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BEFORE THE STATE OF OREGON
OREGON HEALTH AUTHORITY
CENTER FOR HEALTH PROTECTION

In the Matter of

Youngs River Lewis & Clark Water
District

BILATERAL COMPLIANCE AGREEMENT

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) and the Youngs River Lewis & Clark Water District agree to the following:

1. Youngs River Lewis & Clark Water District is a water supplier (hereinafter “Water Supplier”) as defined in Oregon Revised Statute (ORS) 448.115 and Oregon Administrative Rule (OAR) 333-061-0020. The responsibilities of water suppliers are identified in OAR 333-061-0025.
2. Water Supplier owns and operates the public water system (hereinafter “Water System”) serving residents and businesses west of Astoria, Oregon, bounded by Young’s River on the east and the Lewis and Clark River of the west, and identified by public water system ID# OR4100062. The Water System is a community water system serving approximately 2,500 people and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0272.

3. DWS has reviewed the operation of the Water System pursuant to its authority in ORS 431A.010, 448.150 and 448.255. DWS has determined that water provided by the water system exceeds the maximum contaminant level (MCL) as specified in OAR 333-061-0030 for haloacetic acids (HAA5). Water with HAA5 above the MCL represents a potential public health hazard.

Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer. OAR 333-061-0097.

4. This Bilateral Compliance Agreement (“Agreement”) is entered into between DWS and Water Supplier to address the contamination of the drinking water provided by the Water System. This Agreement establishes the corrective action(s) that Water Supplier must take and the deadlines for completing those actions with the purpose of reducing the contamination in the drinking water to below the MCL. The corrective actions and respective deadlines are described in detail below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Water Supplier was and is required to meet all the responsibilities for water suppliers described in OAR 333-061-0025.
2. The MCL for HAA5 is 0.060 mg/L. OAR 333-061-0030(2)(b).
3. Sample results for the Water System demonstrate that the water has been above the MCL for HAA5 in violation of OAR 333-061-0030(2)(b). On October 30, 2019, test results showed that the running annual average concentration of HAA5 in the water provided by the Water System at the Fort Clatsop sampling site was 0.069 mg/L. The average concentration of HAA5, inclusive of sample results reported through October 21, 2020, is 0.069 mg/L and continues to exceed the MCL.
4. Water Supplier is not in compliance with OAR 333-061-0030(2)(b).
5. Samples collected at the Water System on June 17, July 25 and October 14, 2019 indicate that total trihalomethanes (TTHM) exceeded the MCL in drinking water at the Water System on those monitoring dates; however, the average concentration of TTHM does not exceed the MCL as specified in OAR 333-061-0030(2)(b).
6. Water Supplier initiated a program to flush water from the Water System to reduce HAA5 and TTHM formation.

CORRECTIVE ACTIONS

Water Supplier agrees to take the following corrective actions and meet the deadlines set out below:

1. Water Supplier shall submit an action plan to DWS no later than December 31, 2020 identifying how it will ensure compliance with the MCL for both HAA5 and TTHM at the Water System. The action plan shall:
 - Identify all tasks Water Supplier intends to perform to ensure drinking water produced by the Water System has concentrations below the MCL for both HAA5 and TTHM and set reasonable deadlines for completing all the identified tasks. Upon approval by DWS, the submitted tasks and deadlines shall become enforceable by incorporation.
2. Water Supplier shall perform and complete all tasks in the action plan described in Corrective Action No. 1 by the deadlines in the action plan and shall notify DWS in writing within 5 calendar days of completing all the tasks. For this corrective action to be met, any construction or installation that was performed must meet the applicable construction standards in OAR 333-061-0050, as approved by DWS.
3. Water Supplier shall collect water samples according to OAR 333-061-0036(4) and submit testing results to DWS within sixty (60) calendar days of notifying DWS that all the tasks of the action plan have been completed that show the drinking water produced by the Water System is not above the MCL in OAR 333-061-0030(1) for each of the contaminants.
 - If monitoring indicates that concentrations of HAA5 or TTHM continue to exceed the MCL after monitoring for four consecutive calendar quarters, DWS may require Water Supplier to take further corrective action.
4. Water Supplier will have satisfied the terms of the Agreement when testing shows the drinking water produced by the Water System has concentrations of HAA5 and TTHM below the MCL in OAR 333-061-0030(2)(b) for four consecutive calendar quarters.

5. Water Supplier shall continue to publish a public notice according to the requirements in OAR 333-061-0042, that informs customers that drinking water at the Water System exceeds the MCL for HAA5 and TTHM.
 - Within 10 calendar days of distributing public notice to customers, Water Supplier shall send a copy of the notice to DWS along with a written statement that it has fully complied with the distribution and public notification requirements in OAR 333-061-0040(1)(i).
 - Water Supplier shall provide public notice to customers every three months that includes any changes or additional information regarding HAA5 and TTHM in the drinking water at the Water System. Water Supplier must comply with this action until DWS notifies it that its drinking water is below the MCL for HAA5 and TTHM, and that the drinking water otherwise meets all applicable state and federal drinking water laws and rules.

DWS RESPONSIBILITIES

- DWS shall review and approve any corrective action plan or construction plans submitted by Water Supplier within thirty (30) days of receipt. DWS shall approve or require changes to the submitted plans immediately upon completing the review.

GENERAL PROVISIONS

1. Water Supplier satisfies the terms of this Agreement by completing the corrective actions listed above according to the deadlines specified herein.
2. This Agreement does not constitute a waiver, suspension or modification of the requirements of the Oregon Drinking Water Quality Act; ORS 448.115 to 448.285 and administrative rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.
3. This Agreement does not relieve Water Supplier of any responsibilities or liabilities established by any applicable federal, state, or local law or regulation.
4. If Water Supplier fails to complete any of the corrective actions listed above or fails to meet any of the listed deadlines, DWS may pursue any enforcement action, which may include assessment of civil penalties or other legal remedies pursuant to ORS 431A.010, 431.155, 448.255 and 448.280. If DWS proceeds with such an enforcement action, Water Supplier will have the right to a hearing.

5. DWS may consider the findings of fact and violations cited in the conclusions of law of this Agreement for purposes of any future enforcement action or sanction involving Water Supplier.
6. Water Supplier is aware of its rights to contest the violations listed in this Agreement in a contested case hearing under the Administrative Procedure Act (Oregon Revised Statutes, Chapter 183) and its rights to judicial review of a final order issued in the contested case. Water Supplier freely and voluntarily waives all rights to a contested case hearing and to all judicial review of the findings of fact or conclusions of law contained in this Agreement in a proceeding brought by DWS to enforce this Agreement.
7. This Agreement may be executed in one or more multiple counterparts, including facsimile, scanned, and electronically transmitted counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

Dated this 29 day of October, 2020.

Kevin L. Dunn

~~Randy Blair~~ Kevin Dunn

~~Board President~~ Vice Chairman

Youngs River Lewis & Clark Water District

Dated this 30th day of October, 2020.

A handwritten signature in black ink, appearing to read "David Emme". The signature is fluid and cursive, with the first name "David" being more prominent than the last name "Emme".

David Emme, Manager
Drinking Water Services
Oregon Health Authority

cc: Pete Farrelly, Oregon Health Authority, Drinking Water Services
Carl Gifford, Youngs River Lewis & Clark Water District