

800 NE Oregon St.
Portland, Oregon 97232-2162
Voice (971) 673-0405
FAX (971) 673-0694
TTY (971) 673-0372

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

In the Matter of

London Water Co-op, Public Water
System #OR4100239

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Vicki Whisler, Registered Agent
London Water Co-op
72654 London Rd
Cottage Grove, OR 97424

London Water Co-op (LWC) has at all times mentioned herein owned and operated, and continues to own and operate the London Water Co-op water system, which is bordered by Shoestring and London roads south of Cottage Grove, Oregon. The London Co-op water system is a community public water system which serves approximately 65 people and is subject to regulation according to Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules 333-061-0005 to 333-061-0272.

LWC is therefore a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(211), 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 (Authority) has investigated the operation of the London Co-op water system. The Authority's investigation found that LWC did not respond in writing to the report following the sanitary survey conducted on July 7, 2016 as required nor did LWC provide written verification that significant deficiencies identified during the sanitary survey were corrected. One of these deficiencies, the lack of a flap valve, screen or equivalent protective measure safeguarding the overflow from the water system's reservoir, is considered to be a direct pathway for contamination to enter the water system and is priority for correction.

LWC 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 LWC for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during the Authority's investigation as described below.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333–061-0076(6)(a) requires water suppliers to respond in writing to sanitary survey reports within at least 45 days and to correct deficiencies identified during a sanitary survey according to a plan and schedule approved by the Authority. The Authority conducted a sanitary on July 7, 2016 and identified five significant deficiencies during that survey but LWC did not contact the Authority following the sanitary survey report mailed on July 14, 2016 nor has it provided the Authority written verification that all the significant deficiencies were corrected according to an approved plan. This constitutes one violation of OAR 333–061-0076(6)(a).

Additionally, the Authority mailed a Notice of Non-Compliance to LWC on October 5, 2017 requiring written verification that the lack of a flap valve, screen or equivalent protective measure safeguarding the overflow from the water system's reservoir was corrected within 30 days of the date of the notice. To date, the Authority has not received the required verification or any response to the notice from LWC.

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

LWC must conduct the remedial actions described below which, if taken within the time specified in this Order, will effect compliance with the rule(s) violated (ORS 448.255(3)).

- Compliance Action No. 1: LWC must correct the lack of a flap valve, screen or equivalent protective measure safeguarding the overflow from the water system's reservoir at the London Co-op water system and submit written verification of the correction to the Authority within 30 days of receipt of this order.
 - This significant deficiency must be corrected to the satisfaction of Authority personnel and verified by visual inspection or with photographic evidence.
- Compliance Action No. 2: LWC must issue public notice for failing to correct significant deficiencies according to OAR 333-061-0076(6)(a) and submit a copy of the notice to the Authority within 30 days of receipt of this order. The notice must meet all of the applicable requirements of OAR 333-061-0042(4).

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 LWC 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 the Authority 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 \$50 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 the Authority issues a Notice of Intent to Impose Civil Penalty.

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 the Authority within 10 days from the date this Order was mailed. **The request for hearing must be sent to: David Emme, Manager; Oregon Health Authority, Drinking Water Services; PO Box 14450; Portland, OR 97293.**

If you request a hearing, the Authority 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. The Authority will be represented by an Assistant Attorney General. Prior to the hearing date, the Authority 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 time period, you will lose your right to appeal.

If you do not request a hearing and the Authority 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 the Authority or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, The Authority 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 time period, you will lose your right to appeal.

Notice to Active Duty Service members. Active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the

Notice to Active Duty Service members. 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 1 (800) 452-7500 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil/content/locator.php>.

The Authority 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 letter in an alternate format, or if you have any questions about the requirements in this Order, please contact Brad Daniels at 971-673-0405

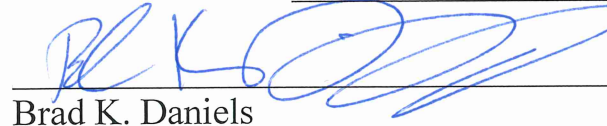
Dated this 22nd day of November, 2017.



André Ourso, JD, MPH
Administrator
Oregon Health Authority
Public Health Division
Center for Health Protection

cc: Mary Jackson, London Water Co-op
Jay MacPherson, Oregon Health Authority, Drinking Water Services
Shannon O'Fallon, Oregon Department of Justice
Jon Woodward, London Water co-op

DATE of Service: November 27, 2017


Brad K. Daniels

By certified mail and first class mail