



COMMONWEALTH OF VIRGINIA

State Board of Health
Order Number 6-2004-(04)

**CONSENT ORDER ISSUED TO C. RAY KELLOGG, PRESIDENT, CENTRAL WATER
SYSTEMS, INC., OWNER OF THE DEER RUN WATERWORKS**

This is an Order issued by the State Board of Health (referred to below as the "Board") of the Commonwealth of Virginia under authority granted by Title 32.1 of the *Code of Virginia*, 1950, as amended, (the "*Code*") to C. Ray Kellogg, President, Central Water Systems, Inc., owner of the Deer Run Waterworks.

A. AUTHORITY

1. Section 32.1-12 of the *Code* authorizes the Board to adopt and enforce regulations protecting public health and welfare. Section 32.1-169 of the *Code* authorizes the Board to exercise supervision and control over all water supplies and waterworks in the Commonwealth, Section 32.1-170 authorizes the Board to adopt regulations governing waterworks, and Section 32.1-174 requires a written permit for the construction and operation of a waterworks. Section 32.1-167 of the *Code* defines "waterworks" to mean a system that serves piped water for drinking or domestic use to the public, at least fifteen connections, or an average of 25 individuals for at least 60 days out of the year. Consistent with and in order to implement this authority, the Board lawfully adopted the *Virginia Waterworks Regulations (Regulations)*, §12 VAC 5-590 *et seq.*, in 1974 and lawfully amended them in 1977, 1979, 1982, 1991, 1993, and 1995.
2. Sections 32.1-12 and 32.1-27 authorize the Board to enforce regulations it adopts, and Section 32.1-26 authorizes the Board to issue orders requiring compliance with any law or regulation administered by the Board. The Board may issue an order to a waterworks owner following an informal hearing held in accordance with §12 VAC 5-590-160 1 of the *Regulations* and Section 2.2-4019 of the *Code*. Sections 32.1-27, 32.1-174 and 32.1-176 provide that a violation of a regulation adopted, or an order issued, by the Board may result in payment of civil charges as ordered by the Board with the Owner's consent, revocation by the Commissioner of any applicable waterworks operation permit, or imposition of injunctive relief, civil penalties or criminal punishment by an appropriate state court.
3. Section 12 VAC 5-590 *et seq.* of the *Regulations* govern the design, maintenance, and operation of waterworks in the Commonwealth, and serve to implement the federal Safe

Drinking Water Act of 1974, as amended in 1986 and 1996, 42 U.S.C. Section 300f *et seq.*, and the National Primary Drinking Water Regulations, 40 C.F.R. Part 141. The *Regulations* are codified in Title 12 of the Virginia Administrative Code (VAC) and are available from the Virginia Department of Health (VDH) upon request.

B. BACKGROUND

1. The Deer Run Waterworks is located in Isle of Wight County, Virginia. The Deer Run Waterworks is a "waterworks," as defined by Section 32.1-167 of the *Code* and by §12 VAC 5-590-10, and is a "community system," as defined by §12 VAC 5-590-10 of the *Regulations*. The Deer Run waterworks consists of one drilled well, a hydropneumatic tank, ground storage tank, twin booster pumps, and the distribution system. The waterworks serves piped water for drinking and domestic use to approximately 104 residents, and has 28 connections. Operation of the waterworks is the subject of Permit Number 3093210, issued to Central Water Systems, Incorporated dated February 10, 1995. Attached are copies of the Waterworks Operation Permit and Engineering Description Sheet.

C. FINDINGS

1. The available factual data support the conclusion, and Central Water Systems, Inc. agrees, that the Central Water System has violated the *Regulations* for:
 - A. Exceeding the non-acute Primary Maximum Contaminant Level (PMCL) for fluoride during the compliance period of July 1, 2003 to December 31, 2003 pursuant to § 12 VAC 5-590-410, § 12 VAC 5-590-370 B and Table 2.2 of the *Regulations*.

D. ORDER FOR COMPLIANCE


1. So that the Waterworks may return to, and be continually operated in, compliance with the *Regulations*, the Board orders Central Water Systems Inc.:
 - A. To collect quarterly fluoride samples from the Deer Run waterworks and have them analyzed as required by § 12 VAC 5-590-370 B 1 d (2)(h) of the *Regulations*, effective the date of this order.
 - B. To provide quarterly public notice to residents of the Deer Run waterworks (as long as the violation exists) as required by § 12 VAC 5-590-540 of the *Regulations*, effective the date of this order.
 - C. Submit a quarterly public notification completion form to VDH as required by §12 VAC 590-540 of the *Regulations*, effective the date of this order.
 - D. To connect to an approved water system below the Primary Maximum Contaminant Level for fluoride, or to reduce the concentration of fluoride entering Deer Run waterworks distribution system below the Primary Maximum Contaminant Level of

4.0 mg/L for a new source or within the optimal range of 0.8 to 1.0 mg/L if treatment, including blending, is utilized. Central Water Systems, Inc. shall comply with the fluoride standard as specified above within 36 months of the date of this order.

2. Central Water Systems, Inc. knowingly WAIVES its right to further hearings or challenges, whether civil or administrative, on this Order and specifically WAIVES its right to a hearing under sections 2.2-4019 or 2.2-4020 as a predicate for this Order. Central Water Systems, Inc. also knowingly WAIVES its right to written findings of fact and conclusions of law to support this Order. Central Water Systems, Inc. consents to the issuance of the Order freely, voluntarily, and after an opportunity to consult counsel of its choice.
3. This Order does not suspend, minimize, or otherwise alter Central Water Systems, Inc.'s obligation to comply with federal, state, or local laws and regulations. The Board waives no lawful means of enforcing the laws it administers, the regulations it has adopted, or this Order.
4. This Order shall become effective upon execution by the Board or its designee. Any request for modification of this Order must be submitted to VDH in writing to be considered for approval by the Board or its designee. The Board may revoke this Order in its discretion upon thirty days written notice to Central Water Systems, Inc.

It is SO ORDERED at Richmond, this 20th day of October, 2004.

STATE BOARD OF HEALTH


Robert B. Stroube, M.D., M.P.H.
State Health Commissioner

CONSENT TO THE ORDER

The Owner voluntarily consents to the issuance of this Order:

Central Water Systems, Inc.

By: C. Ray Kellogg
C. Ray Kellogg

Title/Rank or Office: President

By signing above, the person so signing represents that he or she has been fully and duly authorized by the legal Owner of the subject waterworks to represent and bind the Owner in this matter, and to show the Owner's consent to the issuance of this order.

CERTIFICATION

COMMONWEALTH OF VIRGINIA

County/City of Isle of Wight

The foregoing instrument was signed and acknowledged before me this 12th day of

October, 2004, by C. Ray Kellogg,

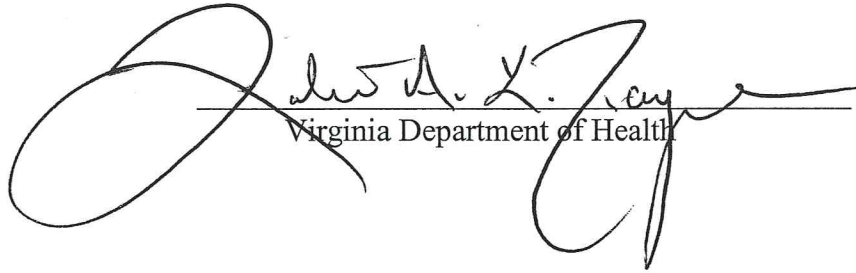
President of Central Water Systems, Inc.

Jori M. W. Davenport
Notary Public

My Commission expires: ~~#~~ 5/31/08

CERTIFICATE OF MAILING

I hereby certify that I sent by certified mail a copy of the attached Order, executed by the State Health Commissioner, to C. Ray Kellogg, the President of Central Water Systems, Inc. on the 21 day of October, 2004.



Virginia Department of Health