

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

In the Matter of

Currinsville Mobile Home Park, PWS
OR4100266

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Scott S. Kang
Peerless Property Management, LLC
6823 SW Canyon Road
Portland, OR 97225

Peerless Property Management, LLC has at all times mentioned herein owned and operated, and continues to own and operate, the Currinsville Mobile Home Park water system (hereinafter "Water System") located at 28388 SE Eagle Creek Road in Estacada, Oregon. The Water System is a community public water system serving approximately 90 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.

Peerless Property Management, LLC (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 drinking water samples reported for the Water System violated the maximum contaminant level (MCL) for *E. coli* bacteria. Also, Water Supplier failed to correct significant deficiencies following a sanitary survey at the Water System. Water Supplier is therefore unable to assure water users that the drinking 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 333-061-0025 requires water suppliers to take all reasonable actions to assure that the water delivered to water users does not exceed maximum contaminant levels, that water system facilities are free of public health hazards and that water system operation and maintenance are performed as required by the rules; however, samples collected at the water system on July 10 and July 16, 2018 contained coliform bacteria and violated the MCL for *E. coli*. Water users also reported frequent periods without water pressure at the Water System between July and October 2018, and the lack of water pressure could have allowed contamination to enter the Water System, but Water Supplier failed to contact DWS or demonstrate that it acted to resolve the situation. This constitutes a violation of OAR 333-061-0025.
2. OAR 333-061-0030(4) specifies, in part, that the MCL for *E. coli* applies to all public water systems and is exceeded or violated when a total coliform-positive repeat sample follows an *E. coli*-positive routine sample. Coliform monitoring reported for the Water System indicates that on July 16, 2018, a total coliform-positive repeat sample was collected following an *E. coli*-positive routine sample collected on July 10, 2018. This exceeds the MCL for *E. coli* and constitutes a violation of OAR 333-061-0030(4).

E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term

effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. OAR 333-061-0097

3. OAR 333-061-0076(6)(b) requires, in part, water suppliers responsible for water systems using only groundwater sources to have corrected any significant deficiencies identified during a sanitary survey, or to be in compliance with an approved corrective action plan and schedule, within 120 days of written notice of the deficiency. Clackamas County Health, Housing and Human Services conducted a sanitary survey at the Water System on October 10, 2017 and mailed a letter to Ashley Funk on December 20, 2017 identifying significant deficiencies discovered during the survey. The letter required that the significant deficiencies, including the lack of a screen covering the vent for the groundwater well supplying the Water System, be corrected by April 25, 2018. The lack of a screen covering the vent for a groundwater well is considered a direct pathway for contamination to enter a water system and is a priority for correction. The date for correcting this deficiency has passed without the lack of a screen covering the well vent having been resolved and without DWS approval of a corrective action plan. This constitutes a violation of OAR 333-061-0076(6)(b).
4. OAR 333-061-0036(10) requires, in part, water suppliers to monitor for lead and copper in tap water at community public water systems and monitoring at the Water System should have been conducted at least once every six-months. Additionally, OAR 333-061-0040(1)(b)(A) requires water suppliers to report monitoring required by OAR 333-061-0036 to DWS within 10 days of the end of the required monitoring period. Water Supplier has not reported lead and copper monitoring for the Water System since April 6, 2017. This constitutes a violation of OAR 333-061-0036(10), or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.
5. OAR 333-061-0225(1) requires, in part, water suppliers to at all times employ, contract with, or otherwise utilize an operator to be in direct responsible charge of every community public water system. Additionally, the operator must be certified at a level equal to or greater than the classification of the water system for which they are responsible. DWS records indicate that an operator certified at the small water system level or higher must be in direct responsible charge of the Water System, but Water Supplier has not designated an operator to be in direct responsible charge of the Water System as required. This constitutes a violation of OAR 333-061-0225.

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 effect compliance with the rule(s) violated (ORS 448.255(3)).

1. Water Supplier must demonstrate, to the satisfaction of Clackamas County Health, Housing and Human Services, that appropriate actions have been completed at the Water System to prevent future loss of water pressure and to eliminate the presence of *E. coli* bacteria in drinking water at the Water System.
 - Any corrective actions not completed prior to the date of service of this Order must be completed within 90 days.
2. Water Supplier must demonstrate to the satisfaction of Clackamas County Health, Housing and Human Services that the lack of a screen covering the vent for the groundwater well supplying the Water System has been corrected within 30 days of the date of service of this Order.
3. Water Supplier must monitor for lead and copper at the Water System two times within the 2019 calendar year, according to OAR 333-061-0036(10)(a) through (d).
 - The first round of monitoring must be conducted between January 1, 2019 and June 30, 2019 and reported to DWS no later than July 10, 2019.
 - The second round of monitoring must be conducted six months after the first round, between July 1, 2019 and December 31, 2019 and reported to DWS no later than January 10, 2020.
4. Water Supplier must designate a certified operator to be in direct responsible charge of the Water System according to OAR 333-061-0225 within 90 days of the date of service of this administrative 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 \$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 DWS issues a Notice of Intent to Impose Civil Penalty. For example, if DWS issues a Notice of Intent to Impose Civil Penalty on February 15, 2019 for failure to correct the lack of a screen covering the well vent at the Water System 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: David Emme, Manager; Oregon Health Authority, Drinking Water Services; PO Box 14450; Portland, OR 97293.**

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 time 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 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 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>.

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 Daniels at 971-673-0405.

Dated this 15th day of January, 2019.



David Emme, Manager
Drinking Water Services
Oregon Health Authority

cc: Wilma Bryant, Currinsville Mobile Home Park
Joel Ferguson, Clackamas County Environmental Health
Okja Hom, Peerless Property Management, LLC
James Nusrala, Oregon Health Authority, Drinking Water Services

DATE of Service: January 16, 2019



Signature
Brad K. Daniels

Printed Name

By certified mail and first-class mail