/L and 38.2 ug/L,  
25 respectively.

1 15. 40 C.F.R. § 141.23(c)(7) requires systems which detect arsenic above the arsenic MCL  
2 at 40 C.F.R. § 141.62(b) to monitor quarterly beginning in the next quarter after the detection of  
3 arsenic above the MCL occurred.

4 16. Respondents commenced quarterly monitoring in the second quarter of 2006 at Wells 03  
5 and 04 to determine compliance with the arsenic MCL in accordance with 40 C.F.R. §§  
6 141.23(c)(7) and 141.23(i)(1). The analytical results of Respondents' quarterly monitoring at  
7 Wells 03 and 04 are provided below:

8 **Sampling Point Well 03**

9

Date	Quarter (Calendar Year)	Result(s) (ug/L)
March 08, 2006	1 <sup>st</sup>	16.5
June 14, 2006	2 <sup>nd</sup>	16.7
July 12, 2006	3 <sup>rd</sup>	17.3
Monitoring was not done this quarter	4 <sup>th</sup>	0

10  
11  
12  
13  
14

15 **Sampling Point Well 04**

16

Date	Quarter (Calendar Year)	Result(s) (ug/L)
March 08, 2006	1 <sup>st</sup>	38.2
June 14, 2006	2 <sup>nd</sup>	33.4
July 12, 2006	3 <sup>rd</sup>	33.8
Monitoring was not done this quarter	4 <sup>th</sup>	0

17  
18  
19  
20  
21  
22

23 17. 40 C.F.R. § 141.23(i)(1) provides that for systems conducting quarterly monitoring,  
24 compliance with the arsenic MCL is determined by a running annual arithmetic average at any  
25 sampling point. If the average at any sampling point is greater than the MCL, then the system is

1 out of compliance, and if any one sample would cause the annual average to be exceeded, the  
2 system is out of compliance with the arsenic MCL immediately. Pursuant to 40 C.F.R. §  
3 141.23(i)(1), if a system fails to collect the required number of samples, compliance (average  
4 concentration) is based on the total number of samples collected.

5 **A. Violations of Arsenic MCL**

6 **Violation of Arsenic MCL at Sampling Point Well 03:**

7 18. The running annual arithmetic average of the analytical results of quarterly monitoring  
8 conducted at Well 03 in 2006, as described in paragraph 16 above, and as calculated pursuant to  
9 40 C.F.R. § 141.23(i)(1), was approximately 16.8 ug/L. The level of arsenic was high enough in  
10 the first, second and third quarters of 2006 such that the analytical results of arsenic sampling  
11 immediately caused the annual average of 10 ug/L for arsenic to be exceeded. The level of  
12 arsenic found at Well 03 in the first, second, and third quarters of 2006, if averaged over four  
13 quarters would be 12.6 ug/L. Therefore, pursuant to 40 C.F.R. § 141.23(i)(1), EPA has  
14 determined that the System was out of compliance with the arsenic MCL of 10 ug/L at 40 C.F.R.  
15 § 141.62(b) at Well 03 in the third quarter of 2006, specifically July 12, 2006, the date  
16 Respondents sampled for arsenic in that quarter.

17 **Violation of Arsenic MCL at Sampling Point Well 04:**

18 19. The analytical results of arsenic sampling at Well 04 revealed levels of arsenic in  
19 drinking water high enough in the first and second quarters of 2006 such that the analytical  
20 results of arsenic sampling immediately caused the annual average of 10 ug/L for arsenic to be  
21 exceeded. The level of arsenic found in Well 04 in the first and second quarters of 2006, if  
22 averaged over four quarters would be 17.9 ug/L. Therefore, pursuant to 40 C.F.R. §  
23 141.23(i)(1), Respondents violated the arsenic MCL of 10 ug/L at 40 C.F.R. § 141.62(b) at Well  
24 04 in the second quarter of 2006, specifically June 14, 2006, the date Respondents sampled for  
25 arsenic in that quarter.

1 20. Based on the nature of Respondents' violations and the available remedies, the number  
2 of days set forth below for Respondents to achieve compliance is reasonable.

3 **IV. ORDER FOR COMPLIANCE**

4 Based on the foregoing findings and conclusions of law, and pursuant to the authority of  
5 SDWA section 1414(g), 42 U.S.C. § 300g-3(g), EPA hereby ORDERS:

6 21. LETTER OF INTENT: Within 15 days of receipt of this Order, Respondents shall  
7 transmit to EPA a letter describing their intention to comply with this Order and summarizing  
8 any steps that have already been taken by Respondents to comply with the arsenic MCL.

9 22. COMPLIANCE PLAN:

10 a. Within 30 days of receipt of this Order, Respondents shall submit to EPA, at the  
11 address provided below, a draft written plan (the "Compliance Plan") for EPA's approval that  
12 describes in detail the steps Respondents will follow to return the System to compliance with the  
13 arsenic MCL at each sampling point location by the compliance deadline set forth in the next  
14 paragraph of this Order. The Compliance Plan shall include dates of completion for each of the  
15 steps Respondents will follow to return the System to compliance, which shall include, but are  
16 not to be limited to: abandonment of high arsenic wells and/or selection of treatment alternatives  
17 and/or new water source(s). In addition, the Compliance Plan shall include a description of the  
18 management controls that Respondents will put in place, pending compliance with the arsenic  
19 MCL, to minimize noncompliance with the arsenic MCL by, e.g., selecting and serving water  
20 only from those wells with the lowest arsenic concentrations. A copy of the draft Compliance  
21 Plan and any revisions thereto shall also be provided to the State for its review, at the address  
22 provided below, on the same day it is provided to EPA.

23 b. EPA may require Respondents to modify the draft Compliance Plan as necessary  
24 to effectuate Respondents' compliance with the arsenic MCL by the compliance deadline set  
25 forth in this Order. Unless otherwise specified by EPA, Respondents shall, within 15 days of

1 receipt of comments from EPA, incorporate the modifications and resubmit this revised draft  
2 Compliance Plan to EPA for approval.

3 c. After receiving EPA approval of the Compliance Plan, Respondents shall:

4 (i) Provide a copy of the final EPA-approved Compliance Plan to the State, at  
5 the address provided below within 5 days of receiving the final  
6 Compliance Plan from EPA; and

7 (ii) Comply with all steps, deadlines, and other requirements described in the  
8 final Compliance Plan.

9 23. INITIAL ATTAINMENT OF ARSENIC MCL COMPLIANCE: Respondents shall  
10 achieve compliance with the running annual average MCL for arsenic at every arsenic sampling  
11 point in Respondents' public water system no later than December 31, 2010. Respondents shall  
12 provide written notification to EPA of the date on which Respondents have met this requirement  
13 within 10 days of receiving the sampling results from the laboratory. This notification shall  
14 include the laboratory reports showing the results of the arsenic analyses conducted on samples  
15 of the water served by the System that indicate Respondents' attainment of this requirement.

16 24. CONTINUOUS COMPLIANCE WITH THE ARSENIC MCL: Following the initial  
17 attainment of compliance with the running annual average arsenic MCL pursuant to the  
18 paragraph immediately above, Respondents shall maintain continuous compliance with the  
19 arsenic MCL for all water the System serves to their customers for human consumption.

20 25. REPORTING OF ARSENIC SAMPLING RESULTS: Respondents shall report to EPA  
21 and the State the results of all arsenic monitoring conducted at the compliance sampling  
22 locations within 10 days of the end of the required monitoring period for arsenic.

23 26. QUARTERLY ARSENIC SAMPLING: Respondents shall conduct quarterly sampling  
24 for arsenic at all compliance sampling points, until directed otherwise by EPA in writing, in  
25 accordance with 40 C.F.R. § 141.23(c)(7). Respondents shall comply with additional and/or

1 more frequent arsenic sampling and analysis requirements if EPA determines in writing that  
2 these additional requirements are necessary and appropriate to assist with achieving or  
3 overseeing compliance with the arsenic MCL and/or this Order.

4 27. QUARTERLY PROGRESS REPORTS: Respondents shall submit to EPA written  
5 quarterly progress reports that describe the steps Respondents have taken pursuant to its  
6 approved Compliance Plan to achieve compliance with the arsenic MCL during the previous  
7 quarter. The first report is due April 15, 2009. Subsequent reports are due by the last day of  
8 every calendar quarter thereafter.

9 28. DELAY: If any event occurs that causes or is likely to cause delay in the achievement  
10 of any requirement of this Order within any time frame specified in this Order, Respondents shall  
11 notify EPA in writing, within 3 business days of learning of the actual or likely delay, of the  
12 anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or  
13 minimize the delay, and the timetable by which Respondents intend to implement these measures  
14 and achieve the requirement. Respondents shall adopt all reasonable measures to avoid or  
15 minimize delay. Submittal of the notice to EPA required by this paragraph does not extend any  
16 deadline or time frame in this Order.

17 29. ADDITIONAL INFORMATION: Respondents shall submit to EPA such additional  
18 documents and information as EPA may request to determine Respondents' compliance with this  
19 Order, or the arsenic MCL.

20 30. All submittals to EPA made pursuant to this Order shall be accompanied by the  
21 following certification signed by a responsible officer of the Respondents:

22 "I certify under penalty of law that this document and all attachments were  
23 prepared under my direction or supervision in accordance with a system designed  
24 to ensure that qualified personnel gather and evaluate the information submitted.  
25 Based on my inquiry of the person(s) who managed the system, or of person(s)  
directly responsible for gathering the information, I certify that the information is,  
to the best of my knowledge and belief, true, accurate and complete. I am aware  
that there are significant penalties for submitting false information, including the  
possibility of fine and imprisonment for knowing violations."

1 31. All information required to be submitted by this Order to EPA and/or the State shall be  
2 mailed to:

3 Mr. Patrick Chan  
4 Drinking Water Office  
5 U.S. Environmental Protection Agency  
6 75 Hawthorne Street (WTR-6)  
7 San Francisco, CA 94105  
8 Phone: 415-972-3551

Mr. Richard L. Hinrichs, P.E.  
Valley District Drinking Water Program  
California Department of Public Health  
415 Knollcrest Drive, Suite 110  
Redding, CA 96002  
Phone: 530-224-4800

### 7 **V. GENERAL PROVISIONS**

8 32. Notwithstanding Respondents' compliance with any requirement of this Order, the  
9 Respondents' failure to comply with all of the requirements of the SDWA and 40 C.F.R. Part  
10 141 may subject Respondents to additional enforcement actions, including but not limited to,  
11 judicial and administrative actions.

12 33. This Order shall not prohibit, prevent, or otherwise preclude EPA from taking whatever  
13 action it deems appropriate to enforce the SDWA in any manner and shall not prohibit, prevent,  
14 or otherwise preclude EPA from using this Order in subsequent administrative or judicial  
15 proceedings. Nothing in this Order shall constitute a waiver, suspension or modification of the  
16 requirements of the SDWA, or the rules and regulations promulgated thereunder, which remain  
17 in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or  
18 criminal action otherwise authorized under the law.

19 34. Violations of the SDWA and its applicable requirements may subject Respondents to a  
20 civil judicial penalty of up to \$32,500 per day per violation for each such day in which a  
21 violation occurs, as assessed by the United States District Court, under SDWA section 1414(b),  
22 42 U.S.C. § 300g-3(b). Violations of any term of this Order may also subject Respondents to (i)  
23 a civil judicial penalty of up to \$32,500 per day of violation for each such day in which a  
24 violation occurs, as assessed by the United States District Court, under SDWA sections 1414(b)  
25 and 1414(g)(3), 42 U.S.C. §§ 300g-3(b) and 300g-3(g)(3), and 40 C.F.R. § 19.4, or (ii) an

1 administrative penalty of up to \$27,500, after notice and opportunity for a hearing, under SDWA  
2 section 1414(g)(3), 42 U.S.C. § 300g-3(g)(3).

3 35. This Order does not relieve Respondents of any responsibilities or liabilities established  
4 pursuant to any applicable federal, state, or local law.

5 36. The provisions of this Order shall be severable. If any provision of this Order is found  
6 to be unenforceable, the remaining provisions shall remain in full force and effect.

7 37. The provisions of this Order shall be binding upon Respondents, their officers, directors,  
8 agents, servants, authorized representatives and successors or assigns.

9 38. This Order shall be effective on the date on which it is signed. This Order shall remain  
10 in effect until EPA notifies Respondents in writing that EPA has determined that the water  
11 provided by Respondents' System has continuously met the arsenic MCL on a continuous basis  
12 for 2 years and that the terms of the Order have been fulfilled.

13 39. Providing false or misleading information may subject you to civil and/or criminal  
14 enforcement.

15 40. EPA may amend or modify this Order by providing written notice of such amendment  
16 or modification to Respondents.

17

18 ORDERED, this 30<sup>th</sup> day of September, 2008.

19

20


21

22

23

24

25

  
Corine Li, Manager  
Drinking Water Office  
United States Environmental Protection Agency, Region 9