

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

| | | |
|--|---|--------------------------------|
| In the Matter of: | : | |
| | : | |
| | : | ADMINISTRATIVE ORDER |
| Portal Hotels Site LLC, a Delaware Limited | : | ON CONSENT |
| Liability Company d/b/a Mandarin Oriental, | : | |
| Washington D.C. | : | |
| | : | |
| Respondent. | : | Docket No. SDWA-03-2020-0121DS |
| | : | |
| PWS ID No. DC00000010 | : | |
| Mandarin Oriental Hotel Washington | : | |
| 1330 Maryland Avenue SW | : | |
| Washington, DC 20024 | : | |
| | : | |
| System. | : | |
| | : | |
| Proceedings Pursuant to Section 1414(g) | : | |
| of the Safe Drinking Water Act, | : | |
| as amended, 42 U.S.C. § 300g-3(g) | : | |

I. STATUTORY AUTHORITY

The following FINDINGS are made and ORDER FOR COMPLIANCE issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA” or “Agency”) by Section 1414(g) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300g-3(g). The Administrator of EPA has delegated the authority to take these actions to the Regional Administrator of EPA, Region III, who has redelegate these authorities to the Director, Enforcement & Compliance Assurance Division, EPA Region III.

II. EPA’S FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS, AND CONCLUSIONS OF LAW

1. Portal Hotels Site LLC, a Delaware limited liability company d/b/a Mandarin Oriental, Washington D.C. (“Mandarin Oriental” or “Respondent”) is the owner and/or operator of

the Mandarin Oriental Hotel Washington Public Water System (“PWS” or “System”), PWS ID DC0000010, located at 1330 Maryland Avenue SW, Washington, DC 20024.

2. Mandarin Oriental is a limited liability company organized and operating under the laws of Delaware and as such is a “person” as defined by Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
3. Mandarin Oriental is a person who owns and/or operates a public water system and is a “supplier of water” as defined by Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2.
4. Mandarin Oriental’s System is supplied by purchased surface water, obtained from the District of Columbia Public Water System (“DC Water”).
5. Mandarin Oriental’s System serves approximately 780 persons and has 1 service connection.
6. Mandarin Oriental is considered a “public water system” because it has its own treatment facilities, *see* 40 C.F.R. 141.3(a), which operates in addition to the treatment provided to the source water by the Washington Aqueduct Division (DC0000001), and a “non-transient non-community water system,” because it serves an average of at least 25 of the same individuals daily at least sixty days out of the year and regularly serves at least 25 of the same persons over six months per year. *See* Sections 1401(4) and 1401(16) of the SDWA, 42 U.S.C. §§ 300f(4), 300f(16), and by 40 C.F.R. § 141.2.
7. According to Section 1411 of the SDWA, 42 U.S.C. § 300g, Mandarin Oriental is required to comply with public water system provisions in Part B of the SDWA, and the applicable regulations at 40 C.F.R. Part 141, including but not limited to sampling and analyzing the drinking water and reporting analytical results.
8. States may have primary enforcement responsibility for public water systems in accordance with the regulations in Section 1413, 42 U.S.C. § 300g-2. While the District of Columbia is included in the definition of the term “State” per Section 1401, 42 U.S.C. § 300f(13)(A), the District of Columbia has not sought primary enforcement responsibility.
9. Because the District of Columbia does not have primary enforcement responsibility, EPA directly implements the SDWA in the District of Columbia, and EPA is the “state” for purposes of enforcement responsibility for the SDWA in the District of Columbia. 42 U.S.C. § 300g-2; 40 C.F.R. §141.2.

Count 1: Failure to Adhere to Corrective Action Plan to Remedy Significant Deficiency Identified during Sanitary Survey per 40 CFR § 141.723(d)

10. The allegations in the preceding paragraphs are incorporated herein by reference.
11. EPA Region III conducts sanitary surveys of regulated water systems in Washington, D.C. every three years.
12. A sanitary survey performed by EPA “is an onsite review of the water source (identifying sources of contamination by using results of source water assessments where available), facilities, equipment, operation, maintenance, and monitoring compliance of a PWS to evaluate the adequacy of the PWS, its sources and operations, and the distribution of safe drinking water.” 40 C.F.R. § 141.723(a).
13. EPA last conducted a sanitary survey of Mandarin Oriental’s PWS on April 17 and 18, 2018.
14. During the 2018 sanitary survey, EPA and its contractors identified a significant deficiency. A significant deficiency “includes a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that EPA determines to be causing, or has the potential for causing the introduction of contamination into water delivered to consumers.” 40 C.F.R. § 141.723(b).
15. On August 21, 2018, EPA issued a Sanitary Survey Report to Mandarin Oriental documenting the following significant deficiency: 18-SD1: “*The water meter vault had water up to about 6” below the pipe. The plumber indicated that the pipe was submerged after heavy rains and water is always present.*”
16. The Sanitary Survey Report recommended that Mandarin Oriental “[i]dentify sources of water into the meter vault and implement actions to prevent accumulation of water. Establish an SOP [Standard Operating Procedure] or engineering control to address standing water in the pits. Perform inspections monthly and after significant rain events.”
17. “For sanitary surveys performed by EPA, systems must respond in writing to significant deficiencies identified in sanitary survey reports no later than 45 days after receipt of the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey.” 40 C.F.R. § 141.723(c). This submittal is called a Corrective Action Plan (“CAP”).
18. Mandarin PWS submitted a CAP to EPA on October 31, 2018. EPA requested revisions, which Mandarin PWS submitted. On December 17, 2018, EPA approved Mandarin

PWS's CAP, attached hereto as Appendix A.

19. "Systems must correct significant deficiencies identified in sanitary survey reports according to the schedule approved by EPA, or if there is no approved schedule, according to the schedule reported under paragraph (c) of this section if such deficiencies are within the control of the system." 40 C.F.R. § 141.723(d).
20. Mandarin PWS's approved CAP for SD-18 requires it to 1) create a standard operating procedure to inspect the meter vault; 2) purchase and install a pump; and 3) ensure pump and associated piping are not vulnerable to freeze and thaw cycle. Each of these milestones was achieved.
21. Mandarin Oriental submitted its SOP for inspecting the meter vault with its revised proposed CAP on October 31, 2018. The SOP is incorporated herein by reference as Appendix B.
22. The approved CAP also required the hotel to continue to submit to EPA the *Water Meter Vault Inspection and Pump Tracking Form* on a quarterly basis to document inspections and actions. The *Water Meter Vault Inspection and Pump Tracking Form* specifies that meter vault inspections occur monthly and after significant rain events.
23. When EPA approved the CAP on December 17, 2018, it specified that, "Should the hotel fail to perform a monthly inspection, an additional quarter of required inspection and reporting shall be added to the timeline for each instance an inspection is missed until four consecutive quarters of inspections are achieved before EPA would consider a request for resolution of this significant deficiency."
24. Mandarin Oriental failed to adhere to its approved CAP in violation of 40 C.F.R. §141.723(d) when it failed to conduct the required monthly and wet weather meter vault inspections during the First and Second Quarters of 2019.
25. These failures were documented in a December 13, 2019 Notice of Noncompliance that EPA sent to Mandarin PWS. At that time, the Mandarin Oriental had failed to perform post-rainfall inspections for six months based upon a review of the First and Second Quarter 2019. Per paragraph 23, *supra*, Mandarin Oriental was therefore required to add an additional six quarters of inspection and reporting to comply with its CAP.
26. Mandarin Oriental failed to adhere to its approved CAP in violation of 40 C.F.R. §141.723(d) when its Third and Fourth Quarter 2019 reports submitted on October 10, 2019 and January 10, 2020, respectively:
 - a. Indicated that no meter vault inspections were conducted in November 2019;
 - b. Failed to provide clear information as to the presence depth, or estimated volume of water in the meter vault;

- c. Inspection dates for the Third Quarter were inconsistently reported in the Third and Fourth Quarter 2019 Reports; and
 - d. Mandarin PWS missed all post-rainfall inspections in the Third Quarter 2019 and several post-rainfall inspections in the Fourth Quarter 2019.
27. When Mandarin Oriental failed to perform required monthly and wet weather inspections in the Third and Fourth quarters 2019, including all of November 2019, this added an additional six (6) quarters of inspections and reporting to comply with the CAP.
28. On February 21, 2020, Mandarin Oriental submitted a revised meter pit inspection form. EPA approved the form with revisions on March 10, 2020. The approved revised form is attached hereto as Appendix C.
29. The actions described above constitute violations of the SDWA implementing regulations at 40 C.F.R. Part 141 by failing to adhere to a Corrective Action Plan to remedy a significant deficiency identified during a sanitary survey per 40 C.F.R. §141.723(d).

Count 2: Failure to Submit a Complete Operational Evaluation Report for Stage 2 Monitoring Exceedences Per 40 C.F.R. § 141.626

30. The allegations in the preceding paragraphs are incorporated herein by reference.
31. As a public water system, Mandarin PWS is required to follow the monitoring requirements for Stage 2 Disinfection Byproducts as stipulated in 40 C.F.R. §§141.620-629.
32. These regulations “establish monitoring and other requirements for achieving compliance with maximum contaminant levels based on locational running annual averages (LRAA) for total trihalomethanes (TTHM) and haloacetic acids (five)(HAA5), and for achieving compliance with maximum residual disinfectant residuals for chlorine and chloramine for certain consecutive systems.” 40 C.F.R. § 141.620(a).
33. As a PWS that serves a population size between 500-3,300, Mandarin PWS is required to monitor Stage 2 Disinfection Byproducts quarterly. 40 C.F.R. § 141.621(a)(2).
34. For systems required to monitor quarterly, “[t]o comply with subpart V MCLs in § 141.64(b)(2), you must calculate LRAAs for TTHM and HAA5 using monitoring results collected under this subpart and determine that each LRAA does not exceed the MCL. If you fail to complete four consecutive quarters of monitoring, you must calculate compliance with the MCL based on the average of the available data from the most recent four quarters. If you take more than one sample per quarter at a monitoring location, you must average all samples taken in the quarter at that location to determine a quarterly average to be used in the LRAA calculation.” 40 C.F.R. § 141.620(d)(1).

35. The Stage 2 Disinfection Byproducts Regulations require a PWS to monitor quarterly compliance with maximum contaminant levels for total trihalomethanes and haloacetic acids (five) in accordance with an approved monitoring plan. *See* 40 C.F.R. §141.622(a)(1).
36. The regulations explain that, “You have exceeded the operational evaluation level at any monitoring location where the sum of the two previous quarters' TTHM results plus twice the current quarter's TTHM result, divided by 4 to determine an average, exceeds 0.080 mg/L, or where the sum of the two previous quarters' HAA5 results plus twice the current quarter's HAA5 result, divided by 4 to determine an average, exceeds 0.060 mg/L.” 40 C.F.R. §141.626(a).
37. On November 19, 2019, EPA received notification from Mandarin PWS’s contractor, Barclay Water Management, Inc., that haloacetic acids results of fourth quarter Stage 2 monitoring showed that the Mandarin PWS exceeded the operational evaluation level at two locations: the Fourth Floor Janitorial Sink Hot Tap and the Basement Women’s Room Hot Tap.
38. Exceedence of the operational evaluation level triggered a requirement for Mandarin PWS to conduct an operational evaluation and submit a written report of the evaluation (“OEL Report”) no later than 90 days after being notified of the analytical result that caused the exceedence. 40 C.F.R. § 141.626(b)(1).
39. The OEL Report “must include an examination of system treatment and distribution operational practices, including storage tank operations, excess storage capacity, distribution system flushing, changes in sources or source water quality, and treatment changes or problems that may contribute to TTHM and HAA5 formation and what steps could be considered to minimize future exceedences.” 40 C.F.R. § 141.626(b)(2).
40. On February 11, 2020, Mandarin Oriental submitted an OEL Report to EPA.
41. In the February 11, 2020 OEL Report, Mandarin Oriental stated:
 - a. That it did not have any finished water quality data even though Mandarin Oriental submitted finished water quality data monthly to EPA;
 - b. That it does not receive water containing disinfectant even though the incoming water received by the system already contains a disinfectant and may contain disinfection byproduct precursors; and
 - c. That the exceedence came from water received from the District of Columbia even though Mandarin Oriental provided no evidence to support this conclusion about the cause of the exceedence, in direct disregard of Section E of the OEL report template that requires submission of “supporting operational or other data

that support the determination of the cause(s) of your OEL exceedance(s).”

42. Failure to submit a complete evaluation report is a violation of 40 C.F.R. §141.626(b)(2).
43. On February 18, 2020, EPA responded to Mandarin Oriental that it needed to provide “supporting or operational or other data that support the determination of the cause(s) of [its] OEL exceedance(s)” per 40 C.F.R. §141.626(b)(2).
44. On February 24, 2020, Mandarin Oriental submitted an updated OEL Report.
45. On April 7, 2020, EPA responded that Mandarin Oriental’s explanations for the cause of the exceedance are not supported by sufficient evidence. EPA also stated that the report lacked an adequate plan of action to prevent another exceedance. Currently Mandarin Oriental’s OEL Report for the November 2019 exceedances remain inadequate.
46. The actions described above constitute a violation of SDWA implementing regulations at 40 C.F.R. Part 141 by failing to submit a complete Operational Evaluation Report for Stage 2 Monitoring Exceedances per 40 C.F.R. §141.626.

III. ORDER FOR COMPLIANCE

Based on the foregoing FINDINGS, and pursuant to the authority of Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), EPA hereby ORDERS:

47. Mandarin Oriental to comply with all provisions of the SDWA and its implementing regulations.
48. Mandarin Oriental shall implement its CAP as approved on December 17, 2018, attached herein as Appendix A.
49. As a part of the implementation of its CAP, Mandarin Oriental will use the revised meter pit inspection form approved on March 10, 2020, attached herein as Appendix C.
 - a. Mandarin Oriental shall fill out the revised meter pit inspection form every day to record in the “Notes” column if there was a rain event that day.
 - b. If there was no rain event, Mandarin Oriental shall note there was no rain event in the preceding twenty-four hour period.
 - c. If there was a rain event, Mandarin Oriental shall inspect the meter vault.
 - d. These inspections are in addition to monthly inspections conducted per Mandarin Oriental’s SOP.
50. On or before the 30th calendar day following the Effective Date of this Order, Mandarin shall develop and submit electronically to the addresses below for EPA’s review a

revised Standard Operating Procedure (“Revised SOP”), that outlines a comprehensive inspection plan with information including:

- a. Steps taken and methods used to check for rainfall events;
 - b. Daily recording of verification of rainfall events in the meter pit inspection form approved on March 10, 2020, as detailed in paragraph 44, *supra*;
 - c. Explanation of the triggers for routine inspections;
 - d. A description of the parties responsible for conducting each step of the Revised SOP, including the daily checks for rainfall events;
 - e. Monitoring actions taken following rainfall events;
 - f. Monitoring actions taken following routine monitoring;
 - g. Who is responsible for reporting routine and post-rainfall inspection data;
 - h. How routine and post-rainfall inspection data is reported to EPA;
 - i. Steps Mandarin Oriental will take to ensure the SOP is followed by its staff; and
 - j. Any other proposed alternative methods of compliance, if Mandarin Oriental chooses to implement them (such as installation of a water alarm and testing schedule; installation of a rain gauge and monitoring schedule; or other proposed strategy).
51. EPA will review the Revised SOP and either:
- a. approve the Revised SOP;
 - b. approve the Revised SOP in part, and request modifications to address and correct any noted deficiencies;
 - c. modify the Revised SOP to cure any deficiencies; or
 - d. disapprove the Revised SOP, in writing.
52. Within twenty (20) days of receipt of any EPA request for modifications, or disapproval, of the Revised SOP, Mandarin Oriental shall address and correct all noted deficiencies and resubmit the Revised SOP for EPA approval. EPA retains the right, if the Revised SOP is not approved as provided herein to order compliance in accordance with a Revised SOP developed by EPA.
53. Upon final approval by EPA of Mandarin Oriental’s Revised SOP, Mandarin Oriental will implement the Revised SOP immediately.
54. Mandarin Oriental shall provide EPA with a revised OEL report that includes supporting data and concrete preventative actions referenced in Count 2, above, within 45 days of the Effective Date of this Order. As a part of this revised report, provide the following information:
- a. Explain the role Mandarin Oriental’s treatment units play in contributing to Drinking water disinfection byproducts (“DBP”) formation and how Mandarin Oriental will mitigate the impact of adding disinfectant to source water that may already contain DBP precursors;

- b. List Mandarin Oriental’s target disinfectant residual for the hot and cold points of entry to the distribution system and explanation for why this target was chosen;
 - c. A SOP including actions Mandarin Oriental takes when the target is not achieved;
 - d. Calibration records and information regarding how often units are calibrated;
 - e. A SOP to ensure that Mandarin Oriental is not overdosing the source water;
 - f. A list of the locations where Mandarin Oriental collects source water samples, the frequency of such sampling and the parameters Mandarin Oriental measures; and
 - g. A comprehensive flushing plan including (but not limited to) the following:
 - i. Frequency of sampling source water;
 - ii. Location(s) for collecting source water samples;
 - iii. Triggering events for flushing, including the analytical results Mandarin Oriental will use to determine a triggering event;
 - iv. The method(s) used for flushing;
 - v. The timeframe for when flushing will take place following a triggering event;
 - vi. To determine the end of the flushing process, include a list of the water quality parameters Mandarin Oriental will monitor and the frequency of the monitoring;
 - vii. Metrics to evaluate the success of the flushing process, and a process to determine if flushing needs to be conducted again;
 - viii. A definition for “low flow areas” (referenced in the OEL report); and
 - ix. A method for discerning whether high DBP results are caused by “incoming city water” or from Mandarin Oriental adding its own disinfectant, and a list of parameters Mandarin Oriental monitors in its source water and/or its own finished water to support this determination.
55. Upon the Effective Date of this Order, Mandarin Oriental shall send written progress reports to EPA no later than 10 calendar days following the end of every calendar quarter at the address listed below. Reports may be submitted electronically. Such reports shall document progress toward compliance with the requirements of the Order and CAP and note any changes in the responsible party. In addition, for events which may or will delay compliance with this Order, the report shall include:
- a. The cause of the anticipated length of the delay;
 - b. The efforts taken to prevent or minimize the delay; and
 - c. A description of any future deadlines which could be affected by the present or anticipated delay.
 - d. Written reports submitted to EPA shall be signed by a responsible corporate officer or a duly authorized representative. The signatory shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed

to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

56. This Order supersedes previous reporting requirements required by EPA, noted in paragraph 23, *supra*.

57. Mandarin Oriental shall submit any documentation, plans, reports and analyses to:

Ms. Sara Calcinore
SDWA & Wetlands Section (3ED31)
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
(215) 814-2043
calcinore.sara@epa.gov

and

Ms. Alysia Zirilli, P.G.
Drinking Water Section (3WD21)
Water Division
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Phone: (215) 814-5733
zirilli.alysia@epa.gov

IV. GENERAL PROVISIONS

58. Respondent admits that EPA has jurisdiction to issue this AOC. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law contained herein.

59. Notwithstanding Respondent's compliance with any requirements of this Order, Respondent's failure to comply with all of the requirements of the SDWA, 40 C.F.R. Part 141, and milestones required under this Order, may subject Respondent to additional

enforcement action, including but not limited to administrative actions, as appropriate, for penalties and/or injunctive relief.

60. Respondent may request modifications to the Corrective Plan in writing to EPA. A revised Corrective Plan will be incorporated into this Order upon approval by EPA.
61. This Administrative Order shall not prohibit, prevent, or otherwise preclude EPA from whatever action it deems appropriate to enforce the SDWA in any matter and shall not prohibit, prevent, or otherwise preclude EPA from using this Order in subsequent administrative proceedings. Respondent reserves all rights, claims and defenses to any enforcement by EPA pursuant to this paragraph or under any authority.
62. This Order does not waive, suspend, or modify the requirements of the SDWA, 42 U.S.C. §§ 300f - 300j-26, or its implementing regulations found in 40 C.F.R. Part 141, which remain in full force and effect. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action otherwise authorized under the SDWA, including action against any person.
63. This Order does not relieve Respondents of any responsibilities or liabilities established pursuant to any applicable federal, state or local law.
64. Submission of reports shall not excuse the obligation of the Respondent to comply with this Order.
65. Issuance of this Order in no way alters EPA's primary SDWA enforcement responsibility for the District of Columbia.
66. EPA and its authorized representatives, including contractors, shall have authority upon the presentation of proper identification to enter the premises of Respondent at any time without prior notification to monitor the activities required by this Order, verify any data or information submitted pursuant to this Order, obtain samples, and inspect and review any records generated and/or maintained pursuant to this Order. EPA reserves and does not waive any and all existing inspection and information request authority.
67. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Order and to execute and legally bind the party.
68. The provisions of this Order shall apply to and be binding upon the Respondent and its officers, directors, employees, authorized representatives, agents, trustees, successors and assigns.

69. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
70. Respondent certifies that any information or representation it has supplied to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Order are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
71. Violation of any term of this Administrative Order may subject Respondent to a civil penalty of up to \$58,328 per day of violation under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).
72. Any request for modification of this Administrative Order, including the Corrective Plan, must be in writing and must be approved by EPA.
73. Respondent shall not raise lack of funds as a defense to compliance with elements of the CAP. Nothing in this Order shall require the Respondents to violate the Anti-Deficiency Act, 13 U.S.C. § 1341.

VI. TERMINATION AND SATISFACTION

74. The provisions of this Order shall be deemed satisfied when:
 - a. Mandarin Oriental has satisfactorily completed four consecutive quarters of proper inspections from the date of the approval of the Revised SOP and in accordance with its approved CAP; and
 - b. Mandarin Oriental receives written notice from EPA that Respondent has demonstrated, to the satisfaction of EPA, the terms of this Order have been satisfactorily completed and the written notice will state that this Order is terminated.
 - i. Mandarin Oriental may submit to EPA a Certification of Compliance and Request for Termination of this Order, including the necessary inspection logs and documentation to demonstrate that it has met all requirements of this Order. If, following review of any Certification of Compliance and

Request for Termination of this Order, EPA agrees that Respondent has adequately complied with all requirements of this Order, EPA shall provide written notification of termination of this Order, as described in Paragraph 74(b).

VII. EFFECTIVE DATE

75. This Order shall become effective on the date on which it is filed with the Regional Hearing Clerk after the signature of the Director, EPA Region III Enforcement & Compliance Assurance Division.

VIII. MULTIPLE COUNTERPARTS

76. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

SO ORDERED this 8th day of September, 2020.

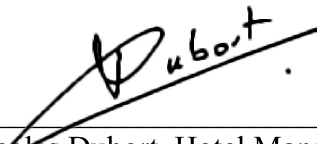
**KAREN
MELVIN**

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KAREN MELVIN
Date: 2020.09.08
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Karen Melvin
Director, Enforcement and Compliance Assurance Division
U.S. EPA, Region III

AGREED TO: FOR THE RESPONDENT:

Date: 08/25/2020



Nicolas Dubort, Hotel Manager
Portal Hotels Site LLC d/b/a Mandarin Oriental,
Washington D.C.

Appendix A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

DEC 17 2018

Mr. Michael Drees
Director of Engineering
Mandarin Oriental Hotel
1330 Maryland Avenue, SW
Washington, D.C. 20024

Dear Mr. Drees:

The U.S. Environmental Protection Agency (EPA) is in receipt of revisions to your proposed Corrective Action Plan submitted in response to the final report documenting the sanitary survey performed at the Mandarin Oriental Hotel (Public Water System ID DC0000010) in April 2018. One significant deficiency was identified during the site visit which represents a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that EPA determines to be causing or has the potential for causing the introduction of contaminants into the water delivered to consumers. The significant deficiency, 18-SD1, identified standing water in the meter vault and requires the hotel to provide a schedule and description of proposed actions to address the issue.

Enclosed is the approved schedule for correction of the significant deficiency and other findings identified during the sanitary survey, also known as the Corrective Action Plan (CAP). We have incorporated the actions and completion dates you identified in your October 31, 2018 proposed CAP. Significant deficiency corrective actions in the CAP shall proceed as described in the *Planned Action* column, completed no later than the date identified in the *Target Completion Date* column. Failure to comply with the CAP, including the schedule for correcting significant deficiencies, may result in enforcement action. Should the need arise to deviate from the approved schedule you must notify this office at least two weeks prior to the target completion date so EPA may review and consider whether to approve such changes.

After installation of the water meter vault pump, the hotel must continue to perform monthly and post-rain event inspections of the vault for at least four consecutive quarters. The inspections and resultant actions shall be documented on the enclosed Water Meter Vault Inspection and Pump Tracking Form and submitted to this office quarterly with the CAP. Should the hotel fail to perform a monthly inspection, an additional quarter of required inspection and reporting shall be added to the timeline for each instance an inspection is missed until four consecutive quarters of inspections are achieved before EPA would consider a request for resolution of this significant deficiency.

The enclosed approved CAP serves as the reporting tool for the water system. An electronic copy will be provided to you for your convenience in submitting future progress reports. Mandarin



Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474

Oriental Hotel shall provide quarterly reports updating the implementation status of each action item together with other documentation as necessary. Supporting documentation to demonstrate resolution of a significant deficiency shall include photographs, with an embedded date, that provide context and detail of the action(s) completed.

The CAP and meter vault inspection quarterly progress report shall be submitted to Alysa Zirilli of the Drinking Water Branch using the address listed above or electronically to zirilli.alysa@epa.gov (electronic submission preferred) by the 10th day following the end of each calendar quarter, and it shall document actions performed in that quarter. Upon resolution of the significant deficiency, notification shall be made to EPA within 14 days of the final action. Progress reports shall continue to be submitted until EPA concurs that all actions to remedy significant deficiencies have been satisfactorily implemented.

If you have any questions please contact Alysa Zirilli, D.C. Team Leader, at 215-814-5733 or zirilli.alysa@epa.gov.

Sincerely,



Karen Crumlish, Chief
Drinking Water Branch

Cc: Nora Rothschild, Barclay Water

Enclosure

Approved 2018 Sanitary Survey Corrective Action Plan: Mandarin Oriental Hotel (DC0000010)

Use this space to describe corrective actions, a timetable for any corrective actions not already completed, and any interim measures the PWS plans to implement prior to the completion of any corrective actions, including specific milestone dates for doing so (attach additional pages if needed). Failure to meet milestone dates is subject to enforcement and public notice provisions.

| Finding | Brief Description of Finding | Planned Action | Type (Interim or Final) | Responsible Party | Target Completion Date | Status | Actual Completion Date | EPA Comment or Approval |
|---------|--|---|-------------------------|-------------------|------------------------|--|------------------------|---|
| 18-SD1 | The water meter vault had water up to about 6" below the pipe. The plumber indicated that the pipe was submerged after heavy rains and water is always present | Create a standard operating procedure to inspect the meter vault | Interim | Hotel | 10/09/2018 | SOP and tracking form submitted to EPA 10/31/18. | 10/09/2018 | 12/2018: The hotel must continue to submit the <i>Water Meter Vault Inspection and Pump Tracking Form</i> on a quarterly basis to document inspections and actions. |
| | | Purchase and install pump | Interim | Hotel | 11/05/2018 | Pump purchased and installed by 11/05/18. | 11/05/2018 | 12/14/18: Hotel affirms it installed pump by the original deadline but didn't anticipate impact of winter temperatures. Currently making modifications to keep piping frost-free. Upon resolution of the significant deficiency, notification shall be made to EPA within 14 days of the final action, corroborated by photographic evidence. |
| 18-D1 | One backflow prevention assembly to the chillers had a tag indicating the last inspection was in January 2017. | Confirm a more recent inspection was performed and update tag | Final | Hotel | 9/21/2018 | Photo of new tag submitted to EPA 10/31/18. | 9/21/2018 | |
| 15-R1 | The chemical tanks in both the hot and cold water loops are not vented outside and do not have vapor sensors to detect leaks. | Barclay's solution for detection of leaks yet to be determined | | Barclay | TBD | | | |
| 15-R2 | Low hanging head hazards are not identified. | Install padding with yellow and black stripes and order and install signage | Final | Hotel | 9/25/18 | Submitted photos to EPA 10/31/18. | 9/25/18 | |

Approved 2018 Sanitary Survey Corrective Action Plan: Mandarin Oriental Hotel (DC0000010)

Use this space to describe corrective actions, a timetable for any corrective actions not already completed, and any interim measures the PWS plans to implement prior to the completion of any corrective actions, including specific milestone dates for doing so (attach additional pages if needed). Failure to meet milestone dates is subject to enforcement and public notice provisions.

| Finding | Brief Description of Finding | Planned Action | Type (Interim or Final) | Responsible Party | Target Completion Date | Status | Actual Completion Date | EPA Comment or Approval |
|---------|---|--|-------------------------|-------------------|------------------------|--|------------------------|--|
| 18-R1 | The meter vault does not have a confined space entry sign. | Order and install sign | Final | Hotel | 9/18/18 | Submitted photo to EPA 10/31/18 | 9/18/18 | |
| 18-R2 | The meter vault is not secured from unauthorized entry. | Reach out to water authority on how best to restrict access If no reply from water authority, put a HASP lock on it | Interim | Hotel | 12/01/18 | No response as of 10/31/18. | | |
| 18-R3 | The sampler is not following the approved RTCR monitoring plan sampling procedures. | Update RTCR plan to include EPA approved methods | Final | Barclay | 4/19/18 | RTCR plan has been updated to include EPA approved methods. SOP has been shared and printed copy is available on site. | 4/19/18 | 12/2018: Please submit a copy of the updated SOP to confirm incorporation of the approved sampling method. |
| 18-R4 | The disinfection SOP does not refer to AWWA C651 (essential procedures for the disinfection of water infrastructure taken out of service for inspection, repair, or other activities that might lead to contamination). There is no personal protective equipment (PPE) such as goggles or eyewashes in the chemical storage areas. A chemical spill kit is not available. | Rewrite Barclay's disinfection SOP | Final | Barclay | TBD | In process of rewrite | | |
| 18-R5 | | Order and install PPE | Final | Mike Drees | 10/26/18 | PPE arrived 10/26/18, submitted photo of PPE to EPA 10/31/18. | | 12/2018: Was a chemical spill kit ordered and installed? |

Approved 2018 Sanitary Survey Corrective Action Plan: Mandarin Oriental Hotel (DC0000010)

Use this space to describe corrective actions, a timetable for any corrective actions not already completed, and any interim measures the PWS plans to implement prior to the completion of any corrective actions, including specific milestone dates for doing so (attach additional pages if needed). Failure to meet milestone dates is subject to enforcement and public notice provisions.

| Finding | Brief Description of Finding | Planned Action | Type (Interim or Final) | Responsible Party | Target Completion Date | Status | Actual Completion Date | EPA Comment or Approval |
|---------|--|----------------------------------|-------------------------|-------------------|------------------------|---|------------------------|-------------------------|
| 18-R6 | Certification information not provided for contractor staff that test backflow prevention assemblies. Need to document that staff are currently certified. | Obtain certification information | Final | Mike Drees | 9/21/18 | Email and phoned on day of inspection so will call again on 9/20/18. Received 9/21/18 and placed in Backflow Prevention Book. Copy submitted to EPA 10/31/18. | | |

Appendix B



Department: Engineering

Position: Duty Engineer

Module: Environmental

Environment



Standard Operating Procedures Manual

MODULE: EPA

TASK: Inspecting Water Meter Vault

SUPPORT MATERIALS

- Log to record
- Manhole Lock key
- Manhole cover tool

| ATTENTION | Demonstrate and explain the steps and standards, allowing the trainee to practice at intervals |
|-----------|--|
| What | Inspect Water Meter vault for standing water monthly and after significant rain events |
| Interest | EPA Requirement as we are a Public Water System due to the fact we do secondary water treatment of the incoming water. |
| Need | The standards and procedures for the inspection and maintenance of the water meter vault are extremely important. The water level in the vault must be maintained well below the piping and meters to prevent intake of the standing water so as not to contaminate this system. |



Department: Engineering

Position: Duty Engineer

Module: Environmental



Environment

Demonstrate and explain the steps and standards, allowing the trainee to practice at intervals

| | PROCEDURE STEPS | QUESTIONS | STANDARDS | KEY |
|----|--|---|--|------------|
| 01 | Checking of water level after a significant rain and monthly on the schedule generated by our PM system (HotSOS) | Who is responsible for inspection of the meter vault? | Engineer on Duty checks on 7-3 shift on first of the month and each day following a significant rain event of 1 inch or more in previous 24 hr period | |
| 02 | Ensure you have another colleague with you and do not actually enter vault without following strict confined space guidelines | Why do I need to have another colleague? | Report to Security that you are going through the alarmed door to look at the meter vault | |
| 03 | Remove manhole cover and use the sounding tool to measure the depth of any standing water. If water is more than 3 inches deep, check power to the permanently installed pump and reset breaker if needed. If this does not start pump report immediately to the Director of Engineering | How to use a sounding tool? | Water level is maintained below the three-inch level | |
| 04 | If water is above the 3-inch mark, and pump appears to not be working, use a drop in portable pump to empty the water until the DOE can ensure a proper confined space entry is organized to see why the permanently installed pump is not operating correctly | How to pump it out without entering vault? | Using a GFI protected circuit, lower the portable pump into the vault with hose attached. Ensure the discharge hose is discharging into the street. Run pump until it has reached a level that no longer allows pumping. | |
| | | | | |



Department: Engineering

Position: Duty Engineer

Module: Environmental



Environment

| | | | | |
|----|--|---------------------------------|---|--|
| 05 | Cleaning and sanitizing pump and hoses after use | How to clean and sanitize pump? | Using a 50 to 1 bleach solution, put pump in a 5-gallon clean bucket and pump through the solution and store pump in the gas main | |
|----|--|---------------------------------|---|--|

| CHECK | Test recall and understanding of the task and the standards |
|-----------------|---|
| Question | How will the task be scheduled monthly? (HotSOS will automatically assign the task the first week of every month) |
| Question | Why are we doing this now? Since the meter is on the suction side of our domestic water pumps, if any components of the meter and associated piping were to have leaks, it could pull in water from the vault and contaminate the system |
| Question | How to sanitize portable pump? Use a 50:1 bleach solution and pump the 5 gallons through until all is done. Store in Gas meter room after and never use pump for other purposes. |
| Question | How does the automatic pump system work and where is the water discharged to? We have an automatic pump in place and it has a float that pumps anytime the water rises in the vault. The water is discharging to the sewer in the gas meter room. |
| Question | How to check if sanitization cycle achieved? |



Department: Engineering

Position: Duty Engineer

Module: Environmental



Environment

| | |
|--------------------------------------|---|
| | |
| Question | How will we document the procedure monthly? HotSOS will automatically record this and we can pull the history in the future to ensure the process is working as designed. |
| Trainee Practices Entire Task | Trainees to role play the whole pumping and cleaning procedure task according to the guidelines. Trainer to observe each step and comment on the trainee's performance. |

Appendix C

Mandarin Oriental Hotel PWS 000010 Meter Vault and Pump Tracking Form

Month _____

Instructions: Complete the meter vault inspection monthly and after significant rain events.

METER VAULT LOCATION: 1330 Maryland Ave - South Side of Property

Vault Dimensions (in inches):

Length 120 in

Width: 84 in Vault Volume (cubic ft): 490 cu ft

Depth: 84 in

| Day | Time | Presense of Water (y/n) | Evidence of Leaks (y/n) | Approx. Depth of Water (inches) | Estimated Volume | Water Tested Y/N | Sample Results | Method of Disposal (pump, vaccuum, truck, etc.) | Notes | Initials |
|---------|-------|-------------------------|-------------------------|---------------------------------|------------------|------------------|----------------|---|-----------|----------|
| example | 13:30 | Y | N | 1" | 5.83 ft3 | N | n/a | pump | no issues | LK |
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AT A MINIMUM BARCLAY WILL INSPECT METER VAULT WHEN ONSITE COLLECTING MONTHLY TOTAL COLIFORM SAMPLES
 Additionally, Mandarin staff will inspect vault after rainfall events
 On the first of every month Mandarin staff will submit a copy of report to Barclay
 Barclay will submit results to EPA by the 10th of the following quarter

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Order on Consent in the matter of Portal Hotels Site LLC, a Delaware Limited Liability Company d/b/a Mandarin Oriental, Washington D.C., Docket No. SDWA-03-2020-0121DS, was filed and copies of the same were electronically mailed to the parties as indicated below.

Joel Gross, Esq.
Arnold & Porter
601 Massachusetts Ave., NW
Washington, District of Columbia 20001-3743
Joel.Gross@arnoldporter.com

Nicolas Dubort, Hotel Manager
Mandarin Oriental Hotel Washington
1330 Maryland Avenue SW
Washington, DC 20024
ndubort@mohg.com

September 8, 2020

Date

BEVIN
ESPOSITO

Digitally signed by
BEVIN ESPOSITO
Date: 2020.09.08
15:17:27 -04'00'

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3