

NEW APPLICATION



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ORIGINAL



Memorandum
From the office of
Commissioner Andy Tobin
Arizona Corporation Commission
1200 W. WASHINGTON
PHOENIX, ARIZONA
(602) 542-3625

TO: Docket Control

DATE: May 5th, 2017

FROM: Commissioner Andy Tobin's Office

W-02015A-17-0126

SUBJECT: Request to Open New Docket

Please Open a New Docket. The title of the new docket will be:

"In the Matter of Water Outages, Water Quality and Customer Service Issues at Beaver Valley Water Company and the Need for Potential Remedial Actions."

Arizona Corporation Commission

DOCKETED

MAY 05 2017

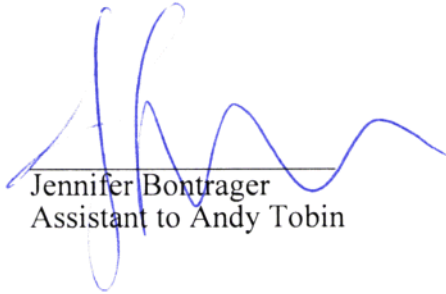
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2017 MAY -5 P 4: 08

CERTIFICATION OF SERVICE

On this 5th day of May, 2017, the foregoing document was filed with Docket Control as a correspondence from Commissioner Andy Tobin, and copies of the foregoing were mailed on behalf of Commissioner Andy Tobin to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

By:



Jennifer Bontrager
Assistant to Andy Tobin

Timothy La Sota
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Elijah Abinah
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

COMMISSIONERS
TOM FORESE - Chairman
BOB BURNS
DOUG LITTLE
ANDY TOBIN
BOYD W. DUNN



ANDY TOBIN
COMMISSIONER

Direct Line: (602) 542-3625
Email: Tobin-Web@azcc.gov

ARIZONA CORPORATION COMMISSION

May 5, 2017

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

RE: In the Matter of Water Outages, Water Quality, and Customer Service Issues at Beaver Valley Water Company and the Need for Potential Remedial Actions

Dear Commissioners and Other Interested Parties:

Today, I received a letter from the Arizona Department of Environmental Quality (ADEQ) informing me that Beaver Valley Water Company (Beaver Valley), a Commission-regulated water utility, is out of compliance with several drinking water compliance items. A more in-depth review of Beaver Valley's regulatory history reveals a troubling pattern of blatant disregard for its customers, this Commission and the state's other regulatory agencies charged with ensuring safe and reliable water service.

In my capacity as Chairman of the Water Committee, I intend to hold a hearing in or near Beaver Valley's service territory to provide customers an opportunity to share their experience of receiving water service with the Commission and to determine whether remedial actions should be taken to address the immediate water quality and reliability concerns raised by ADEQ and others.

Sincerely,

A handwritten signature in black ink that reads "Andy M. Tobin".

Andy Tobin
Commissioner

Attachment:

May 5, 2017 Letter from ADEQ, *et al.* RE: Beaver Valley Water Company



Douglas A. Ducey
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera
Director

May 5, 2017

Arizona Corporation Commission
Attn: Andy Tobin, Commissioner
1200 West Washington Street
Phoenix, Arizona 85007-2927

Re: Beaver Valley Water Company

Commissioner Tobin,

This letter is to inform you that Beaver Valley Water Company (Beaver Valley) is currently out of compliance with Compliance Order DW-39-15, issued November 2, 2015 (Attachment A), and upheld by Administrative Law Judge Decision on March 18, 2016 (Attachment B). A Final Decision and Order was issued by ADEQ on April 4, 2016 (Attachment C). An Administrative Notice of Violation was issued on June 16, 2016, for failure to comply with the Order (Attachment D).

The remaining open compliance condition (Attachment A), requires Beaver Valley to replace the media in the system's sand filter with an ANSI/NSF Standard 61 certified filter media or disconnect the sand filter from the groundwater source. To date, Beaver Valley has failed to do either and remains out of compliance with the Order. Attempts by ADEQ to assist Beaver Valley in achieving compliance have been unsuccessful.

In order to achieve compliance with the surface water treatment technique violation in the Order Beaver Valley disconnected and deactivated their surface water source. Beaver Valley cannot reconnect the surface water system and serve surface water to its customers until it obtains a Department-approved surface water treatment process that meets the required filtration and disinfection criteria. Billing and usage summaries from 2016 provided by Beaver Valley (Attachment E) indicate that the current storage capacity of 20,000 gallons met the average daily demand during the peak summer months; however, ADEQ believes that if the voluntary water restrictions put in place during 2016 and continuing to date are lifted, Beaver Valley would be unable to meet the minimum storage capacity required by rule without increased storage capacity or adding an additional source of water.

On February 28, 2017, ADEQ began receiving complaints from Beaver Valley customers of service disruptions due to break in a water line that crosses the Verde River, as well as

complaints about the materials and methods used for the temporary line repair. As part of these complaints ADEQ received photographs (Attachment F through H) taken by Beaver Valley customers of the discoloration and increased turbidity of their water when service was restored after attempts were made to repair the line. According to Beaver Valley representatives the temporary line repair may be in place until this fall. Based upon the length of time until the final repair is in place and the nature of the engineering of the temporary line repair ADEQ is concerned that the temporary repair will not be able to reliably and consistently deliver water to the customers.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Matas', followed by a large, horizontal oval flourish.

Randall Matas
Deputy Director, Water Quality Division
Arizona Department of Environmental Quality

Attachments:

- Attachment A – Compliance Order DW-39-15
- Attachment B – Administrative Law Judge Decision No. 16A-DW039-DEQ
- Attachment C – Final Decision and Order No. 16A-DW039-DEQ
- Attachment D – Administrative Notice of Violation, Case #163000
- Attachment E – Beaver Valley Billing and Usage Statement for June and July 2016
- Attachment F, G, H – Beaver Valley Customer photographs from April 25, 2016



**BEFORE THE DIRECTOR OF THE
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

In the Matter of:)
)
) **COMPLIANCE ORDER**
 Beaver Valley Water Co. located at P.O. Box)
 421 Payson, Gila, Arizona)
)
)
 Public Water System Number 04-004)
) **Docket No. DW-39-15**
)
)
)

The Director of the Arizona Department of Environmental Quality (ADEQ) has determined that Beaver Valley Water Company is violating the Arizona Revised Statutes (A.R.S.), the rules adopted pursuant to the A.R.S., or a permit issued pursuant to the A.R.S. As a result, the Director is issuing this Order requiring compliance within a reasonable time as specified below.

I. AUTHORITY

The Director is authorized to issue this Order pursuant to A.R.S. §49-354

II. NATURE OF VIOLATIONS

The Director alleges that Beaver Valley Water Company has violated the following provisions of A.R.S., the Arizona Administrative Code (A.A.C.), or an ADEQ issued permit:

A. 40 C.F.R. §141.71(c)(1)(i)

Treatment technique violations. A system that fails to meet any one of the criteria in paragraphs (a) and (b) of C.F.R. §141.70(a)(1-2) and/or which the Department has determined that filtration is required, in writing pursuant to § 1412(b)(7)(C)(iii)

Beaver Valley Water Company is classified as a surface water system, consisting of a surface water intake in the Verde River and a ground water well #55-631548. A surface water treatability assessment dated April 1, 1999 concluded that Beaver Valley Water Company does not have a Department approved surface water treatment process in place that can achieve, 3-log removal of *Giardia lamblia* cysts or 4-log removal of viruses in accordance with C.F.R. § 141.70(1)&(2). On November 22, 2000, and on April 05, 2006, it was noted that the surface water intake was the primary source with the well being used

as a backup source. An Inspection dated May 07, 2007 noted that the well had been physically disconnected from the water system. An inspection dated June 16, 2008 noted that the Verde River is the primary source with the well kept as a back-up source when the river experiences low flows. An inspection dated July 25, 2011 notes that Mr. Davoren explained that the well was the primary source and is treated as surface water, and the intake in the Verde River was currently the backup source. During an inspection dated September 01, 2015 it was noted that Mr. Davoren stated that the groundwater well was the primary source of drinking water and that he had decided against inactivating the surface water intake because he needs it as a backup source in the summer during periods of high demand.

B. A.A.C. R18-4-213(A)

Direct addition of a product to water during the production or treatment that does not conform to ANSI/NSF Standard 60.

During the September 01, 2015 inspection the owner Michael Davoren stated that media in the pressure filters has never been completely replaced and when he needs to add new sand he obtains it from Home Depot. He did not provide any documentation that the sand is the correct size and grade and conforms to the ANSI/NSF 60 standard.

C. 40 C.F.R. §141.152(b)/40 C.F.R. §141.155(a)

Failure of a community water system to mail or otherwise directly deliver a copy of its Consumer Confidence Report (CCR) to each customer by July 1, Annually.

Beaver Valley Water Co. did not mail, post or otherwise directly deliver a copy of its Consumer Confidence Report to each consumer by July 1, for the years; 2011, 2012, 2013, & 2014.

D. 40 C.F.R. §141.152(b)/40 C.F.R. §141.155(c)

Failure of a community water system to mail a copy of its Consumer Confidence Report to ADEQ by July 1st annually.

Beaver Valley Water Co. did not submit a copy of its Consumer Confidence Report to ADEQ for the years 2011, 2012, 2013, & 2014.

E. A.A.C. R18-5-503(A)

Failure to provide the required minimum storage capacity for a community water system or a non-community water system that serves a residential population or a school.

On the date April 01, 1999 ADEQ on behalf of the Water Infrastructure Finance Authority completed a Surface water Treatability Assessment that determined that Beaver Valley Water Co. was not equipped to provide a minimum of storage capacity of 40,000 gallons for this community water system that serves a residential area.

III. TIME FOR COMPLIANCE

IT IS ORDERED that Beaver Valley Water Company complies by taking the specific actions described below:

- 12/15
- A. Immediately upon the effective date of this Order, Beaver Valley Water Company will cease serving surface water to its customers. Beaver Valley shall disconnect and submit documentation to deactivate their surface water system to ADEQ. Beaver Valley Water Company shall not serve surface water to its customers or reconnect the surface water system until it obtains a department approved surface water treatment process in place that can achieve 3-log removal of *Giardia lamblia* cysts or 4-log removal of viruses in accordance with C.F.R. § 141.70(1)&(2).
 - B. Within thirty (30) calendar days of the effective date of this Order, Beaver Valley Water Company shall submit an application for an Approval to Construct for the addition of 20,000 gallons of storage to bring Beaver Valley Water Company's total storage capacity to 40,000 gallons. Beaver Valley Water Company shall address any deficiencies necessary to process the application within timeframes established by ADEQ.
 - C. Within sixty (60) calendar days, Beaver Valley Water Company shall connect the storage tanks to the water system and submit an Approval of Construction application for the addition of 20,000 gallons of storage to bring Beaver Valley Water Company's total storage capacity to 40,000 gallons. Beaver Valley Water Company
- 1/14

shall address any deficiencies necessary to process the application within the timeframes established by ADEQ.

- 12/15
- D. Within thirty (30) calendar days of this effective date of this Order, Beaver Valley Water Company shall replace the media in the pressure sand filter with an ANSI/NSF 60 certified filter media. Beaver Valley Water Company may choose to disconnect the media from the groundwater source in lieu of replacing the media.

IV. RIGHT TO HEARING AND INFORMAL SETTLEMENT CONFERENCE

A. Beaver Valley Water Company has a right to a hearing before an administrative law judge to dispute this Order. A notice of appeal or request for hearing must be made:

1. In writing;
2. Specifically identify those parts of this Order that Beaver Valley Water Company disputes; and
3. Be made within 30 calendar days of receiving this Order.

B. If Beaver Valley Water Company properly requests a hearing, Beaver Valley Water Company has a right to request an informal settlement conference under A.R.S. § 41-1092.06. A request for an informal settlement conference must be requested with ADEQ no later than 20 calendar days before the hearing.

C. Beaver Valley Water Company must submit all notices of appeal, requests for hearing, and requests for an informal settlement conference in writing to ADEQ at the following address:

Arizona Department of Environmental Quality
Office of Administrative Counsel
Attention: Hearing Administrator
1110 West Washington Street
Phoenix, Arizona 85007-2935

V. ENFORCEMENT OF ORDER

This Order becomes final and enforceable in superior court [within 30 calendar days] of Beaver Valley Water Company receiving it, unless Beaver Valley Water Company properly requests a hearing as explained in Section IV. Right to Hearing and Informal Settlement Conference. If Beaver Valley Water Company appeals this Order, the Order becomes final and enforceable on the date that Beaver Valley Water Company receives the Director's final decision on the appeal.

VI. VIOLATION OF ORDER

If Beaver Valley Water Company fails to comply with this Compliance Order, Beaver Valley Water Company can be liable for other administrative or judicial sanctions, including civil penalties under A.R.S. § 49-354, the same as if for a violation of any State or Federal environmental law. Civil administrative penalties may not exceed one hundred dollars per day per violation up to one thousand dollars per violation.

VII. CORRESPONDENCE

Beaver Valley Water Company must mail or hand deliver all correspondence, such as invoices, photographs, logs, laboratory analyses, sealed engineering plans, technical drawings, permits or any other document(s) necessary to establish compliance or required by this Order to:

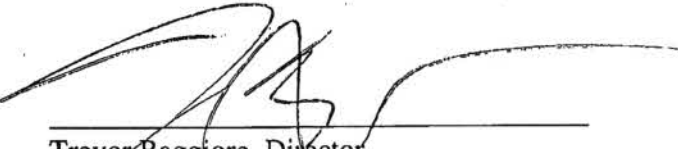
Arizona Department of Environmental Quality
Water Quality Division
Attention: Mario Casillas, Environmental Science Specialist II
1110 West Washington Street
Phoenix, Arizona 85007-2935
Telephone: 602-771-4359
Email: mc9@azdeq.gov

Any submission to ADEQ is treated as submitted when ADEQ receives it.

VIII. RESERVATION OF RIGHTS

By issuing this Order, ADEQ still has the right to seek appropriate penalties or injunctive relief in superior court for violations of the Arizona Revised Statutes, any rule, permit, or order promulgated or issued, or any other applicable environmental statute or legal authority.

Signed this 2nd day of November, 2015.



Trevor Baggione, Director
Water Quality Division
Arizona Department of Environmental Quality

ORIGINAL of this Compliance Order was sent certified mail, return receipt requested, this ^{3rd} day of November, 2015, to:

CC: Via certified mail, return receipt requested on:

Michael Davoren
P.O. Box 421
Payson, AZ 85547

CC: on :
Arizona Department of Environmental Quality
Office of Administrative Counsel
Attention: Hearing Administrator
1110 West Washington Street
Phoenix, Arizona 85007-2935

Tamara Huddleston, Chief Counsel, Environmental Enforcement Unit
Office of the Attorney General
1275 West Washington Street
Phoenix, AZ 85007

Mindi Cross, Manager, Water Quality Compliance Section
Mario Casillas, Environmental Science Specialist II Water Quality Inspections & Compliance Unit
David Dunaway, Water Quality Monitoring & protection Unit
Patrick Chan, EPA Region IX, Drinking Water Section

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In The Matter Of:

No. 16A-DW039-DEQ

4
5 Beaver Valley Water Co.

ADMINISTRATIVE LAW JUDGE

DECISION

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7
8 Public Water System Number 04-004
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11
12
13

14 **HEARING:** March 7, 2016, at 1:00 p.m.

15 **APPEARANCES:** Beaver Valley Water Co. (hereinafter "Appellant") appeared
16 through its authorized representative, Jeff Daniels. The Arizona Department of
17 Environmental Quality (hereinafter "Department") was represented by Assistant
18 Attorney General, Ryan J. Regula.

19 **ADMINISTRATIVE LAW JUDGE:** M. Douglas
20

21 The Department issued Compliance Order DW-39-15 to Appellant. Appellant
22 disagreed with the Compliance Order and requested a hearing.
23

24 **FINDINGS OF FACT**

25 **Background and Procedure**

- 26 1. Appellant is classified as a surface water system, consisting of a surface water
intake in the Verde River and a ground water well.
27 2. On November 2, 2015, the Department issued a Compliance Order alleging that
Appellant had violated state regulations related to water quality.¹
28 3. Appellant requested a hearing and on January 20, 2016, the Department issued
29 a Notice of Hearing setting the matter for March 7, 2016.
30

1 4. The Compliance Order lists five (5) alleged violations: (1) Surface Water
2 Treatment, (2) Improper Sand Media in the Filter, (3) Consumer Confidence Reports to
3 Customers, (4) Consumer Confidence Reports to the State, and (5) Storage Capacity.
4 The parties agreed that two (2) alleged violations regarding Consumer Confidence
5 Reports to Customer and Consumer Confidence Reports to the State had been
6 resolved.

7 5. Evidence and testimony were presented regarding the remaining three (3)
8 issues of (1) Surface Water Treatment, (2) Improper Sand Media in the Filter, and (3)
9 Storage Capacity. The Department presented the testimony of Environmental
10 Specialist II Mario A. Casillas (hereinafter "Mr. Casillas") and four exhibits. Appellant
11 presented the testimony of its operator, Jeffrey T. Daniels (hereinafter "Mr. Daniels").

12 Hearing Evidence

13 Surface Water Treatment

14 6. Mr. Casillas testified that he has been employed by the Department for three (3)
15 years. Mr. Casillas stated that he conducts inspections for various water regulations for
16 the Department. Mr. Casillas reviewed the Compliance Order. Mr. Casillas said that he
17 had performed an onsite visit to Appellant's water facility twice in the last year and that
18 he has reviewed Appellant's file with the Department.

19 7. Mr. Casillas testified that any surface water system that sells water to the public
20 must provide a minimum 3-log removal of Giardia lamblia cysts (99.9%) or 4-log
21 (99.99%) removal of viruses. Mr. Casillas stated that Appellant currently has a surface
22 water intake in the Verde River and a well. Mr. Casillas said that if a facility uses "one
23 drop" of surface water it is considered to be a surface water system. Mr. Casillas said
24 that a surface water treatability assessment dated April 1, 1999 concluded that
25 Appellant does not have a Department approved surface water treatment process in
26 place that that can achieve 3-log removal of Giardia lamblia cysts or 4-log removal of
27 viruses in accordance with C.F.R. § 141.70(a)(1-2). Mr. Casillas said that Appellant had
28 a history of "going back and forth" from surface water to ground water. Mr. Casillas said
29 that Appellant does not have a Department approved surface water treatment process
30

¹ See Exhibit 1 (Compliance Order).

1 in place complies with applicable statutory and rule requirements. Mr. Casillas that
2 Appellant could achieve compliance by disconnecting from the surface water source or
3 by an ATC (approval to construct) to upgrade Appellant's treatment system and to
4 demonstrate to the Department that Appellant's upgraded treatment process can
5 achieve 3-log removal of Giardia lamblia cysts or 4-log removal of viruses in
6 accordance with C.F.R. § 141.70(a)(1-2). Mr. Casillas said that from visiting the
7 Appellant's facility it does not appear that Appellant is currently using surface water.

8 8. Mr. Daniels testified that to his best knowledge Appellant's use of a combination
9 of a sand filter and a cartridge filter cleans the water to the level of the 3-log removal or
10 4-log removal in accordance with C.F.R. § 141.70(a)(1-2). Mr. Daniels stated that he is a
11 level 2 operator approved by the Department. Mr. Daniels said that the Department has
12 inspected Appellant's water system every year and that the Department has not had any
13 issues with Appellant's water system in the past.

14 Improper Sand Media in the Filter

15 9. Mr. Casillas testified that any product that comes into contact with water or a
16 water treatment facility shall conform to ANSI/NSF Standards which includes carbon or
17 other filter media. Mr. Casillas stated that the Compliance Order states ANSI/NSF
18 Standard 60 rather than ANSI/NSF Standard 61. Mr. Casillas said that the Department
19 would accept either Standard 60 or Standard 61. Mr. Casillas opined that there was
20 minimal difference if any.

21 10. Mr. Casillas testified that the sand media in the filter needs to be a particular
22 size to fulfill its intended function. Mr. Casillas stated that over time the sand material
23 gets "rounded off" and is no longer capable of doing its job. Mr. Casillas said that sand
24 media has to be replaced over a certain period of time and the replacement sand media
25 must comply with ANSI/NSF standards. Mr. Casillas said that he asked the Appellant's
26 owner, Mr. Davoren, if he had ever replaced the sand media. Mr. Casillas said that Mr.
27 Davoren informed him that the sand media has never been completely replaced and
28 that when Appellant needs to add new sand media it obtains new sand media from
29 Home Depot. Mr. Casillas said that he called the Home Depot closest to Appellant and
30 determined that it does not carry the correct size and type of sand media necessary to
conform to applicable ANSI/NSF standards. Mr. Casillas said that Appellant did not

1 provide any documentation that the sand media that Appellant had utilized in the filter
2 conforms to the required ANSI/NSF standard. Mr. Casillas said that Appellant can
3 comply with the Compliance Order by replacing the media in the filter with media that
4 complies with applicable ANSI/NSF standards. Mr. Casillas said that Appellant was still
5 utilizing the pressure sand filter.

6 11. Mr. Casillas testified that Appellant failed to go through the approval process for
7 the cartage filter that Appellant utilizes in addition to the sand filter. Mr. Casillas said
8 that cartage filter was put on line after the 1999 water treatability assessment report.

9 12. Mr. Daniels testified that he believes that the original sand media in the filter
10 was the correct sand. Mr. Daniels stated that the Home Depot sand was special
11 ordered and was the correct type of sand. Mr. Daniels acknowledged that he did not
12 have proof of the type of sand that was ordered from Home Depot. Mr. Daniels said
13 that Appellant's certification should not be cancelled over sand. Mr. Daniels said that
14 the Appellant was making every effort to locate the correct sand for the filter. Mr.
15 Daniels said that his interpretation of statutory requirements is that if Appellant used
16 clean Celica sand it would be acceptable because Celica sand has never been proven
17 to have contributed to water contamination.

18 Storage Capacity

19 13. Mr. Casillas testified that that any water system that serves a residential
20 community with a school must have a storage capacity that meets average daily
21 demands for the community. Mr. Casillas stated that based on the April 1, 1999
22 Surface Water Treatability Assessment stated that the Appellant was not equipped to
23 provide a minimum of storage capacity of 40,000 gallons. Mr. Casillas said that the
24 average daily demand in 1998 was around 35,000 gallons. Mr. Casillas said that the
25 35,000 gallons a day was multiplied by a factor of 1.2 to result in the determination that
26 Appellant needed to have a storage capacity of approximately 40,000 gallons. Mr.
27 Casillas said that the Appellant currently has a storage capacity of approximately
28 20,000 gallons. Mr. Casillas said that he observed two 10,000 gallon tanks at
29 Appellant's facility that could be brought online. Mr. Casillas said that the Appellant
30 would have to apply for and obtain approval to construct the storage tanks and then
obtain an approval of the construction of the storage tanks. Mr. Casillas said that

1 Department approval would require that an engineer actually inspect and approve the
2 already constructed tanks before they could be brought online.

3 14. Mr. Daniels testified that the Department's numbers regarding storage capacity
4 were outdated. Mr. Daniels stated that based on billing summaries for the last year for
5 Appellant's water system the correct numbers would be just over 20,000 gallons. Mr.
6 Daniels asserted that Appellant met the storage requirements. Mr. Daniels said that the
7 Appellant is also wants to be put two 10,000 gallon storage tanks in service. Mr.
8 Daniels disputed the requirement for the Appellant to obtain approval to construct from
9 the Department because the cost of bringing the storage tanks would be only a few
10 hundred dollars. Mr. Daniels said that no approval to construct or approval of
11 construction was required for projects under \$12,500.00 in value. Mr. Daniels asserted
12 that Appellant was doing its best to comply with the Department's requirements.

13 CONCLUSIONS OF LAW

- 14 1. The Department bears the burden of persuasion.²
- 15 2. The standard of proof on all issues is that of a preponderance of the evidence.³
- 16 3. A preponderance of the evidence is "[e]vidence which is of greater weight or more
17 convincing than the evidence which is offered in opposition to it; that is, evidence which
18 as a whole shows that the fact sought to be proved is more probable than not." BLACK'S
19 LAW DICTIONARY 1182 (6th ed. 1990).

20 Surface Water Treatment

21 4. Mr. Casillas credibly testified that any surface water system that sells water to
22 the public must provide a minimum 3-log removal of Giardia lamblia cysts (99.9%) or 4-
23 log (99.99%) removal of viruses. Mr. Casillas stated that Appellant currently has a
24 surface water intake in the Verde River and a well. Mr. Casillas said that if a water
25 system uses "one drop" of surface water it is considered to be a surface water system.
26 Mr. Casillas said that a surface water treatability assessment dated April 1, 1999
27 concluded that Appellant does not have a Department approved surface water
28 treatment process in place that that can achieve 3-log removal of Giardia lamblia cysts
29 or 4-log removal of viruses in accordance with C.F.R. § 141.70(a)(1-2). The

30 ² A.R.S. § 41-1092.07(G)(3).

³ A.A.C. R2-19-119.

1 preponderance of evidence shows that Appellant has violated 40 C.F.R. §
2 141.70(a)(1)&(2) & A.A.C. R18-4-110, and that these violations are on-going.

3 Improper Sand Media in the Filter

4 5. Mr. Casillas credibly testified that any product that comes into contact with water
5 or a water treatment facility shall conform to ANSI/NSF Standards which includes
6 carbon or other filter media. Mr. Casillas stated that the sand media in the filter needs
7 to be a particular size to fulfill its intended function. Mr. Casillas said that over time the
8 sand material gets "rounded off" and is no longer capable of doing its job. Mr. Casillas
9 said that Appellant did not provide any documentation that the sand media that
10 Appellant had utilized in the filter conforms to the required ANSI/NSF standard. Mr.
11 Casillas said that Appellant failed to go through the approval process for the cartage
12 filter that Appellant utilizes in addition to the sand filter. The preponderance of the
13 evidence shows that Appellant has violated A.A.C. R18-4-213(A), and that these
14 violations are on-going.

15 Storage Capacity

16 6. Mr. Casillas credibly testified that that any water system that serves a residential
17 community with a school must have a storage capacity that meets average daily
18 demands for the community. Mr. Casillas said that based on the April 1, 1999 Surface
19 Water Treatability Assessment stated that the Appellant was not equipped to provide a
20 minimum of storage capacity of 40,000 gallons. Mr. Casillas said that the average
21 daily demand in 1998 was around 35,000 gallons. Mr. Casillas said that the 35,000
22 gallons a day was multiplied by a factor of 1.2 to result in the determination that
23 Appellant needed to have a storage capacity of approximately 40,000 gallons. Mr.
24 Casillas said that the Appellant currently has a storage capacity of approximately
25 20,000 gallons. The preponderance of the evidence shows that Appellant has violated
26 A.A.C. R18-5-503(A), and that these violations are on-going.

27 7. The Compliance Order requires Appellant to rectify the existing and on-going
28 violations within a reasonable timeframe.

29 RECOMMENDED ORDER

30 **IT IS RECOMMENDED** that the Director of the Arizona Department of Environmental
Quality issue a Final Decision and Order enforcing the Compliance Order.

1 Done this day, March 18, 2016.

2
3 /s/ M. Douglas
4 Administrative Law Judge

5
6 Transmitted electronically to:

7 Misael Cabrera, PE, Director
8 Department of Environmental Quality
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BEFORE THE DIRECTOR OF THE
DEPARTMENT OF ENVIRONMENTAL QUALITY

In the matter of:

Beaver Valley Water Company
Public Water System ID: 04-004

No. 16A-DW039-DEQ

FINAL DECISION AND ORDER

Disposition of the Recommended Decision of the Administrative Law Judge

The Director has reviewed the Administrative Law Judge (ALJ) Decision and Order, as well as the complete record in this matter. The ALJ has recommended the Director of the Arizona Department of Environmental Quality (ADEQ) issue a Final Decision and Order enforcing Compliance Order DW-39-15 (Order), issued by ADEQ on November 2, 2015.

This recommendation is made based upon the ALJ's finding that ADEQ's credible testimony met the burden of persuasion, by a preponderance of the evidence, that appellant Beaver Valley Water Company is required by law to comply with the Order.

Pursuant to Arizona Revised Statute (ARS) §41-1092.08(B) the Director of ADEQ accepts the ALJ Decision and Order.

ORDER

This is the Final Decision of the Director of ADEQ. It is ORDERED that Beaver Valley Water Company comply with the Order in the manner described in Section III of the Order, "Time for Compliance."

Notice of Right to Request a Rehearing or Review

A party to this matter may file a Motion for Rehearing or Review within thirty (30) days after service of this Final Decision and Order pursuant to A.R.S. § 41-1092.09. A party is not required to file a Motion for Rehearing or Review to seek judicial review of this Final Decision and Order. A.R.S. § 41-1092.09(A)(3).

1 DATED this 4th day of April, 2016.

2 
3 _____

4 Misael Cabrera, Director
5 Arizona Department of Environmental Quality

6 **ORIGINAL** filed this 4th day of April, 2016, with:

7 Lorena Ayala, Hearing Administrator
8 Office of Administrative Counsel
9 Arizona Department of Environmental Quality
10 1110 W. Washington Street, #6135C
Phoenix, AZ 85007

11 Copy of the forgoing sent certified mail this 4th day of April, 2016, to:

12 Michael Davoren
13 P.O. Box 421
14 Payson, AZ 85547

15 Jeff Daniels
16 Beaver Valley Water Company
17 173 S. Blackfoot Road
Payson, AZ 85541

18 Copy of the foregoing sent via email this 4th day of April, 2016, to:

19 M. Douglas
20 _____
21 Administrative Law Judge
22 Office of Administrative Hearings
1400 W. Washington, Suite 101
Phoenix, AZ 85007

23 Mindi Cross
24 ADEQ Water Quality Division
25 1110 W. Washington Street
26 Phoenix, AZ 85007
27
28

1 Ryan Regula, Assistant Attorney General
2 Environmental Enforcement Section
3 Office of the Attorney General
4 1275 W. Washington
5 Phoenix, AZ 85007

6 Carol Gilbert, Legal Assistant
7 Administrative Appeals Desk
8 Environmental Enforcement Section
9 Office of the Attorney General
10 1275 W. Washington
11 Phoenix, AZ 85007

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SEP - 8 2016

WATER QUALITY COMPLIANCE SECTION

Beaver Valley Water Company

Period Billing Summary

	Usage	5/8x3/4 meter	Other Amount	Other Amount	Sewer	Local Tax	County Tax	State Tax	Late Fee	Period Total	Previous Balance	New Balance
Total	99580	1112.25	0.00	0.00	0.00	7.22	0.00	84.54	0.00	1204.01	76.05	1280.06
Total	475780	7730.70	-111.16	0.00	0.00	50.28	0.00	587.61	0.00	8257.43	2550.63	10808.06
Total	9960	102.32	0.00	0.00	0.00	0.67	0.00	7.78	0.00	110.77	0.00	110.77
Report Totals	585320	8945.27	-111.16	0.00	0.00	58.17	0.00	679.93	0.00	9572.21	2626.68	12198.89
# of Customers Billed		203	0	0	0							

Tuesday, July 12, 2016

JUNE USAGE

Beaver Valley Water Company

Period Billing Summary

	Usage	5/8x3/4 meter	Other Amount	Other Amount	Sewer	Local Tax	County Tax	State Tax	Late Fee	Period Total	Previous Balance	New Balance
Total	77770	1088.31	0.00	0.00	0.00	7.04	0.00	82.67	0.00	1178.02	170.30	1348.32
Total	319970	6853.40	-290.33	0.00	0.00	44.63	0.00	520.99	0.00	7128.69	2609.12	9737.81
Total	5730	80.32	0.00	0.00	0.00	0.52	0.00	6.10	0.00	86.94	0.00	86.94
Report Totals	403470	8022.03	-290.33	0.00	0.00	52.19	0.00	609.76	0.00	8393.65	2779.42	11173.07
# of Customers Billed		203	0	0	0							

Monday, August 08, 2016

July USG





