

No. 36955-9-II

IN THE COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

WASHINGTON STATE DEPARTMENT OF HEALTH

Respondent - Appellee,

V.

VICTORY MOTEL

Plaintiff - Appellant.

FILED
COURT OF APPEALS
DIVISION II
08 JUN 27 AM 10:58
STATE OF WASHINGTON
DEPUTY CLERK

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR PIERCE COUNTY
HON. BRIAN TOLLEFSON, JUDGE
No. 07 2 07094 5

REPLY BRIEF OF THE APPELLANT

JIANGONG LEI, OWNER
VICTORY MOTEL
10801 PACIFIC HWY SW
LAKEWOOD, WA 98499

ON BEHALF OF VICTORY MOTEL
AND HIMSELF

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I. STATEMENT

The Health Department claims its action over the Victory Motel is to protect public from the risk of the motel's water system. Respondent's Brief at 22, 23. But, in this case, there is no risks to protect from. Based on the Department's own record, Victory Motel has conducted over hundred sampling tests over the last 7 or 8 years. All passed flawlessly. Victory Motel has been complying with all the rules and laws until the current dispute over a law occurs and continues to comply with all laws pending resolution of the new law. The motel's tiny 18-unit system, by record, surpasses some of the largest municipality water systems in water quality.

Despite the Department's effort to portray this case as a public risk case, this is not a traditional case in which the government battles an unscrupulous, evil person whose only living-motto is to exploit the public. This case arises from an intergovernmental conflict in the implementation of a new environment law. It arises from a dispute over the interpretation of the law. This case is about the health department's negligence/errors, and about the department's senseless and violent defense of those negligent errors.

Over the course of this dispute, the Department unleashed all of its plenary power against the Plaintiff. Voltaire once said: "it is dangerous to

be right when the government is wrong.” The department assessed an usurpary penalty on the Plaintiff for his disagreement over the interpretation of a law. While this case was pending review, the health department took further actions. It shut down the Plaintiff’s business, deprived him of his livelihood. On top of all the actions it had taken against the Plaintiff, the Department further initiated and took an active role in condemning the Plaintiff’s property and forcing him and his family out of their home, a home in which they lived over 10 years.

The government, in the wrong hands, violently crushes anyone in its way. Plaintiff in this case only pointed out a department’s error. He committed no “crime” that deserves this level of punishment. The Health Department’s action is heinous.

Equally abhorrent but also manipulative is the Department’s handling of the legal aspect and its administering of adjudication. Evidence not in written forms do not count, written documents lacking signatures considered false, phone conversations all denied, department’s errors require Plaintiff’s convincing proof, but the department’s accusation of Plaintiff requires Plaintiff’s own proof that “he is in no error”.

For adjudicative hearing, critical witnesses are excluded, evidences above certain threshold are hinted not acceptable. During adjudicative proceeding, ex parte documents exchanged hands in courtroom, ex parte conversations took place outside courtroom, and verbatim report edited

and altered and evidence destroyed.

Plaintiff respectfully requests that the court take a close look at the Health Department's conduct, carefully exam evidence and return justice to the Plaintiff. The Administrative Record submitted by the Department is highly selective and incomplete, and where necessary in deciding the merit of the case, allow new evidence to be added as permitted under RCW 34.05.562(1) and RCW 34.05.566(7).

Respondent in its brief and in its previous arguments repeatedly objected that Plaintiff cited the evidence that was not in the Administrative Record. Respondent's Brief at 3fn, 24. Such objections should raise the issue why these evidences are not in the record in the first place.

Respondent also repeatedly pointed out in the Brief that Plaintiff has "no evidence" or "the record does not conform..." Respondent Brief at 2, 5, 6. Respondent apparently was trying to lead the court to believe that written documents submitted by the Health Department are the only evidence. Such tactics of the Respondent together with its deliberate construction of a highly selective and incomplete record should not be unnoted by the court.

II. ISSUES OF THE LAW

- A. The Health Department Argues that the Plaintiff's Water System Is a Group A System. The Health Department Is Wrong

In Plaintiff's Opening Brief, Plaintiff established that Plaintiff's water system is a Group B water system. It is a Group B water system because WAC 246-291-010 clearly classifies it as a Group B system. WAC 246-291 is a chapter devoted wholly for Group B regulations. WAC 246-291-010 is a section that defines Group B water system.

Further, the table(calledTable1) in WAC246-290-020 specifically excludes Plaintiff's system from the Group A box and put it into the Group B classification box.

And all the educational and informational materials on the topic of system classification distributed by the Health department, including the most widely used and authentic Bluebook published October 2003 (DOH PUB), also defines Plaintiff's water system as a Group B water system.

Plaintiff not only affirmatively established his water system is a Group B water system, but also established it is NOT a Group A water system. It is not a Group A water system because WAC 246-290-020 explicitly says it's not. Plaintiff's water system does not provide fifteen or more service connections used by year-round residents and it does not regularly serve twenty-five people.

Plaintiff further established that his system is NOT a public water

system under the federal rules and regulations.¹ Plaintiff's water system is not a public water system for basically the same reasons provided above because it does not serve at least 15 connections used by year-round residents nor does it regularly serve at least 25 people. And, even if the Health department forces the Plaintiff's system into the public water system, it does not fit into any of its categories.

The facts are irrefutable that the Plaintiff's water system is a Group B water system and not a Group A water system. Nevertheless, the Health Department insists the Plaintiff's system is a Group A system. The Department basically argues that WAC Table 1 contains error, shouldn't count, but the U.S.C should be used.

Plaintiff will now turn to the analysis of Respondent's argument.

1. Neither WAC Table 1 Nor Other Parts of the WAC Contain Any Error. Plaintiff's System Is not a Group A

Plaintiff has established in his Opening Brief that WAC Table 1 contains no error. The language "residential connections" is consistent with the language: "year round resident..." used both in the state WAC 246-290-020 and federal 40 CFR 141.2. Moreover the same languages appear in multiple places in the WAC including WAC 246-291-010, the chapter for Group B water system, as well as in numerous state distributed documents. Legislature means what they mean. In statutory construction,

¹ Respondent argues if Plaintiff's water system is a public water system under federal

courts must look into the plain meaning of the statute. *State v. Cromwell*, 157 Wn. 2d. 529.

Further, Plaintiff's argument that his system is not a Group A system is based not solely on Table 1 but on multiple statutes both state and federal as shown in the Opening Brief. Brief 22-37.² Therefore it shall not be necessary to further delve on this issue. It is sufficient to say that even if Table 1 contains error, it will not affect the Plaintiff's water system. Plaintiff's system would not be a Group A water system because it does not provide fifteen or more service connections to year round residents and does not serve 25 or more people a day as defined in both WAC 246-290-020 and 40 CFR 141.2 and under the entire reading of the relevant statutes.

2. Health Department misinterpreted the law. Plaintiff's water system is not a transient non-community water system.

The Health Department quoted the following sections from the Code of Federal Regulations, 40CFR 141.2

A public water system is either a "community water system" or a "noncommunity water system."

The term "Community water system" means a public water system that (A) serves at least 15 service connections used by year-round residents of the area

regulations, then it is automatically considered a Group A system under the state scheme.
² Ironically Respondent repeatedly states in Response Brief and in previous proceedings that Plaintiff based his argument on Table 1. RB 2, 18. It gives a misleading impression that Plaintiff's argument is based on only one shaky ground and nothing else.

served by the system; or (B) regularly serves at least 25 year-round residents.

The term "Non-community water system" means a public water system that is not a community water system. A "non-community water system" is further defined as either a "transient non-community water system" or a "non-transient non-community water system."

"Transient non-community water system" or TWS means a non-community water system that does not regularly serve at least 25 of the same persons over six months per year.

"Non-transient non-community water system" or NTNCWS means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

Citations omitted.³ These are verbatim quotes from the Respondent's Brief. RB at 16. Respondent then concludes:

Victory Motel is classified as a Group A transient non-community water system and a public water system under the Federal Safe Drinking Water Act since it serves at least 15 service connections (he serves 18 connections), is a "non-community" water system, since it does not serve year round residents, and is "transient" since it does not regularly serve the same 25 people over six months per year.

Respondent erred in interpreting the above law(s). Respondent

³ Respondent's citations are somewhat inaccurate. These paragraphs are cited part from 42 USC 300(f) and part from 40 CFR 141.2. They are not from WAC. WAC contains some different clauses and slightly different languages, therefore omitted.

argued Victory motel is “transient” (i.e. transient non-community water system) since it does not regularly serve the same 25 people over six months per year. See last part of Respondent’s conclusion. Underline added.

But this is not what the above “transient non-community water system” says about itself. See above quote again. The “transient non-community water system” means a non-community water system that does not regularly serve at least 25 of the same persons over six months per year. Here Respondent dropped out a critical phrase “at least” and changed the order of the words from “25 of the same people” to “same 25 people”. The effect of these two acts is dramatic change of the meaning of the law.⁴

The “transient non-community water system” under its original construction means a system that serves at least 25 people but not same people. A system that serves less than 25 people is not a “transient non-community water system”; a system that serves at least 25 people but serves same people is a non-transient non-community water system, not a “transient non-community water system”. A system that serves at least 25 people and serves different people (i.e. not the same people) is a transient non-community water system.

This correct interpretation of the “transient non-community water

system” can be discerned from reading the entire body of the relevant laws. (Plaintiff will save the quotes here). The quotes are in the Plaintiff’s Opening Brief. Brief at 27-29, 32-33.

Reading the entire body of the relevant laws on public water system classification, it is clear that federal defines three categories or levels of water systems: community water system, non-transient non-community water system and transient non-community water system. The state defines four adding Group B water system.⁵

The order of the types of water system is important. The first order is the community water system. The community water system is the most highly regulated due to its intense use by same people year round.

Second highly regulated is the non-transient non-community water system because these systems provide services to people who use the water between six months to a year.

The last is the transient non-community water system. By nature, these systems serve transient people, therefore not the same people, or serve different people

Having put in order the different types of water systems, it is easy to see the true meanings of the above quoted law(s). The community water system serves year round residents, the non-transient non-community

⁴ For fairness, Plaintiff does not at all imply Respondent manipulated the law. This is hard. Respondent may well have misread the meaning of this paragraph.

water system serves basically same people, and following this reading it is not difficult to see “the transient non-community water system” serves different people (i.e. not the same people). The language “does not serve at least 25 of the same people” contained in the “transient non-community water system” category means serve “different” people but still serve 25 people. Therefore the language “does not” does not mean “does not serve at least 25 people”. It means “does not serve same people”.

The threshold for all three types of water systems are the same. It must regularly serve at least 25 people. Therefore the transient non-community water system is a system that serves at least 25 people but different people.

The interpretation also find support at the state level where the state code writers order the type of water systems as follows and regulate accordingly:

1. community water system
2. non-transient non-community water system
3. transient non-community water system

WAC 246-290-020.

The state also defines the transient non-community water system in more clear language that agrees with Plaintiff’s interpretation of the above law:

Transient non-community water system (TNC) means a system that

⁵ Some differences exit between the state and federal even in the same group or same level.

serves:

(a) twenty five or more different people each day for sixty or more days within a calendar year

WAC 246-290-020 (5)(b)(ii). Other parts of the section are not relevant for this purpose and quotes saved.

Therefore, Respondent erred in interpreting the law. Transient non-community water system means a system that regularly serves at least 25 people. Although Plaintiff's water system serves mostly different people, it does not regularly serve at least 25 people. Plaintiff's water system is not a transient non-community water system. Plaintiff's water system is not a non-transient non-community water system either. His system is not a public water system at the federal level or Group A system at the state level.

4. Health Department's Quote of 42 USC 300(f)(4)(A) Left Out a Critical language. Plaintiff's water system is not a public water system under federal law. It is not a Group A water system under the state Law

In Health Department's Response Brief, the Respondent quoted the 42 U.S.C. 300f(4)(A) as:

A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals (emphasis added). 42 U.S.C. 300f(4)(A)

Respondent points to the language "at least fifteen service

connections” in this quote and argues. The law says 15-connections and not 15 residential connections or 15 connections used by year-round residents. Therefore Plaintiff’s 18-connections system is a Group A water system.

Respondent’s isolated reading of this law put itself in conflict with all of the rest of the laws. As Plaintiff has already established in his Opening Brief that Plaintiff’s water system by clear and convincing languages of the laws both at state and federal level belong to Group B water system. Also, by clear and convincing language of the law it does not belong to Group A. Further, as the above analysis reveals, even if the Plaintiff’s water system is forced into the Group A, it does not fit into any of the Group A categories and will result in absurd and strenuous consequence.

In reading the law, full effect must be given to the legislature’s language, with no part rendered meaningless or superfluous. *Sleasman v. City of Lacey*, 159 WN.2d 639, 646 (2007). Court will avoid readings of statutes that result in unlikely, absurd and stained consequences. *State v. Neher*, 112 Wn 2d. 347.

Plaintiff’s water system can not be on the one hand a Group A water system, then on the other hand does not fit into any of the Group A categories. The same applies at the federal level, Plaintiff’s water system

can not be on the one hand a public water system, then on the other hand does not fit into any of the public water system category.

Further, Plaintiff's water can not be classified by one statute as a Group A water system, then by another law as Group B water system. The same applies at the federal level. It can not be on the one hand a public water system, then on the other hand a non public water system.

Close examination of the above 42 U.S.C. 300f(4)(A) quoted by the Respondent shows however that the law is not inconsistent. What happens is that Respondent inaccurately quoted federal 42 U.S.C. 300f(4)(A). It left out a critical part of the statute. The correct quote is:

“(A) In general. - The term “Public water system” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.”
42 U.S.C. 300f(4)(A)

The language “in general” is critical here. The plain meaning of “in general” is to be general. This makes sense because the Congress can not anticipate each and every idiosyncratic environmental situation in the nation. The nation is big and the conditions vary from mountain to valley, from ocean to desert and from industrial cities to farmland. It must take into consideration of various situation by the local government in their specific application of the law. Leaving out the wordings “in general” is fatal here in the interpretation as well as application of the law.

Worth noting is also the language of “at least 15 service connections” used in the 42 U.S.C. 300f(4)(A). In the state WAC, both in WAC 246-290-020 or 246-291-010, the language “15 or more service connections” is used. The plain meaning of “at least” is “minimum” or “minimum level”. Webster Dictionary 3rd edition, 1999. The meaning of “15 or more” is in an emphasis of inclusion and the meaning of “at least 15” is in the emphasis of exclusion.

Thus when the law says: “Public water system is a system that has at least fifteen service connections...”, the emphasis is on the exclusion. Any system that has fewer than 15 service connections should not be counted. On the other hand, when the law says Public water system is a system that has 15 or more service connections, the emphasis is on the inclusion. Any system that meets the criteria of 15 should be counted.

This distinction is an important one. The law’s use of the language “at least” together with the language “in general” reveals the legislature’s intent of the law. After reading through the whole body of the law on this issue including 42 U.S.C. 300f(4), 40 CFR 141.2, RCW 70.119A.020, WAC 246-290-020 and WAC 246-290-020, it is clear that the Congress wanted to regulate systems that meet the minimum criteria: “15 service connections” or “regularly service 25 people”, but the congress didn’t want to overburden the small and financially difficult water systems. Thus

instead of include all of them, it would rather leave it open to the regulators but defined the bottom line for them as a matter of law. And it made it to be general.

Had the congress intended to provide a blank formula to include all system of 15 or more service connections. it would have said so "15 connections". It wouldn't even use the word "service" or "service connection", let alone the words "in general" and "at least".

The federal and state regulators did just what the congress wanted. Both at federal and state levels, the regulators grouped public water system into three categories: community water system, non-transient non-community water system and transient community water system according the intensity of water use.

Under the most intensive use category, the community water system, which serves year-round residential customers. The regulators apply both standards. Thus if a system serves residential customers, the system is a public water system or Group A water system at the state level if it meet any of the two criteria.

For the less intensive use category, the non-transient noncommunity water system or transient non-community water system, only one criteria is used, that is "regularly serve 25 people". Thus a system that regularly serves fewer than 25 people is not a public water system or Group A water system at the state level.

This distinction makes logical sense. Residential and nonresidential connections are different. A system that serves year-round residents carries a higher risk than a system that serves nonresidential customers, as residential customers are exposed to the water for a long time whereas non residential customers come and go and risk is less. It is also likely that a nonresidential facility has more connections but serves fewer people. This is precisely what the Victory Motel is. It has 18 service connections but serves fewer people on the daily basis than a 15-unit apartment or 15-unit nursing home. It does not have 15 residential connections and serves fewer than 25 people per day.

Respondent interpretation and application of the law is incorrect. It left out a critical part of the language in its quote of 42 USC 300(f)(4)(A), leading to strenuous and absurd consequence. Plaintiff's water system is not a public water system at the federal level. It is not a Group A water system at the state level.

Plaintiff affirmatively established that his water system is not a Group A water system.

B. The Health Department Reversed the Legal standard of Proof

That fact that Plaintiff's water system is a Group B water system is

so convincing as it is defined in multiple of WAC sections and in numerous health department documents. But health department insists the Plaintiff's system is a Group A system. During the adjudicative hearing as well as now, the Health Department always asks Plaintiff to prove that his system is not a Group A system.

The correct standard of prove is such that the health department need to prove why Plaintiff's system is a Group A water system. Specifically it needs to explain when both federal and state laws as well as numerous of its own documents says Plaintiffs water system is a Group B system, why it is not a Group B but a Group A.

C. The health department asked wrong questions.

In Respondent's Brief, the Respondent asked has Plaintiff established that the department's finding that he did not conduct sanitary survey is wrong.

The department conducted an unfair hearing. Sanitary survey is an inspection. Unlike water sampling test, which Plaintiff has certain levels of control. (Plaintiff takes sample to the private lab and ask the lab to send a report to the health department when done), the sanitary survey is done by the health department or its partner, the county health department. When the inspection is done, the inspector writes a report.

The inspector in this case didn't write a report, nor did he give

Plaintiff a report. During the adjudicative hearing, Plaintiff was asked to prove that he had done the inspection. If this legal standard is used, every citizen in this country has committed a crime because no one can prove that he or she has not committed a crime by producing a report of innocence that has never been given to him by the government in the first place.

III. OTHER ISSUES

A. Respondent has a bona fida disagreement on the issue of the law, but the department repeatedly refused to discuss it with him or gave him an opportunity to explain his interpretation of the law. The question here if it is it fair and reasonable and if the department penalty amounts to arbitrary and capricious decision.

B. Respondents brief as well as the department's Final order contained many incorrect statements or facts. Respondents brief repackaged the facts, misrepresented and distorted the facts including undisputed facts. Plaintiff disputes the correctness and accuracy of the statements in the brief. Plaintiff also disputes the accuracy of the Findings of Facts in the Final Order, specifically: 2.2 , 2.3, 2.5 and 2.8 through 2.11.

IV. THE BASIS THAT RELIEF SHOULD BE GRANTED

Each argument in Section IV of Plaintiff's Open Brief relates to a

legal ground for which relief should be granted. Plaintiff hereby assigns each argument to the legal ground.

Argument 1 to 3 argues that the Health Department misinterpreted and applied the law and relief should be granted on the basis of RCW 34.05.570 (3)(d)

Argument 4 argues that the violations did not occur if Plaintiff's interpretation of law is correct, and even if his argument is incorrect he has a right to discuss the law, and relief should be granted on the basis of RCW 34.05.570(3)(e).

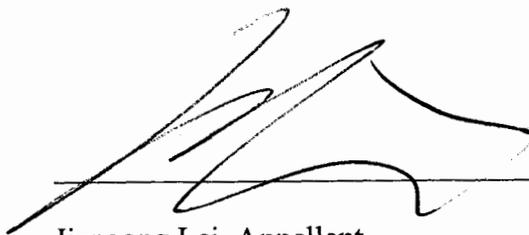
Argument 5 and 6 argues that the department acted negligently, recklessly and in bad faith and relief should be granted on the basis of RCW 34.05.570(3)(a) (b)(e)(I).

Argument 7 and 8 argues that the department engaged in unlawful decision making process, acted unlawfully as well exceeded its statutory authority in decision making and relief should be granted on the basis of RCW 34.05.570(3)(a)(b)(c)(h)(I).

V. CONCLUSION

Based on the foregoing, Plaintiff respectfully request that the Health Department's Final Order and the Superior Court's Verbal Ruling and Order be reversed and the civil penalty removed.

Dated this 25th day of June, 2008

A handwritten signature in black ink, consisting of several fluid, overlapping strokes, positioned above a horizontal line.

Jiangong Lei, Appellant

Victory Motel

Appendix



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

20435 72nd Ave. S., Suite 200, K17-12 • Kent, Washington 98032 -2358

February 11, 2004

JAY LEI
VICTORY MOTEL
10801 PACIFIC HWY SW
TACOMA, WA 98499

SUBJECT: Victory Motel ID# 91717
Pierce County
Third Party Sanitary Survey Program

Dear Jay Lei:

This letter is to notify you to contact the Tacoma Pierce County Health Department (TPCHD) for the purpose of scheduling a routine sanitary survey of your water system in 2004. I sent you a letter on February 18, 2003 stating that the TPCHD would call you to set up a survey visit to your water system in 2003, but apparently this did not occur. Therefore, it is important for you to take the initiative in this matter and call them.

The Washington State Department of Health (DOH) drinking water regulations for Group A public water systems (WAC 246-290-416) require a routine sanitary survey for all Group A water systems every 5 years. A sanitary survey is a comprehensive inspection and evaluation of a water system facilities, operation, water quality monitoring and management. Regular sanitary surveys have long been recognized as an important part of protecting public drinking water, because they can help identify potential problems before significant health risks develop. In addition, many water system managers find the survey helpful for understanding how to improve their water systems, ensure they stay in compliance with state drinking water regulations and to meet our surveyors face-to-face.

It is your responsibility to cooperate in the survey process and to ensure the unrestricted availability of all facilities and records at the time of the sanitary survey. **Within thirty (30) days of receipt of this letter, please contact Michelle Cox at the Tacoma Pierce County Health Department at (253) 798-7683 to arrange a survey date and time.** It is important that you do this to stay in compliance with the drinking water regulations.



John R
File (p)

November 19, 2004

Brian Boye
Office of Drinking Water
Washington State Department of Health
20435 72nd Ave S Suite 200
Kent, Washington 98032

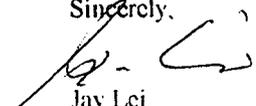
Dear Mr. Boyd:

I received your letter of November 12 asking me to schedule a water system inspection. I recalled my conversations with the health department a few months ago regarding the previous inspection whose record was lost. Could you please tell me if this inspection is a make-up for the previous one or for the future period?

An inspection of our water system was done in year 2000. I received a letter informing me the inspection and payment requirements in July 2000. I then talked to the Health Department about the fee issue. On July 17, at the suggestion of the department official, I sent Mr. Porter a letter requesting fee waiver. About a week later an inspector came and inspected the system.

If this inspection is for the future period, I will schedule an appointment quickly. I will call Mr. Purdy.

Sincerely,



Jay Lei

Victory Motel #91717

RECEIVED
NOV 23 2004
NW DRINKING WATER

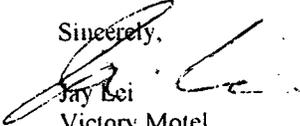
November 22, 2004

Brian Boye
Office of Drinking Water
Washington State Department of Health
20435 72nd Ave S Suite 200
Kent, Washington 98032

Dear Mr. Boye:

I just sent you a letter two days ago in response to your letter of November 12. Please temporarily ignore this letter. It seemed we had incorrectly classified my water house. I am requesting an update of WFI from Shasta Guinn of your department. I apologize for the confusion,

Sincerely,


Jay Lei

Victory Motel

RECEIVED
NOV 24 2004
NW DRINKING WATER

file(P)

November 22, 2004

Jay Lei
Victory Motel
10801 Pacific Hwy SW
Tacoma WA 98499

Shasta Guinn
Northwest Drinking Water Operation
Washington State Department of Health
20435 72nd Ave S Suite 200, K17-12
Kent, Washington 98032

Dear Ms. Guinn:

I am the owner of Victory Motel in Pierce County. It seems our water facility is incorrectly classified. It should be classified as Group B instead of Group A. I am requesting an update on the system. Could you please be kind enough to send me the necessary forms?

It seems the error was caused by my ignorance on the matter. To the best of my recollection, when I first came to the facility, I changed the number of users from a very small number to a very large number. This was because I incorrectly assumed double occupancy in every room and full occupancy all year long. I need to correct the numbers and your assistance will be greatly appreciated.

Sincerely,



Jay Lei
Victory Motel

RECEIVED
NOV 24 2004
NW DRINKING WATER

4

file (P)

December 1, 2004

Jay Lei
Victory Motel
10801 Pacific Hwy SW
Tacoma WA 98499

Shasta Guinn
Northwest Drinking Water Operation
Washington State Department of Health
20435 72nd Ave S Suite 200, K17-12
Kent, Washington 98032

Dear Ms. Guinn:

I am sorry I missed your call. I called you earlier in response to your yesterday's phone message. I think it's better we communicate in writing at this point. May I request again that you send me the WFI form and other necessary update forms?

Sincerely,

Jay Lei

RECEIVED
DEC 2 - 2004
NW DRINKING WATER

5



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

20435 72nd Ave. S., Suite 200, K17-12 • Kent, Washington 98032 -2358

December 6, 2004

JAY LEI
VICTORY MOTEL
10801 PACIFIC HWY SW
TACOMA WA 98499

SUBJECT: Victory Motel ID# 91717
Pierce County
Third Party Sanitary Survey Program

Dear Jay Lei:

I am writing to ask you to contact the Joel Purdy to schedule a sanitary survey of your water system. Department of Health Division of Drinking Water (DOH) records indicate a number of letters were sent to you on June 1, 1999, February 18, 2003, February 11, 2004 and November 12, 2004 requesting you to schedule a routine survey visit to your water system.

You have brought up two reasons why a survey should not be required for your system, that a survey was already done in 2003 and more recently, that the Victory Motel water system is actually a Group B system and should be reclassified. It is now accepted that a drinking water survey was not done any time in the last five years. This water system was determined to be a Group A on May 14, 1996. So far you have not provided any documentation to support a change back to a Group B. The current Water Facilities Inventory indicates the correct designation is a Group A. You are still required to cooperate in conducting a sanitary survey of the Victory Motel water system.

The DOH Group A drinking water regulations, WAC 246-290-416, require a routine sanitary surveys of all Group A systems by the department or the department's qualified designee at least once every five years. It is your responsibility to cooperate in the survey process and to ensure the unrestricted availability of all facilities and records at the time of the sanitary survey. **Within fifteen (15) days of receipt of this letter, please contact Joel Purdy at (360) 769-8400 to arrange a survey date and time.** It is important that you do this to stay in compliance with the drinking water regulations.

Failure to submit to a sanitary survey is a violation of WAC 246-290-416 and will result in the beginning of a compliance process that is outlined in the enforcement section of the drinking water regulations, WAC 246-290-050. Eventual consequences of the failure to comply with this requirement could result in increased monthly coliform monitoring, a Red Operating permit, State Significant Non-Complier status and the possibility of imposing civil penalties.



6



Washington State Department of Health Division of Drinking Water

MEMORANDUM OF CONVERSATION

Last Meeting Date: December 06, 2004	Name of the Contact: JAY LEI
GeneralTopicType: ROUTINE SANITARY SURVEY	Home Phone:
StaffMember: BRIAN BOYE, PHA	Work Phone: (253) 588-9107
	Address: 10801 Pacific Hwy SW
	City: Tacoma

System: VICTORY MOTEL	Contact: JAY LEI
PWS ID: 917174	Day Phone: (253) 588-9107
County: PIERCE COUNTY	Address: 10801 PACIFIC HWY SW
Group: GROUP A	City: TACOMA
System Type: TRANSIENT NON-COMMUNITY	State: WASHINGTON
Res Conns: 1	Postal Code: 98499

SUMMARY OF CONVERSATION

12-6-04 I called this water system and left a message with the receptionist for Jay Lei, the owner. I explained that there was no basis for reclassifying this system from a Group A Transient Non-Community to a Group B public water system. Previous conversations I had with Jay Lei lead me to believe he would be providing an updated Water Facilities Inventory (WFI) form that supported his contention that the proper designation for the Victory Motel WS was as a group B. Shasta Guinn has not received any documentation from Jay Lei.

Jay Lei has refused to schedule a routine sanitary survey with Michelle Cox, Tacoma-Pierce County Health Dept., claiming that there was a survey done in 2002. This did not turn out to be the case. Then he claimed that this WS was incorrectly classified and should not be surveyed as a Group B. The TPCHD did not agree. At that time, he told me he would send a new WFI to Shasta Guinn directly. This has not happened. Repeated calls to the Victory Motel by both Shasta G. and Brian Boye have not been successful in either reaching directly or receiving a call back. Based on current information there is no basis for changing this water system from a Group A to a Group B and therefore no reason to drop the requirement for a routine survey.

December 10, 2000

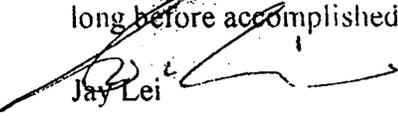
Brian Boye
Office of Drinking Water
Washington State Department of Health
20435 72nd Ave S Suite 200
Kent, Washington 98032

Mr. Brian Boye:

I don't know what the matter is with you and the health department. The inspection was done in year 2000. I cannot believe you and your department do not have any record of it. If not you and at least one person in your department should have a memory of it. You are the person I talked with in 2000. You are the one who suggested I contact Mr. Porter. How is it possible that you have no memory of it at all? And why not THE OTHER PERSON stands up and tells the rest that HE did the inspection!

You stated in your letter that I brought up two reasons why a survey is not required, but you knew very well that it had never been a requirement issue. The requirement issue had never come up until you repeatedly used the words: "regulation" and "enforcement" in the last few weeks. Your repeated use of these words prompted me to look into the regulations. I then discovered my system was misclassified and started requesting Ms. Guinn for an update. Out of my respect to you, I sent you a courtesy note informing you about my request. What followed were a flurry of phone calls from you and her, but no forms. As of yet, I still have not received update forms.

In that same letter of Dec 6, you also stated: "This water system was determined to be a Group A on May 14, 1996. So far you have not provided a documentation to support a change back to Group B." What is it on the earth that made you say something like this? Did you ever ask me to provide documentation for a change? Did you ever advice me for a possibility of change? Even after I requested for a change, did you or Ms. Guinn ever send me the forms? And what role did you play for Ms. Guinn not sending the forms? For a government official to twist things like this in order to force on an agenda whereas the agenda was wrong to start with is totally incomprehensible to me, not to mention you had long before accomplished that inspection.


Jay Lei

Victory Motel

RECEIVED
DEC 14 2004
NW DRINKING WATER

8

December 14, 2004

VICTORY MOTEL
ATTN JAY LEI
10801 PACIFIC HWY SW
TACOMA WA 98499

Subject: Victory Motel Water System (ID# 917174)
Pierce County
Classification to Group A Transient Non-Community (TNC)

Dear Jay Lei,

I am writing to respond to your letter of inquiry dated December 1, 2004. I have attached the Water Facilities Inventory (WFI) form in response to your request.

Please note that the *Victory Motel Water System* is classified as a Group A Transient Non-Community (TNC) system due to the following:

- The system serves an average of twenty-five (25) or more visitors per day.
- The system serves at least 15 active connections.

If you have further questions regarding the classification status of the your system, please contact me at (253) 395-6774. I can also be reached via e-mail at shasta.guinn@doh.wa.gov.

Good luck to you and *Victory Motel Water System*.

Sincerely,



Shasta Guinn
Northwest Drinking Water Operations

Enclosures: WFI form & Instructions

December 13, 2004

Jay Lei

Victory Motel

10801 Pacific Hwy SW

Tacoma, WA 98499

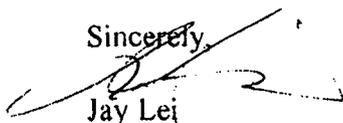
Tel: (253)588-9107

Derek Pell,
Assistant Regional Manager
Office of Drinking Water
Washington State Department of Health
20435 72nd Ave S Suite 200
Kent, Washington 98032

Dear Mr. Pell

I am deeply disturbed and angered by the way Mr. Brian Boye handles things. Enclosed please find a letter I intended to send to him. After putting it aside for two days, I still don't see any reason to change the tone of this letter. In a spirit of cooperation, I am sending you this letter instead. If you have any questions, I can be reached at the above phone and address.

Sincerely,



Jay Lei

12/17/2004 3:38 Called for Mr. Lei. No answer. No opportunity for voice message.
Note Shasta letters. No further follow up at this time. -DPel

RECEIVED
DEC 14 2004
NW DRINKING WATER

January 13, 2005

VICTORY MOTEL
ATTN JAY LEI
10801 PACIFIC HWY SW
TACOMA WA 98499

Subject: Victory Motel Water System (ID# 917174)
Pierce County
Group A Transient Non-Community (TNC) Classification

Dear Jay Lei,

Thank you for submitting the Water Facilities Inventory (WFI) form for the *Victory Motel Water System*. I have attached an updated WFI form, which indicates the changes that you requested.

Please note that your system is classified as a Group A Transient Non-Community (TNC) system due to the fact that it serves at least 15 active connections.

If you have further questions regarding the classification status of the your system, please contact me at (253) 395-6774. I can also be reached via e-mail at shasta.guinn@doh.wa.gov.

Sincerely,



Shasta Guinn
Northwest Drinking Water Operations

Enclosures: WFI form & Instructions

cc: Tacoma/Pierce County Health Department
John Ryding, DOH
Derek Pell, DOH
Brian Boye, DOH

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WATER FACILITIES INVENTORY (WFI) FORM - Continued

1. SYSTEM ID NO. 91717 4	2. SYSTEM NAME VICTORY MOTEL	3. COUNTY PIERCE	4. GROUP A	5. TYPE TNC
-----------------------------	---------------------------------	---------------------	---------------	----------------

	ACTIVE SERVICE CONNECTIONS	DOH USE ONLY! CALCULATED ACTIVE CONNECTIONS	DOH USE ONLY! APPROVED
25. SINGLE FAMILY RESIDENCES (How many of the following do you have?)	0	1	Undetermined
A. Full Time Single Family Residences (Occupied 180 days or more per year)	1		
B. Part Time Single Family Residences (Occupied less than 180 days per year)	0		
26. MULTI-FAMILY RESIDENTIAL BUILDINGS (How many of the following do you have?)			
A. Apartment Buildings, condos, duplexes, barracks, dorms	0		
B. Full Time Residential Units in the Apartments, Condos, Duplexes, Dorms that are occupied more than 180 days year	0		
C. Part Time Residential Units in the Apartments, Condos, Duplexes, Dorms that are occupied less than 180 days year	0		
27. NON-RESIDENTIAL CONNECTIONS (How many of the following do you have?)			
A. Recreational Services (Campsites, RV Sites, Spigots, etc.)	0	0	
B. Institutional, Commercial, Business, School, Day Care, Industrial Services, etc.	17	17	
28. TOTAL SERVICE CONNECTIONS		18	

29. FULL-TIME RESIDENTIAL POPULATION
 A. How many residents are served by this system 180 or more days per year? 3

30. PART-TIME RESIDENTIAL POPULATION	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
A. How many part-time residents are present each month?												
B. How many days per month are they present?												

31. TEMPORARY & TRANSIENT USERS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
A. How many total visitors, attendees, travelers, campers, patients or customers have access to the water system	418	378	418	405	148	405	418	418	405	418	418	418
B. How many days per month is water accessible to the public?	31	28	31	30	31	30	31	31	30	31	31	31

32. REGULAR NON-RESIDENTIAL USERS	JUN	JUL	AUG	SEP	OCT	NOV	DEC
A. If you have schools, daycares, or businesses connected to your water system, how many students/daycare							
B. How many days per month are they present?							

Please note change in coliform monitoring schedule:

33. ROUTINE COLIFORM SCHEDULE * Requirement is exception from WAC 246-290	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
	1	0	0	1	0	0	1	0	0	1	0	0

34. NITRATE SCHEDULE (One Sample per source by time period)	QUARTERLY	ANNUALLY	ONCE EVERY 3 YEARS
		S01	

35. Reason for Submitting WFI:

Update - Change
 Update - No Change
 Inactivate
 Re-Activate
 Name Change
 New System
 Other _____

36. I certify that the information stated on this WFI form is correct to the best of my knowledge.

SIGNATURE: _____ DATE: _____
 PRINT NAME: _____ TITLE: _____

13



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

20435 72nd Ave. S., Suite 200, K17-12 • Kent, Washington 98032 -2358

April 8, 2005

Jay Lei
Victory Motel
10801 Pacific Hwy SW
Tacoma WA 98499

Subject: Victory Motel Water System ID#917174, Pierce County
Compliance with Notice of Violation for Sanitary Survey

Dear Mr. Lei:

In response to your emails to the Office of Drinking Water (ODW) on March 29, 2005 and April 5, 2005, I wanted to take this opportunity to clarify ODW's position regarding the issuance of a Notice of Violation (NOV) dated March 11, 2005 for your system's lack of sanitary survey (see NOV) within the previous five years. ODW does not have any record of a sanitary survey at Victory Motel water system.

According to our records and based on the Water Facilities Inventory (WFI) form submitted by your system on Victory Motel is classified as a Group A transient non-community public water system and as such is required to submit to a sanitary survey conducted by the department (ODW) or the department's designee.

In your email you requested a hearing with the ODW. The formal hearing process is called an adjudicative proceeding and is governed by chapter 246-10 WAC. The issuance of an NOV for failure to comply with the sanitary survey requirements is not something that may be appealed through this formal process. In an effort to clarify the ODW's requirements and to offer you an opportunity for us to discuss your concerns, ODW would like to schedule a meeting at your convenience.

Please contact me at (253) 395-6772 and we can arrange this meeting and determine who should be in attendance.

Sincerely,

Ingrid Salmon
Regional Compliance Manager
Northwest Drinking Water Operations

cc: Tacoma-Pierce County Health Department
Brian Boye, ODW
Bob James, Manager, ODW
Ellen Haars, Department of Health - Transient Accommodations

March 29, 2005

Ms. Ingrin Salmon
Department of Health
20435 72nd Ave S. Suite 200, K17-12
Kent WA 98032-2358

Ref: Sanitary Survey

Dear Ms. Salmon:

I am writing in response to your NOV on sanitary survey issue. I would like to request a hearing with your department. The evidence on this issue is not one piece of document. but involves multiple people and their memories. There are also other serious problems on this. At the hearing, I would like the presence of officials outside the health department.

Please also advise what your grievance procedure is. I need to file an official complaint as well.

Sincerely,

Jay Lei
Victory Motel

April 5, 2005

Department of Health
20435 72nd Ave S, Suite 200, K17-12
Kent WA 98032-2358

Ref: Sanitary Survey

Dear Ms. Salmon:

Thanks for your email response to my request of last week.

I am not requesting to start a grievance procedure on NOV. I am requesting a hearing since the evidence you requested is not in the form of a document that can be sent to you. Only a hearing can bring the truth out.

I did however ask what the correct complaint procedure is with your department in my last email. I want to file an official complaint, but this is a separate issue.

I hope this letter clears the confusion.

Sincerely,

Jay Lei
Victory Motel

May 18, 2005

Memorandum: May 18, 2005 Meeting (Bob James, Ingrid Salmon, Brad Harp, Michelle Cox and Jay Lei)

Ms. Salmon introduced herself, other people and the meeting started. Mr. James talked about how the sanitary survey program got started. Most group A purveyors responded, some didn't. There is no evidence that Mr. Lei's system was surveyed.

Mr. Lei said that he responded. Ms. Cox then commented: Mr. Lei responded but refused to do the survey." More comments followed from other parties. Mr. Lei mentioned the name of Brian Boye, Gary Porter and Michelle Cox and Diana whom he conversed on this issue in year 2000 as well as the approximate time the health department personnel did the survey. Mr. Lei pointed out he did not have hard evidence in the form of a report or receipt, but he resented the fact that someone in the health department suggested he was lying. He said he was willing to put himself under a lie detector but would challenge department officials the same.

Mr. Lei started to recount what happened since he received the first letter from Ms. Cox. At some point, Mr. Lei said between the time he received his first letter from Ms. Cox and February 2004 letter from Mr. Boye, he received only informational letter, but didn't receive any specific letter like the one from Mr. Boye that points out his system has not be surveyed. Mr. James then took out a letter with Mr. Lei's name on it and asked if he consider this a specific letter. Mr. Lei said he noticed his name was on the letter and said if the contents suggested specific then it was specific, but he didn't recall receiving any specific letter between the two times. At that point, Mr. Harp got agitated. He took out a pile of paper and said his department sent him letter after letter. How did he say he didn't receive them! Mr. Harp further asked if Mr. Lei was suggesting his department didn't do its job. Mr. Lei responded that he apparently offended Mr. Harp, but he said he understood that every department head dislike hearing comments suggestive of criticism of his office and he repeated that he didn't say he didn't receive any letter. He just didn't receive specific letters like that of February of 2004 that told him his system was not surveyed. Someone suggested giving Mr. Lei a copy of those letters. Ms. Cox went out and came back with some papers in hand, perhaps copies of those letters.

Ms. Salmon said even if Mr. Lei's system was surveyed, the new five-year period was up and Mr. Lei should schedule a survey. Mr. Lei said he was willing to do a new survey if it would be counted to the new period. He said he already expressed this in one of his letters. Ms. Salmon then asked when he would schedule it. Mr. James also commented that it should happen quickly. Mr. Lei then pointed out a new problem. Mr. Lei said he didn't discover this problem until he was forced to look into the RCW and he planned to address this issue separately in a different time. He said suggesting the Department screw up would make things worse, but he would say it now. He said his system should never be classified Group A. The first time was a mistake; the second time was forced on him. When he discovered the misclassification and requested update form, for three weeks Ms. Quinn didn't send it to him. Mr. James said three weeks wasn't too long. Mr. Lei then

commented he sent out two requests but still didn't receive the form. He received it only after he sent out third letter, a complaint letter to Mr. Pell, and there were also multiple phone calls from Mr. Boye and Ms. Quinn during the period but no forms. Mr. Lei said something was going on behind the door of the health department. Mr. James said there was no conspiracy in his department. Mr. Lei commented that he didn't say conspiracy but there was definitely a "colleague thing".

Mr. Lei further pointed out that before he requested WFI(the update form), he was always told that the reason his system was classified Group A was that the number of people served was above B level, but after he requested WFI the department came up a new reason, "the 15 connections." Mr. Lei then read out a RCW section that showed the "15 connections" was incorrect. Mr. James then pointed out that the state didn't do a good job clarifying the law. He took out a federal EPA book and pointed out a section to Mr. Lei regarding the 15 connections. Mr. Lei requested a copy. Ms. Cox went out. Then she came back with a volume of book. Mr. James said that was an old book. Mr. James said the classification was based on the information provided by Mr. Lei and unverified. Mr. Lei said he welcome the department to verify it. Someone suggested that, if Mr. Lei's system was not Group A, what happens. Ms. Cox said the county would regulate him and it will verify him.

Mr. James said he expected Mr. Lei to schedule a survey or give response to the federal law that he quoted him earlier. Ms. Salmon asked when she could expect a response from Mr. Lei. Mr. Lei said about two or three weeks. Ms. Cox said the county would charge \$400 and the county wouldn't waive the fee. Mr. Lei commented that Mr. Porter said before that he would consider. The meeting was winding down. Mr. Lei voiced his concern. He said he never questioned the health department and he never felt the need to check the law. He said he was forced step by step to do so. Now everyone is pumped up, he felt he would have a very difficult time in the future whether the state or county regulates him. He voiced his concern couple of times. There was no comments from the others. The meeting ended there.

Mr. Lei left without a copy of Federal EPA law and the letters referenced in the meeting.



leolei@hotmail.com

Printed: Thursday, June 9, 2005 10:51 AM

From : leo lei <leolei@hotmail.com>
Sent : Thursday, May 19, 2005 10:16 AM
To : Ingrid.Salmon@DOH.WA.GOV, Bob.James@DOH.WA.GOV, bharp@tpchd.org, MCox@tpchd.org
Subject : Memorandum for May 18 Meeting

📎 Attachment : MemorandumforMay18Meeting.doc (0.02 MB)

May 19, 2005

Dear Ms. Salmon:

Enclosed please find the memorandum which I wrote yesterday after the meeting. I believe I covered the most key points we discussed. If any member of the meeting would like to add or make corrections, please feel free to do so and send me a copy afterwards.

Sincerely,

Jay Lei

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Main Identity

From: "leo lei" <leolei@hotmail.com>
To: <Ingrid.Salmon@DOH.WA.GOV>
Sent: Tuesday, May 31, 2005 8:18 PM
Subject: My response to title 42, chapter 6a, subchapter XII, part a, section 300f

May 31, 2005

Dear Ms. Salmon:

Thank you for sending me a complete copy of the documents on file at the health department about my water pump and a copy of the federal regulation: Title 42, Chapter 6A, Subchapter XII, Part A, Section 300f. I reviewed the section of the federal regulation that you sent to me. I am now writing to respond to that section as I promised in the meeting.

Mr. James quoted that section of the federal law when I argued the new reason that the State used to put my water pump into Group A was incorrect. Specifically, he pointed to this section of the federal law when I read out a WAC section showing "15 or more connections" applies only to community residential connections used by year-round residents. Under this context, I believe Mr. James was trying to show me that the federal law section did a better job in the classification of my water pump into Group A public water system.

However, the federal law section that Mr. James referenced and you sent to me does not define Group A or Group B at all. It simply refers to public water system in general. I continue to believe that the state erred in this classification. My water pump should be classified as Group B in stead of Group A.

If you have any further quote from the federal law that shows my pump should be Group A, please send me a copy of that quote.

Sincerely,

Jay Lei

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Main Identity

From: "Salmon, Ingrid" <Ingrid.Salmon@DOH.WA.GOV>
To: "leo lei" <leolei@hotmail.com>
Sent: Monday, June 06, 2005 11:55 AM
Subject: RE: Does the doc you sent to me include

Hello Mr. Lei,

The documents that I sent you include all of the correspondence for the Victory Motel water system that we have on file here at the Department of Health. This includes any letters that we sent to you regarding the requirement to have a sanitary survey.

It is my memory that Brad Harp had assembled all letters regarding the requirement to have a sanitary survey that either the Department of Health or Pierce County had sent to you. These letters should all be included in the copies that I sent to you.

Please let me know if you have any questions.

Sincerely,

Ingrid Salmon

From: leo lei [mailto:leolei@hotmail.com]
Sent: Tuesday, May 31, 2005 9:10 PM
To: Ingrid.Salmon@DOH.WA.GOV
Subject: Does the doc you sent to me include

May 31, 2005

Dear Ms. Salmon:

I would like to thank you again for sending me the documents referenced in my earlier email. I would like to know if those documents include the letters Mr. Harp referenced in the meeting.

During that meeting Mr. Harp flashed a pile of paper in the air and told me they sent me letter after letter... Someone (I believe it was you) then suggested they give me a copy of those letters. I saw Ms. Cox went out and came back with the copies, but they didn't give them to me. When the meeting ended, Mr. Harp immediately came over, shook my hand, and showed me to the door. As a result, I didn't have a chance to ask for them either.

I went to the county health department this morning, and asked to see Ms. Cox or Mr. Harp and asked for the copies. The lady in the front went in for 10 minutes. When she came out, she said Ms. Cox was out and Mr. Harp was heading to a meeting. She asked me to write down what I want and they would send them to me in the mail. If your mailing does not include copies of those letters, I will contact them again and contact them in writing. Please let me know.

Sincerely,

Jay Lei

21

June 8, 2005

Jay Lei
10801 Pacific Hwy Sw
Tacoma, WA 98499
Tel: (253) 588-9107

Governor Christine Gregoire
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire:

I am writing to report a serious problem in the state and county health departments and request investigations. Personal interest, bureaucracy as well as jealousy and conflicts between the two organizations render the system completely dysfunctional in this case. The organizations have no mechanism to correct problems among themselves. Even a smallest error runs a full course to its worst end and, in its course, the truth is distorted, law is violated, and worst of all our democratic principle is discarded.

In year 2000, I received a letter from the Pierce County Health Department asking for a sanitary inspection on my water pump and a fee of \$370. For economic reason. I requested a fee waiver. Then approximately a week after I sent out the request, a health department official came and inspected the pump. HOWEVER, four years later in 2004, the State Health Department suddenly informed me that the inspection was not done and wanted another inspection and fee.

No matter what I tried to tell them, the state insisted that my pump was not inspected and demanded evidence or enforcement. I don't know what happened between the two organizations. No one stepped forward to admit the inspection, nor was there anyone in either department willing to tell truth. At the beginning I thought it was just someone fearful of negative career impact, but soon I realized there were much more to it. During one of the many phone conversations with a State DOH official, the official told me that State didn't charge a fee. It was the county and "the county wanted to keep a portion of the money" that was supposed to go to the private third party inspector. At another time, that same official said that the county was supposed to do certain things but it didn't do it and asked me to take initiative. What is more startling and disheartening to me was DOH's flat and purposeful denial of existence of any circumstantial evidences and conversations in 2000 including the above-mentioned written request!

As ridiculous as it was, I received a Notice of Violation for health department's error in not documenting the inspection!

On May 18, I went to meet with state and county health department officials. Strangely, the very document whose existence that DOH had denied surfaced. County Health Department had a copy, but nothing could make a difference anymore. The two departments had locked in their positions and each eyed at the other. No one was willing to admit any mistakes. A slight suggestion of someone made a mistake caused a department head to jump up to vigorously defend his department. There were too much self-interest, too much departmental interest and too many egos among the managers of those departments. There was only one solution: that is to let the error continue and force the innocent person to accept another inspection. Once accepted and done, no one in either department would have to admit the error.

For your judgement I am attaching a summary of the meeting, which I wrote on the same day. The dynamics and debates are apparent and I won't further elaborate on it.

I must also point out that the two organizations were not just passively defensive. They were also active. In November 2004 in the midst of all this confusion and DOH's finger pointing, I discovered that the DOH erred in the classification of my pump into Group A Water System and requested reclassification. However, for three weeks, DOH did not send me the update (WFI) form. Instead, they chose to call me. Calls came from two different persons at DOH and came shortly one after another, then again the following day, and again, shortly one after another. During this period, there were also calls from Joe Purdy, a private individual who wanted the inspection job.

I didn't know what was going on behind the doors of the two health departments. All I knew was that some people at the health departments were very experienced in choosing telephone as a medium when they didn't want to leave evidences. This was probably what happened in year 2000, which caused today's problem.

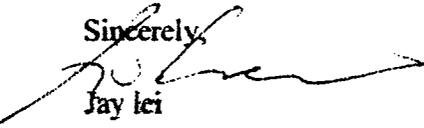
After receiving all these phone calls without forms, I sent out a second letter, then again a third letter questioning why DOH didn't send me the form. After the third letter, I finally received the form. Unfortunately, DOH was determined to put me into Group A and determined to make me accept another inspection. Came with the form was a new argument. For the first time in the history of my water pump, DOH argued that my pump was classified as Group A because it had "more than 15 connections".

I soon discovered that the "15 connections" was a bogus reason and it didn't apply to my pump at all. I pointed this out during the May 18th meeting, but like that written request, which eventually surfaced in the meeting, nothing would make a difference anymore. The two departments were determined to go to extreme to protect their own interests and their managers' egos. Rather than immediately stop manipulation, they chose to continue put their own interests above the law, continue to manipulate evidence, and continue to apply the law selectively, unfaithfully and retaliatorily. At this very moment, manipulations are still continuing. They only become more aggressive and more reckless as they continue. I have many more details about the problem and the two departments' manipulations. I also have evidences that someone might have committed a fraud. Before this problem explode and before more problems occur that hurt the public, they must be stopped. The

current setup between the two organizations and their managers' ego will not allow problem to be resolved internally. They must be dealt with externally. If you need more information, I can be reached at the above address and phone number.

Finally, I would like to voice a concern. I have long been disappointed by the two departments' manipulative and coercive behaviors, and have wanted to report them but fear stopped me. Now that I have requested investigation, retaliation is unavoidable. One health department official had already threatened to "regulate me and verify me." I am counting on the state to protect its citizens and insure laws are fairly and faithfully applied.

Sincerely,



Jay lei

Enclosure: Email and May 18th meeting summary



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
OFFICE OF DRINKING WATER

New Market Industrial Campus, Bldg. 3 • PO Box 47822 • Olympia, Washington 98504-7822

June 29, 2005

Tel: (360) 236-3100 • FAX: (360) 236-2252 • TDD Relay Service: 1-800-833-6388

Jay Lei
10801 Pacific Highway, SW
Tacoma, Washington 98499

Dear Mr. Lei:

Governor Gregoire forwarded your letter of June 8, 2005 to the Department of Health (DOH) and asked us to respond to your concerns.

I regret that you had the experiences you describe in your letter. It is important to me that the Office of Drinking Water works cooperatively with local governments to support and assist people who operate water systems so that together we can assure safe drinking water and help protect the public's health.

Your motel business is classified as a Group A Transient Non-Community (TNC) water system under Chapter 246-290-020 (4) of the Washington Administrative Code. This classification is based on the total number of connections (15 or more) or population (serves 25 or more people) in your motel. If you believe your motel business does not meet this classification, you are welcome to provide a written justification to us.

Under the federal Safe Drinking Water Act, all Group A water systems are required to have a sanitary survey (inspection) every five years. Even if a sanitary survey of your water system was conducted in the year 2000, it is due for another survey this year. (Please see the enclosed Sanitary Survey Fact Sheet for additional information.)

We will conduct your sanitary survey ourselves in order to alleviate your concerns about coordination between our office and the Tacoma-Pierce County Health Department. Please contact Derek Pell, assistant manager of our Northwest Regional Office in Kent, to schedule your survey. You can reach him at (253) 395-6763.

Together we can assure that travelers visiting the Victory Motel have safe and reliable drinking water. Thank you for your participation in this important task.

Sincerely,

Denise Addotta Clifford
Director

Enclosure

cc: Janice Adair, Assistant Secretary, DOH, Division of Environmental Health
Shannon Walker, Manager, DOH, Transient Accommodations Program
Derek Pell, Assistant Regional Manager, DOH, Northwest Regional Office
Brad Harp, Hydrogeologist, Tacoma-Pierce County Health Department



25

July 10, 2005

Jay Lei
10801 Pacific Hwy Sw
Tacoma, WA 98499

Denise Addotta Clifford, Director
Washington State Department of Health
Office of Drinking Water
New Market Industrial Campus, Bldg. 3, Box 47822
Olympia, WA 98504-7822

Dear Ms.Clifford:

I would like to thank you for responding to my letter to Governor Gregoire. The main purpose of my letter is to inform her the problems in the two health departments and request investigations. The problems are real. I hope your department will take them seriously.

Your letter of June 29 focuses on the issue of Group A classification. If you believe this is the main issue, then you are misled by your staff. The classification issue didn't come up until very late stage of the fiasco. Had I not been pressured by your department to prove my innocence, I would never have researched the law and discovered the error.

Also, I discussed the misclassification with your department on several occasions after I discovered it. No one asked for a written justification. If your department believe now that I need to provide a written justification, I will be willing to try one more time, but nothing I write down will be something not already known by your department.

I would like to plead you again that the main issue is not the classification and that your department take the issue seriously. I have many details and evidences and can be reached at 253-588-9107 or leolei@hotmail.com. If you let the problems grow, someday something more serious will happen.

Sincerely,


Jay Lei

Cc: Christine Gregoire, Governor
Janice Adair, Assistant Secretary, DOH



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
OFFICE OF DRINKING WATER

Newmarket Industrial Campus, Bldg. 3 • PO Box 47822 • Olympia, Washington 98504-7822
Tel: (360) 236-3100 • FAX: (360) 236-2252 • TDD Relay Service: 1-800-833-6388

August 3, 2005

Jay Lei
10801 Pacific Highway South
Tacoma, Washington 98499

Dear Mr. Lei:

I want to thank you once again for alerting Governor Gregoire and me to your recent experiences with the Department of Health Office of Drinking Water and the Tacoma-Pierce County Health Department.

Let me assure you that we do take your concerns seriously. I am personally following up with staff to learn more about what has transpired, and will contact you at the number you provided if I need more information.

Meanwhile, it is time to schedule a sanitary survey (inspection) for the Victory Motel. I urge you to contact Derek Pell in our Northwest Regional office to get this scheduled. His phone number is (253) 395-6763.

If your motel has fewer than 15 service connections (each hotel room is equal to one service connection), and therefore does not meet the criteria for a federally-regulated Group A water system, you are welcome to send us documentation about the number of service connections that are actually in your motel. You said that you have already provided this information; however, we would need it in writing in order to waive your five-year sanitary survey requirement.

Again, thank you for sharing your concerns with us. We look forward to working with you to help you provide safe and reliable water to customers of the Victory Motel.

Sincerely,

Denise Addotta Clifford
Director, Office of Drinking Water

cc: Janice Adair, Assistant Secretary, DOH



27

August 28, 2005

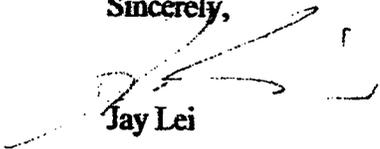
Jay Lei
10801 Pacific Hwy Sw
Tacoma, WA 98499

Denise Addotta Clifford, Director
Washington State Department of Health
Office of Drinking Water
New Market Industrial Campus, Bldg. 3, Box 47822
Olympia, WA 98504-7822

Dear Ms Clifford:

Your letter of August 3, 2005 made it impossible for me to respond to you on the issue of my water pump classification. I suggest that you ask the court to adjudicate a decision.

Sincerely,



Jay Lei

December 25, 2005

Jay Lei
10801 Pacific Hwy Sw
Tacoma, WA 98499

Governor Christine Gregoire
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire:

I sent you a letter on June 8, 2005 with regards to the state and county health department problems. I would like to take this opportunity to express my thanks to you for forwarding the letter to the state health department. However, six months have passed. I still have not seen any sign of an investigation.

I received two letters from the state health department after you forwarded mine. The first one (see attached) didn't mention the department's problem at all. The second, seemed benign, but still concentrated on an issue other than its own (also see attached). As of today, the health department still has not called me, nor has it shown any interest in knowing its problems and improving work.

As you know from my June 8th correspondence, The whole problem started when a health department official failed to file a report on the inspection of my water pump, an error caused by conflicting interests and bureaucracies between the two departments and exacerbated by their managers' egos. It has nothing to do with the "15-connection" issue referenced in these two letters. However in the two letters, the health department not only focused on the connection issue, but also in a seemingly friendly language challenged me to produce documents to prove my motel has less than 15 connections. It also said that I had already claimed less than 15 connections, but wanted a proof.

These statements are extremely puzzling. I have never said the motel has less than 15 connections. On the contrary, I just recently requested and filed with the health department a WFI form, which showed with my name and signature that my motel has 18 connections. Not only did this report show 18 connections, but also all previous ones from the last 10 years all consistently showed 18 connections. It is difficult to believe that the health department has forgotten this. Further, the health department last year intensely maneuvered events surrounding the WFI filing (see my June 8th letter on this). After maneuvering, it sent me a notice that my water pump remained classified as a Group A pump due to the fact that it had more than 15 connections.

It seems the health department still hasn't quit playing games. It knew my motel has more than 15 connections. It then purposely asked me to prove the opposite. Doing so and refusing to discuss any other issues, it put me into an impossible situation. The outcome

also seems to support that. When I told the health department its letter made it impossible for me to respond to them, it issued me a noncompliance status (a red permit).

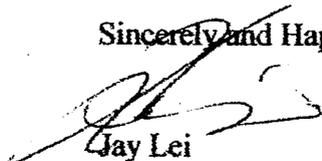
I had hoped, by alerting you the problems at the health department, the high management at the department would be more conscious of its problems. Unfortunately, it didn't.

As you also know, the "15-connection" issue is not a real issue in this matter. This issue was brought up by the health department at a later time when I showed them there was an error in the classification of my pump. Also, after the health department came up with this excuse, I addressed it in two different occasions. During May 18th meeting, I quoted a WAC section that shows the "15-connections" refers to community residential water systems and not a transient system like mine. After the meeting, I once again in an email addressed the health department's alternative argument.

Given all this, the health department really should have considered this issue resolved. If it doesn't, and if it is truly sincere about it, then it should be willing to further discuss it and treat it separately from its own problems. At the very minimum, it should provide a brief rebuff to my last response. However, it did none of these, and it rejected my suggestion for a third party adjudication, choosing instead to use its power to punish.

I am extremely disappointed at the health department, particularly at its above-described continued activities. My letter has not made it more aware of its problems. It only made it more aware of its tactics. I am now more convinced that it never admit mistakes. It will only do everything in its power to make others pay for its errors.

Sincerely and Happy Holidays,



Jay Lei

Enclosure: June 29th letter from the health department
My July 10th plea
August 3rd letter from the health department
My August 28th response to the health department letter of August 3rd

January 4, 2006

Jay Lei
10801 Pacific hwy sw
Tacoma WA 98499

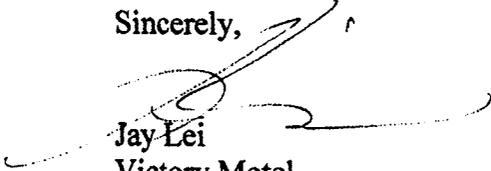
Governor Christine Gregoire
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire:

I am sorry to bother you again. Enclosed please find two notices of violations from the health department, one for October, the other for November, but I did what was required for both months and the health department should have records.

These are unrelated to the problems I already reported to you. Since my current trouble with the health department was caused by a similar error, I am concerned further pointing out its mistakes may lead to more bad feelings. I therefore write to you to avoid further confrontation and at the same time show that I did indeed fulfilled the requirements.

Sincerely,



Jay Lei
Victory Motel

SPECTRA Laboratories
 2221 ROSS WAY TACOMA, WA 98421
 (253) 272-4850 FAX (253) 572-9838

WATER BACTERIOLOGICAL ANALYSIS

SAMPLE COLLECTION: READ INSTRUCTIONS ON BACK OF GOLDENROD COPY
 If instructions are not followed, sample will be rejected.

DATE COLLECTED MONTH DAY YEAR 10/18/05		TIME COLLECTED 12:00 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	COUNTY NAME Pierce
TYPE OF SYSTEM <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> INDIVIDUAL (serves only 1 residence)		IF PUBLIC SYSTEM, COMPLETE: I.D. No. 917174 CIRCLE GROUP <input checked="" type="radio"/> A <input type="radio"/> B	
NAME OF SYSTEM Victory Motel			
SPECIFIC LOCATION WHERE SAMPLE COLLECTED (ie. Well Head, Tap Location) Kitchen		TELEPHONE NO. DAY (253) - 588-9107 EVENING ()	
SAMPLE COLLECTED BY: (Name) Mary		SYSTEM OWNER/MGR.: (Name)	
SOURCE TYPE <input checked="" type="checkbox"/> SURFACE <input type="checkbox"/> WELL or WELL FIELD <input type="checkbox"/> SPRING <input type="checkbox"/> PURCHASED or INTERTIE <input type="checkbox"/> COMBINATION or OTHER			
SEND REPORT TO: (Print Full Name, Address and Zip Code)			

WASHINGTON

TYPE OF SAMPLE (check only one in this column)		Chlorinated (Residual: ___ Total ___ Free)	
<input checked="" type="checkbox"/> ROUTINE DRINKING WATER check treatment	<input type="checkbox"/> Filtered	<input type="checkbox"/> Untreated or Other _____	
<input type="checkbox"/> REPEAT SAMPLE Previous coliform presence Lab # _____ Date ____/____/____			
<input type="checkbox"/> RAW SOURCE WATER	Source # <input type="checkbox"/> S <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Total Coliform	
<input type="checkbox"/> NEW CONSTRUCTION or REPAIRS		<input type="checkbox"/> Fecal Coliform	
<input type="checkbox"/> OTHER (Specify) _____			

REMARKS: FORWARDED TO DEPT. OF HEALTH

(LAB USE ONLY) DRINKING WATER RESULTS

<input checked="" type="checkbox"/> UNSATISFACTORY, Coliforms present	<input checked="" type="checkbox"/> SATISFACTORY, Coliforms absent
REPEAT SAMPLES REQUIRED	<input type="checkbox"/> E. Coli present <input checked="" type="checkbox"/> E. Coli absent
	<input type="checkbox"/> Fecal present <input checked="" type="checkbox"/> Fecal absent
OTHER LABORATORY RESULTS	
TOTAL COLIFORM _____/100ml	E. COLI _____/100ml
FECAL COLIFORM _____/100ml	PLATE COUNT _____/ml
ANOTHER SAMPLE REQUIRED	
SAMPLE NOT TESTED BECAUSE:	TEST UNSUITABLE BECAUSE:
<input type="checkbox"/> Sample too old	<input type="checkbox"/> Confluent growth
<input type="checkbox"/> Wrong container	<input type="checkbox"/> TNTC
<input type="checkbox"/> Incomplete form	<input type="checkbox"/> Turbid culture
<input type="checkbox"/>	<input type="checkbox"/> Excess debris

SEE REVERSE SIDE OF GREEN COPY FOR EXPLANATION OF RESULTS

LAB NO. 11810260	DATE, TIME RECEIVED 10-18-05 1:50	RECEIVED BY MAN
DATE REPORTED 10/25	PAID _____	

White - DOH Olympia Blue - Laboratory Green - Water Supplier Gold - DOH Regional

SPECTRA Laboratories
 2221 ROSS WAY TACOMA, WA 98421
 (253) 272-4850 FAX (253) 572-9838

WATER BACTERIOLOGICAL ANALYSIS

SAMPLE COLLECTION: READ INSTRUCTIONS ON BACK OF GOLDENROD COPY
 If instructions are not followed, sample will be rejected.

DATE COLLECTED MONTH DAY YEAR 11/28/05		TIME COLLECTED 9:00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	COUNTY NAME Pierce
TYPE OF SYSTEM <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> INDIVIDUAL (serves only 1 residence)		IF PUBLIC SYSTEM, COMPLETE: I.D. No. 917174 CIRCLE GROUP <input checked="" type="radio"/> A <input type="radio"/> B	
NAME OF SYSTEM Victory Motel			
SPECIFIC LOCATION WHERE SAMPLE COLLECTED (ie. Well Head, Tap Location) Kitchen		TELEPHONE NO. DAY (253) - 588-9107 EVENING ()	
SAMPLE COLLECTED BY: (Name) Mary		SYSTEM OWNER/MGR.: (Name)	
SOURCE TYPE <input checked="" type="checkbox"/> SURFACE <input type="checkbox"/> WELL or WELL FIELD <input type="checkbox"/> SPRING <input type="checkbox"/> PURCHASED or INTERTIE <input type="checkbox"/> COMBINATION or OTHER			
SEND REPORT TO: (Print Full Name, Address and Zip Code)			

WASHINGTON

TYPE OF SAMPLE (check only one in this column)		Chlorinated (Residual: ___ Total ___ Free)	
<input checked="" type="checkbox"/> ROUTINE DRINKING WATER check treatment	<input type="checkbox"/> Filtered	<input type="checkbox"/> Untreated or Other _____	
<input type="checkbox"/> REPEAT SAMPLE Previous coliform presence Lab # _____ Date ____/____/____			
<input type="checkbox"/> RAW SOURCE WATER	Source # <input type="checkbox"/> S <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Total Coliform	
<input type="checkbox"/> NEW CONSTRUCTION or REPAIRS		<input type="checkbox"/> Fecal Coliform	
<input type="checkbox"/> OTHER (Specify) _____			

REMARKS: FORWARDED TO DEPT. OF HEALTH

(LAB USE ONLY) DRINKING WATER RESULTS

<input checked="" type="checkbox"/> UNSATISFACTORY, Coliforms present	<input checked="" type="checkbox"/> SATISFACTORY, Coliforms absent
REPEAT SAMPLES REQUIRED	<input type="checkbox"/> E. Coli present <input checked="" type="checkbox"/> E. Coli absent
	<input type="checkbox"/> Fecal present <input checked="" type="checkbox"/> Fecal absent
OTHER LABORATORY RESULTS	
TOTAL COLIFORM _____/100ml	E. COLI _____/100ml
FECAL COLIFORM _____/100ml	PLATE COUNT _____/ml
ANOTHER SAMPLE REQUIRED	
SAMPLE NOT TESTED BECAUSE:	TEST UNSUITABLE BECAUSE:
<input type="checkbox"/> Sample too old	<input type="checkbox"/> Confluent growth
<input type="checkbox"/> Wrong container	<input type="checkbox"/> TNTC
<input type="checkbox"/> Incomplete form	<input type="checkbox"/> Turbid culture
<input type="checkbox"/>	<input type="checkbox"/> Excess debris

SEE REVERSE SIDE OF GREEN COPY FOR EXPLANATION OF RESULTS

LAB NO. 11810463	DATE, TIME RECEIVED 11-28-05 1:20	RECEIVED BY MAN
DATE REPORTED 11/29/05	PAID _____	

White - DOH Olympia Blue - Laboratory Green - Water Supplier Gold - DOH Regional

February 7, 2006

Jay Lei
10801 Pacific Hwy SW
Tacoma, WA 98499

Janice Adair
Assistant Secretary
Washington State Department of Health
Division of Environmental Health
PO Box 47820
Olympia, WA 98504-7820

Dear Ms. Adair:

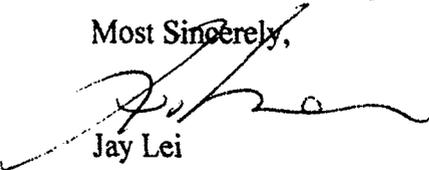
Thank you very much for your letter of January 17, 2006. Thank you also for asking Ms. Thorp to call me.

I have carefully reviewed the documents you enclosed in your letter and believe the quote is incorrect. I called Ms. Thorp. She was not available. Due to the complexity of the law, I propose to meet with the person in your department who has advised on this issue and discuss/debate the law. I will present as well as listen carefully to his/her arguments in the meeting.

The health department's handling of the water pump issue disappointed me to the point where I believed the only solution would be an external solution, but I noticed the difference in your letter and truly appreciated your willingness to listen. I therefore separately propose a meeting with you where I will provide facts and explanation to the problem. If you come to the meeting truly open-minded, you will easily see the source of the problem yourself and find a solution.

The problem has developed to this level, I believe personal meetings are necessary, but I am open to alternative suggestions.

Most Sincerely,


Jay Lei

February 23, 2006

Jay Lei
10801 Pacific Hwy. SW
Tacoma, WA 98499

Janice Adair
Assistant Secretary
Washington State Department of Health
Division of Environmental Health
PO Box 47820
Olympia, WA 98504-7820

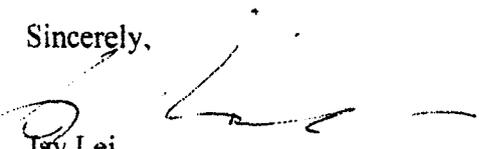
Dear Ms. Adair:

I received yet another notice of violations on top of the October and November violations. It informs that, due to "my failure to conduct sanitary survey," my water test requirement was increased to 5 tests per month and notifies that violations occurred again in December and January due to that increase.

Whether this is retaliation or an effort to justify the department's October and November errors, you are in a better position to judge it than me. The last notice I had from your department asks for one test every three months. Now all of a sudden, the requirement increased 15 times and violations were issued the same day.

I have been extremely careful this time not to point out the department's error. However, I reach same fate regardless. I don't know how to deal with the health department anymore. No matter what I do or not do, I end up with problems. If this continues, I am afraid I will end up in a mental health hospital. I am now informing you (respectfully) that, starting from today, I will stop responding to all notices. It is not contempt. It is an effort to save me from insanity and save us from further complicating the already very complicated problems.

Sincerely,



Jay Lei

Enclosure

Cc: Christine Gregoire, Governor



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

20435 72nd Ave. S., Suite 200, K17-12• Kent, Washington 98032 -2358

April 28, 2006

JAY LEI
VICTORY MOTEL
10801 PACIFIC HWY SW
TACOMA WA 98499

Subject: Victory Motel (ID# 917174)
Pierce County
Coliform Major Monitoring Violation for March 2006

Dear Jay Lei:

Coliform bacteria testing of your water supply is required to make sure it is of satisfactory quality for your water users (WAC 246-290-300). According to our records, no routine coliform samples were submitted for your system during March. This means that the system has a Major Monitoring violation on record for March.

We realize that errors sometimes occur, and you may not have received credit for a sample that was collected. If this is the case, please mail or fax a copy of each lab slip to me along with a note or copy of this letter. I will be glad to credit the water sample(s) to your system and to delete the violation from your record. The sample must have been collected during the calendar month of March in order to receive credit.

If our records are correct and a sample was not collected, you are required to notify all water users of this monitoring violation (WAC 246-290-71001). A public notification form is enclosed for your use. Send a copy of the completed notice to me at the same time it is distributed to water users.

Please note: If a system has four water quality violations or six violations of any type within a 12-month period, the system will be considered a significant non-complier (SNC) with the Total Coliform Rule, and the Department of Health will take enforcement action to restore compliance. SNC status may result in a red operating permit and the denial of a permit, license, or loan. Transient Non-Community systems that reach SNC status will be required to have a certified operator.

If you need assistance, I can be reached by phone at 253-395-6775, by fax at 253-395-6760, or by e-mail at carol.stuckey@doh.wa.gov. I work Wednesday through Friday each week.

Sincerely,

Carol Stuckey
Water Quality Specialist
NW Drinking Water Operations

Enclosure

cc: Tacoma-Pierce County Health Department

35



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

20435 72nd Ave. S., Suite 200, K17-12* Kent, Washington 98032 -2358

May 24, 2006

JAY LEI
VICTORY MOTEL
10801 PACIFIC HWY SW
TACOMA WA 98499

Subject: Victory Motel (ID# 917174)
Pierce County
Coliform Major Monitoring Violation for April 2006

Dear Jay Lei:

Coliform bacteria testing of your water supply is required to make sure it is of satisfactory quality for your water users (WAC 246-290-300). According to our records, no routine coliform samples were submitted for your system during April. This means that the system has a Major Monitoring violation on record for April.

We realize that errors sometimes occur, and you may not have received credit for a sample that was collected. If this is the case, please mail or fax a copy of each lab slip to me along with a note or copy of this letter. I will be glad to credit the water sample(s) to your system and to delete the violation from your record. The sample must have been collected during the calendar month of April in order to receive credit.

If our records are correct and a sample was not collected, you are required to notify all water users of this monitoring violation (WAC 246-290-71001). A public notification form is enclosed for your use. Send a copy of the completed notice to me at the same time it is distributed to water users.

Please note: If a system has four water quality violations or six violations of any type within a 12-month period, the system will be considered a significant non-complier (SNC) with the Total Coliform Rule, and the Department of Health will take enforcement action to restore compliance. SNC status may result in a red operating permit and the denial of a permit, license, or loan. Transient Non-Community systems that reach SNC status will be required to have a certified operator.

If you need assistance, I can be reached by phone at 253-395-6775, by fax at 253-395-6760, or by e-mail at carol.stuckey@doh.wa.gov. I generally work Wednesday through Friday each week.

Sincerely,

Carol Stuckey
Water Quality Specialist
NW Drinking Water Operations

Enclosure

cc: Tacoma-Pierce County Health Department

36



SPECTRA Laboratories

2221 ROSS WAY TACOMA, WA 98421
(253) 272-4850 FAX (253) 572-9838

WATER BACTERIOLOGICAL ANALYSIS

SAMPLE COLLECTION: READ INSTRUCTIONS ON BACK OF GOLDENROD COPY
If instructions are not followed, sample will be rejected.

DATE COLLECTED MONTH DAY YEAR 3/28/06		TIME COLLECTED 11:20 <input type="checkbox"/> AM <input type="checkbox"/> PM		COUNTY NAME Pierce County	
TYPE OF SYSTEM <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> INDIVIDUAL (serves only 1 residence)		IF PUBLIC SYSTEM, COMPLETE: I.D. No. 917174		CIRCLE GROUP <input checked="" type="radio"/> A <input type="radio"/> B	
NAME OF SYSTEM Victory Motel					
SPECIFIC LOCATION WHERE SAMPLE COLLECTED (ie. Well Head, Tap Location) Kitchen			TELEPHONE NO. DAY (253) 588-9107		
SAMPLE COLLECTED BY: (Name)			SYSTEM OWNER/MGR.: (Name)		
SOURCE TYPE <input checked="" type="checkbox"/> SURFACE <input type="checkbox"/> WELL or <input type="checkbox"/> SPRING <input type="checkbox"/> PURCHASED or <input type="checkbox"/> COMBINATION WELL FIELD INTERTIE or OTHER					
SEND REPORT TO: (Print Full Name, Address and Zip Code)					

WASHINGTON

TYPE OF SAMPLE (check only one in this column)		<input type="checkbox"/> Chlorinated (Residual: ___ Total ___ Free)	
<input checked="" type="checkbox"/> ROUTINE DRINKING WATER check treatment	<input type="checkbox"/> Filtered	<input type="checkbox"/> Untreated or Other	
<input type="checkbox"/> REPEAT SAMPLE Previous coliform presence Lab # _____ Date ____/____/____			
<input type="checkbox"/> RAW SOURCE WATER	Source # S	<input type="checkbox"/> Total Coliform	
<input type="checkbox"/> NEW CONSTRUCTION or REPAIRS		<input type="checkbox"/> Fecal Coliform	
<input type="checkbox"/> OTHER (Specify)			

REMARKS:

sample was run past holding time
Per Chem

(LAB USE ONLY) DRINKING WATER RESULTS

<input type="checkbox"/> UNSATISFACTORY, Coliforms present	<input checked="" type="checkbox"/> SATISFACTORY, Coliforms absent
REPEAT SAMPLES REQUIRED	<input type="checkbox"/> E. Coli present <input type="checkbox"/> E. Coli absent <input type="checkbox"/> Fecal present <input type="checkbox"/> Fecal absent
OTHER LABORATORY RESULTS	
TOTAL COLIFORM _____/100ml	E. COLI _____/100ml
FECAL COLIFORM _____/100ml	PLATE COUNT _____/ml

ANOTHER SAMPLE REQUIRED

SAMPLE NOT TESTED BECAUSE:	TEST UNSUITABLE BECAUSE:
<input checked="" type="checkbox"/> Sample too old	<input type="checkbox"/> Confluent growth
<input type="checkbox"/> Wrong container	<input type="checkbox"/> TNTC
<input checked="" type="checkbox"/> Incomplete form	<input type="checkbox"/> Turbid culture
	<input type="checkbox"/> Excess debris

SEE REVERSE SIDE OF GREEN COPY FOR EXPLANATION OF RESULTS

LAB NO. 1181007	DATE, TIME RECEIVED 5/10/06	RECEIVED BY [Signature]
DATE REPORTED 5-10-06	PAID	

SPECTRA Laboratories

2221 ROSS WAY TACOMA, WA 98421
(253) 272-4850 FAX (253) 572-9838

WATER BACTERIOLOGICAL ANALYSIS

SAMPLE COLLECTION: READ INSTRUCTIONS ON BACK OF GOLDENROD COPY
If instructions are not followed, sample will be rejected.

DATE COLLECTED MONTH DAY YEAR 3/23/06		TIME COLLECTED 2:15 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM		COUNTY NAME Pierce	
TYPE OF SYSTEM <input type="checkbox"/> PUBLIC <input type="checkbox"/> INDIVIDUAL (serves only 1 residence)		IF PUBLIC SYSTEM, COMPLETE: I.D. No. [] [] [] [] [] []		CIRCLE GROUP <input type="radio"/> A <input checked="" type="radio"/> B	
NAME OF SYSTEM Victory Motel					
SPECIFIC LOCATION WHERE SAMPLE COLLECTED (ie. Well Head, Tap Location)				TELEPHONE NO. DAY () _____ EVENING () _____	
SAMPLE COLLECTED BY: (Name)				SYSTEM OWNER/MGR.: (Name)	
SOURCE TYPE <input type="checkbox"/> SURFACE <input type="checkbox"/> WELL or <input type="checkbox"/> SPRING <input type="checkbox"/> PURCHASED or <input type="checkbox"/> COMBINATION WELL FIELD INTERTIE or OTHER					
SEND REPORT TO: (Print Full Name, Address and Zip Code)					

WASHINGTON

TYPE OF SAMPLE (check only one in this column)		<input type="checkbox"/> Chlorinated (Residual: ___ Total ___ Free)	
<input checked="" type="checkbox"/> ROUTINE DRINKING WATER check treatment	<input type="checkbox"/> Filtered	<input type="checkbox"/> Untreated or Other	
<input type="checkbox"/> REPEAT SAMPLE Previous coliform presence Lab # _____ Date ____/____/____			
<input checked="" type="checkbox"/> RAW SOURCE WATER	Source # S	<input type="checkbox"/> Total Coliform	
<input type="checkbox"/> NEW CONSTRUCTION or REPAIRS		<input type="checkbox"/> Fecal Coliform	
<input type="checkbox"/> OTHER (Specify)			

REMARKS:

(LAB USE ONLY) DRINKING WATER RESULTS

<input type="checkbox"/> UNSATISFACTORY, Coliforms present	<input checked="" type="checkbox"/> SATISFACTORY, Coliforms absent
REPEAT SAMPLES REQUIRED	<input type="checkbox"/> E. Coli present <input type="checkbox"/> E. Coli absent <input type="checkbox"/> Fecal present <input type="checkbox"/> Fecal absent
OTHER LABORATORY RESULTS	
TOTAL COLIFORM _____/100ml	E. COLI _____/100ml
FECAL COLIFORM _____/100ml	PLATE COUNT _____/ml

ANOTHER SAMPLE REQUIRED

SAMPLE NOT TESTED BECAUSE:	TEST UNSUITABLE BECAUSE:
<input type="checkbox"/> Sample too old	<input type="checkbox"/> Confluent growth
<input type="checkbox"/> Wrong container	<input type="checkbox"/> TNTC
<input type="checkbox"/> Incomplete form	<input type="checkbox"/> Turbid culture
	<input type="checkbox"/> Excess debris

SEE REVERSE SIDE OF GREEN COPY FOR EXPLANATION OF RESULTS

LAB NO. 11810361	DATE, TIME RECEIVED 3/23/06	RECEIVED BY [Signature]
DATE REPORTED	PAID	



SPECTRA Laboratories

2221 Ross Way • Tacoma, WA 98421 • (253) 272-4850 • Fax (253) 572-9838 • www.spectra-lab.com

May 3, 2004

Victory Motel
C/O Jay
10801 Pacific Hwy SW
Tacoma, WA 98499

Dear Jay,

Subject: April Water Bacteriological Analysis

Spectra Laboratories received your sample April 28, 2006. The policy is that we receive bacteria samples Monday thru Thursday. Bacteria samples are accepted on Fridays only in special instances, and depending on staff availability, as we are normally closed on Saturdays. It was for this reason that your sample was turned away on Friday, April, 27, 2006.

On May 1, 2006, you resubmitted the same sample and paperwork. The laboratory must receive Total Coliform samples within 30 hours of sampling. Per your request, the sample was run despite being past holding time and tested negative.



Kerrie Nason
Spectra Laboratories

10801 Pacific Hwy SW
Tacoma, WA 98449

TACOMA WA 984

14 JUL 2006 PM 1 L



Ingrid Salmon
Washington State Dept of Health
30435 72nd Ave SW
Kent,

NIXIE 980 1 01 07/19/06

RETURN TO SENDER
NO SUCH NUMBER
UNABLE TO FORWARD

BC: 9849946001 *2226-06029-14-39

9849946001



10881 pencils May 5th
Tavens, W1198499

Langford Salomon
Washington State Dept of Health,
30935 7ard Ave. of S.W. 98106
Kent,

RETURN TO SENDER
NO SUCH NUMBER
UNABLE TO FORWARD

BC: 5849946301 42528 08028-14-09

30935 7ard Ave

30935 7ard Ave



July 13, 2006

Ingrid Salmon
Washington State Department of Health
20435 72nd Ave S, Suite 200
Kent WA 98032-2358

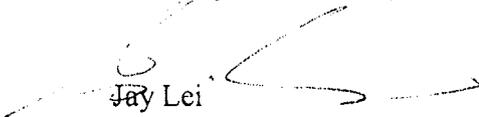
Dear Ms. Salmon:

Enclosed please find my response to your department's Order. It's unfortunate that we have to go to the court to resolve our issue. Had Robert James not been such a dictator and refused to stipulate an understanding at the meeting, we would have resolved the issue long time ago.

I am now asking if the department is willing to have its attorney discuss the law with me. In my last correspondence to Janice Adair, I suggested a meeting with your department's attorney to discuss the law on pump classification.

Please don't send me back to Robert James for "advice". His interpretation is incorrect and manipulative.

Sincerely,



Jay Lei

Victory Motel
10801 Pacific hwy sw
Tacoma WA 98499

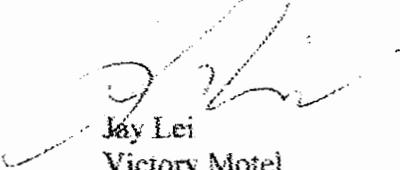
July 13, 2006

Robert E. James, Regional Manager
Washington State Department of Health
20435 72nd Ave. S., Suite 200
Kent, WA 98032 -2358

Ref: Docket No. 06-SDO-009

Mr. Robert E. James:

This letter is a response to your Order dated June 28th, 2006. This is an old matter with a new twist. My repeated efforts to work out the problems were met with manipulated and unlawful acts by your department. I have decided to request the court to resolve this matter. I will officially file court paper within 60 days.



Jay Lei

Victory Motel
10801 Pacific hwy sw
Tacoma WA 98499

Cc: Ingrid Salmon



Federico Cruz-Urbe, MD, MPH
Director of Health

Governed by a local
Board of Health

- Community Based
- Competitive
- Integrated
- Preventive

3629 South D Street
Tacoma, WA 98418-6813

253/798-6500
TDD: 798-6050
800/992-2456

www.tpchd.org

August 18, 2003

Jay Lei
10801 Pacific HWY SW
Tacoma, WA 98499

Subject: Victory Motel
State ID # 917174

Received 6/4/05
Never existed before

Forged !

This letter is to inform you of the Third Party Sanitary Survey Program being conducted by the Tacoma-Pierce County Health (TPCHD) in conjunction with Department of Health Drinking Water Division (DOH). The focus of this program is to promote compliance with state drinking water regulations and to provide technical assistance for small Group A water systems. The TPCHD will be conducting sanitary surveys of small Group A water systems that have been designate by the DOH to meet the criteria for the program.

Each system is required to do a sanitary survey per Group A Regulations (Chapter 246-290 WAC) every 5 years. Victory Motel is designated to have a survey completed during September 1st, 2003 to December 30, 2003.

A sanitary survey is a site visit, which will be conducted by TPCHD staff. TPCHD staff will prearrange the survey at the convenience of the water system owner or manager. The survey will include an inspection of water system facilities, a review of record keeping, and a discussion about operations and maintenance.

The results of the survey will be provided to you and DOH, which will include photographs, drawings, and additional information. When DOH receives this information, they will notify you that the sanitary survey requirement has been met, and will advise you of any follow-up action required.

TPCHD's fee for the sanitary survey fee is **\$439.00**. The enclosed application and fee are required prior to inspection. Please fill out the enclosed application and mail it back with the appropriate fee.

Please notify TPCHD during the week of September 1st. to schedule an appointment for the sanitary survey. If TPCHD does not hear from you, staff will contact you. If you have any questions, please contact me at (253) 798-7683.

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Cox".

Michelle Cox
Environmental Health Specialist 1
Environmental Health Program

cc: Brian Boyle, DOH

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Preparing for a Sanitary Survey: Information to Help Small Water Systems

October 2003



DOH PUB. # 331-238

43

Definitions

Public water system

A public water system provides piped water for human consumption. Group B systems are small water systems primarily regulated by state law. Group A systems are larger systems regulated by both state law and the federal Safe Drinking Water Act (SDWA).

Human consumption

All drinking water should be suitable for human consumption. This applies to all water intended for human uses, including drinking, hand washing, food preparation, and cleaning of equipment used in the preparation of food or beverages. Process water that comes in contact with products intended for human consumption, and water included as part of a food product must meet certain drinking water standards but is regulated by the Washington State Department of Agriculture (WSDA) or the federal Food and Drug Administration (FDA).



Water system classification

Determining which rules to follow

In order to determine which requirements are applicable for your system, you need to know if you are a Group A or Group B public water system. Group A systems are further defined as community and noncommunity water systems. Noncommunity water systems are further defined as nontransient or transient water systems, often abbreviated NTNC or TNC water systems.

Group A Systems

You are a Group A nontransient non-community (NTNC) water system if:

- You provide access to water for 25 or more of the same nonresidential people for 180 or more days within a calendar year.

You are a Group A transient non-community (TNC) water system if:

- You provide access to water for 25 or more different people each day for 60 or more days within a calendar year and do not primarily serve a residential community; or
- You provide access to water for 25 or more of the same people each day for 60 or more days, but less than 180 days within a calendar year; or
- You provide access to water for 1,000 or more people for two or more consecutive days within a calendar year.

Group B Systems

You are a Group B water system with a transient population if you provide access to water for less than 25 people per day for at least 60 days per year or for more than 25 people per day for 59 days or less per year and do not primarily serve a residential community.

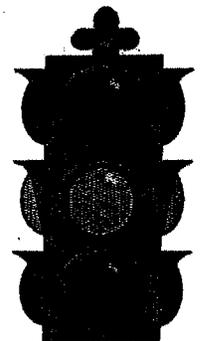
Operating permit program

What does the operating permit program mean for my water system?

If you operate a Group A water system, then you receive an annual DOH operating permit. Group B water systems do not receive an operating permit from DOH. The permit color indicates the adequacy status of your system:

Green = adequate
Yellow = conditional
Red = inadequate
Blue = undetermined

If you can't locate a copy of your operating permit, contact your DOH regional office compliance person for assistance.





STATE OF WASHINGTON
DEPARTMENT OF HEALTH
OFFICE OF DRINKING WATER

243 Israel Road Southeast • PO Box 47822 • Olympia, Washington 98504-7822
Tel: (360) 236-3100 • Fax: (360) 236-2253 • TDD Relay Service: 1-800-833-6388

New Water Use Efficiency Rule Goes Into Effect

January 22, 2007

Received after hearing
of Jan 23, 07

January 18, 2007

Dear Interested Persons:

The Office of Drinking Water has taken an important step in conserving water for the environment and meeting the needs of future generations by adopting rules that require public water systems to use water more efficiently.

Who is Affected?

These rules apply to water systems that are municipal water suppliers. Municipal water suppliers include:

- Group A community water systems with 15 or more residential connections.
- Non-community water systems that use water in a residential manner.

What are the Requirements?

The rules require water systems to use water efficiently and demonstrate that they are doing so. Specifically, water systems must:

- Develop a plan through a public process and enact measures to manage water use.
- Reduce distribution system leakage to 10 percent or less.
- Install service meters within 10 years, if not already installed, to accurately account for water usage and leakage.
- Reporting annually on their progress in using water efficiently.

There are six fact sheets in this packet that explain these requirements in more detail. We have also provided a fact sheet called *Overview of Changes Made to the Final Rule Language*, which explains changes we made to the rule as a result of comments we received during our public comment period.

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- Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*; or
- Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

"Group B water system" means a public water system:

- Constructed to serve less than fifteen residential services regardless of the number of people; or
- Constructed to serve an average nonresidential population of less than twenty-five per day for sixty or more days within a calendar year; or
- Any number of people for less than sixty days within a calendar year.

"Guideline" means a department document assisting the owner in meeting a rule requirement.

"Health officer" means the health officer of the city, county, city-county health department or district, or an authorized representative.

"Hydraulic analysis" means the study of the water system network evaluating water flows within the distribution system under worst case conditions such as, peak hourly design flow plus fire flow, when required. Hydraulic analysis includes consideration of all factors affecting system energy losses.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water delivered to any public water system user.

"Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable.

"Owner" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that holds as property, a public water system.

"Peak hourly design flow" means the maximum rate of water use, excluding fire flow, which can be expected to ever occur within a defined service area over a sixty minute time period.

"Potable" means water suitable for drinking by the public.

"Pressure zone" means a distribution system whereby an established minimum and maximum pressure range can be maintained without the use of ancillary control equipment (e.g., booster pumps, pressure reducing valves, etc.).

"Primary standards" means standards based on chronic, nonacute, or acute human health effects.

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing

IN THE APPELLATE COURT OF THE STATE OF WASHINGTON
DIVISION II

FILED
COURT OF APPEALS
DIVISION II

08 JUN 27 PM 12:49

STATE OF WASHINGTON
BY _____
DEPUTY

Victory Motel,
Appellant,

V.

Washington State Department
Of Health,

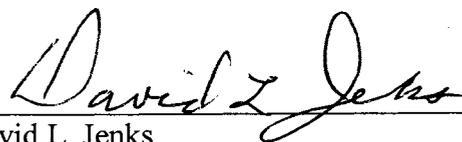
Appellee,

No. 36955-9-II
DECLARATION OF SERVICE

I certify, under penalty of perjury under the laws of the state of Washington, that I served a copy of the Reply Brief of the Appellant in the above entitled action upon the respondent's legal counsel by personally depositing a true and correct copy thereof into the U.S. postal box, postage pre-paid and addressed to:

Dorothy H. Jaffe
Assistant Attorney General
7141 Cleanwater Drive SW
PO Box 40109
Olympia, WA 98504-0109

Dated this 26th day of June 2008



David L. Jenks