

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

In the Matter of

Canby Regency Mobile Estates, PWS  
OR4100163

Respondent

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

To: Barbi Gradow  
Regency of Oregon, Inc.  
40 N 4<sup>th</sup> Street  
Carbondale, CO 81623

Regency of Oregon, Inc. has at all times mentioned herein owned and operated, and continues to own and operate, the Canby Regency Mobile Estates water system (hereinafter "Water System") located at 10038 S New Era Road in Canby, Oregon. The Water System is a community public water system serving approximately 250 people and is subject to regulation under Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules 333-061-0005 to 333-061-0272.

Regency of Oregon, Inc. (hereinafter "Water Supplier") is therefore a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020, and as a water supplier, has specific responsibilities that are identified in OAR 333-061-0025.

Pursuant to its authority established in ORS 431A.010 and ORS 448.255, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) has investigated the operation of the Water System.

DWS found, during its investigation, that water provided by the Water System exceeds the action level (AL) for copper. Also, Water Supplier did not complete corrosion control treatment requirements as specified by rule. Water Supplier is therefore unable to assure its water users that the water is sufficiently free from contaminants such that individuals will not be exposed to disease or harmful physiological effects (ORS 448.115(8)). This represents a potential public health hazard.

This Notice of Violation and Administrative Order (Order) is being issued to Water Supplier for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during DWS' investigation as described below.

#### DESCRIPTION OF RULE VIOLATIONS

1. OAR 333-061-0030(1) specifies, in part, that the AL for copper in drinking water is 1.3 mg/L and that the AL is exceeded if the concentration of copper is greater than 1.3 mg/L in more than 10 percent of tap water samples collected during any monitoring period. The concentration of copper exceeded 1.3 mg/L in one of five samples collected between June 27 and June 29, 2019. The concentration of copper again exceeded 1.3 mg/L in two of eleven samples collected between June 25 and June 29, 2020. This exceeds the AL of 1.3 mg/L.

Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor. OAR 333-061-0097

2. OAR 333-061-0034 requires, in part, water suppliers to comply with the corrosion control treatment steps as specified in the rule when the AL for copper is exceeded. The AL for copper was exceeded at the Water System as of September 25, 2019, when samples collected on June 27 and June 29, 2019 were reported to DWS. Additionally, DWS issued a letter to the operator for the Water System on October 28, 2019 identifying the applicable treatment steps, and provided deadlines for completing all of the requirements. As of the date of this Order, Water Supplier has not submitted

plans for treatment according to the rule or as specified in the letter. This constitutes a violation of OAR 333-061-0034.

### ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Water Supplier is required to conduct the remedial actions described below which, if taken within the time specified in this Order, will constitute compliance with the rule(s) violated (ORS 448.255(3)).

1. Water Supplier must submit construction plans according to all the applicable provisions of OAR 333-061-0034, for corrosion control treatment or another corrective action reasonably expected to reduce concentrations of copper to below the AL identified in OAR 333-061-0030(1), within 60 days of the date of service of this Order.

### GENERAL PROVISIONS AND CIVIL PENALTIES

This Order does not constitute a waiver, suspension or modification of the requirements of the Oregon Drinking Water Quality Act (ORS 448.115 to 448.290) and Oregon Administrative Rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve Water Supplier of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

Issuance of this Order is not an election by DWS to forgo any civil actions authorized under the Oregon Drinking Water Quality Act.

Failure to comply with any of the requirements in this Order by the specified due date may result in additional enforcement action, which could include assessment of civil penalties in the amount of \$100 per day per violation (OAR 333-061-0090). Civil penalties may be assessed beginning the day following the date of service of this Order and accruing through the date when DWS issues a Notice of Intent to Impose Civil Penalty. For example, if DWS issues a Notice of Intent to Impose Civil Penalty 61 days after service of this Order for failure to construction plans according to this Order, the proposed civil penalty could be as much as \$3,000.

Pursuant to ORS 448.990(2), violations of a rule of the Oregon Health Authority may be a crime in Oregon and punishable as a Class A misdemeanor.

NOTICE OF RIGHT TO REQUEST A HEARING

You are entitled to a hearing as provided by the Administrative Procedure Act (Oregon Revised Statutes, Chapter 183). If you want a hearing you must file a written request for hearing with DWS within 10 days from the date this Order was mailed. **The request for hearing must be sent to: Kari Salis, Manager; Oregon Health Authority, Drinking Water Services; and may be delivered by mail to PO Box 14450, Portland, OR 97293 or by email to [karyl.l.salis@dhsosha.state.or.us](mailto:karyl.l.salis@dhsosha.state.or.us).**

If you request a hearing, DWS will notify you of the time and place at which the hearing will be held. You may enlist representation by legal counsel. Per ORS 413.041, a party that is not a natural person may be represented by an attorney or by any officer or authorized agent or employee of the party. Parties are ordinarily represented by counsel. DWS will be represented by an Assistant Attorney General. Prior to the hearing date, DWS will provide you with information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing. An administrative law judge from the Office of Administrative Hearings will be assigned to preside over the hearing, as required by ORS 183.635.

If you do not make a timely request for a hearing, the Notice of Violation and Administrative Order will become final and effective 11 days after the date this Order was mailed. If the Order becomes final in this manner, you will have the right to appeal the order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 71 days from the day this order was mailed. If you do not file a petition for judicial review within the 71-day period, you will lose your right to appeal.

If you do not request a hearing and DWS subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

If you withdraw a request for hearing, or notify DWS or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, DWS may issue a final order by default. If the Order becomes final in this manner, you will have the right to appeal the Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order was mailed. If you do not file a petition for judicial review within the 60-day period, you will lose your right to appeal.

**Notice to Active Duty Servicemembers**

Active-duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar at 1 (800) 452-8260 or the Oregon Military Department at 503-584-3571 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil>.

DWS has designated its complete file on the Water System as the record in this case for purposes of proving a prima facie case upon default.

If you need to receive the information in this Order in an alternate format, or if you have any questions about the requirements in this Order, please contact Brad K. Daniels at 503-735-5438.

Date August 29, 2022



Kari Salis, PE  
Interim Manager  
Drinking Water Services  
Oregon Health Authority

cc: Joel Ferguson, Clackamas County Environmental Health  
Mary Howell, Canby Regency Mobile Estates  
Keith Male, Oregon Health Authority, Drinking Water Services

DATE of Service: August 30, 2022



Signature

Brad K. Daniels

Printed Name

By certified mail and first-class mail