

673-0405

673-0694

BEFORE THE STATE OF OREGON
DEPARTMENT OF HUMAN SERVICES
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Bette Carter
Bear Creek Hideout Water System /
Rose Lodge Water Co., Inc., PWS
OR4100482

Respondent

SETTLEMENT AGREEMENT

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1. Rose Lodge has at all times mentioned herein operated, and continues to operate the Bear Creek Hideout Water System (Bear Creek), which is a community public water system serving between 101 and 300 people, and is subject to regulation under Oregon Revised Statutes (ORS) 448.115 to 448.290 and Oregon Administrative Rule (OAR) 333-061-0005 to 333-061-0295.

2. Pursuant to its Authority under ORS 448.150 the Department of Human Services, Office of Environmental Public Health, Drinking Water Program (Agency), issued a Notice of Violation and Administrative Order (Order) to Rose Lodge Water Co., Inc. (Rose Lodge) on April 29, 2010 for violations of some of the rules specified above. The Order identified actions to be completed by Rose Lodge in order to comply with the rules allegedly violated. Rose Lodge did not appeal the Order, and did not satisfy the requirements of Compliance Action No. 6 or Compliance Action No. 7 as identified in the Order. The Order is incorporated by reference.

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3. Pursuant to its authority under ORS 448.280, 448.285, and Oregon Administrative Rule (OAR) 333-061-0090, the Agency is authorized to impose civil penalties for violations of statute and rule. The agency could issue a civil penalty in the amount of \$1,000 against Rose Lodge for failing to comply with the administrative order issued on April 29, 2010. OAR 333-061-0090(4)(i).

4. Rose Lodge understands that the Agency could issue a Notice of Intent to Impose Civil Penalty and that it would have the right to a hearing under the Administrative Procedure Act to contest the civil penalty but Rose Lodge waives its right to Notice and its right to a hearing to contest the violations or civil penalty in order to avoid further enforcement action.

5. Rose Lodge Agrees to:

5.1 Pay Agency a \$100 civil penalty within ten days of it signing this Agreement.

5.2 Submit a completed General Application and Application Supplement for Safe Drinking Water Revolving Loan Fund, Drinking Water Project to the Oregon Business Development Department (OBDD) and to the Agency, no later than December 31, 2010. The application and supplement must clearly indicate that the intended project is construction of a surface water treatment system and any associated system improvements at the Bear Creek water system in Otis, Oregon.

5.3 Ensure as soon as possible, but no later than March 31, 2011, that it has provided all the information to OBDD necessary for OBDD to make a funding decision and to disburse funds if the application is approved for the project identified in the application and supplement specified in section 5.2 of this agreement.

5.4 Submit to the Agency a legally binding contract with an appropriate entity to construct and install the surface water treatment system specified in section 5.2 of this agreement within 10 days of OBDD disbursing funds.

5.5 Ensure that construction of the surface water treatment system and any necessary water system improvements are completed at the Bear Creek water system no later than May 31, 2011.

5.6 Begin operation of the surface water treatment system so that all system users receive drinking water that consistently meets all applicable state and federal drinking water laws and rules as soon as possible but no later than August 31, 2011.

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5.7 Complete all of the outstanding sampling requirements prescribed by OAR 333-061-0036 for the entry point from Callow Creek as soon as possible, but no more than sixty days following start-up of the surface water treatment system and completion of the requirements of section 5.6 of this agreement.

5.8 Issue public notice every calendar quarter for failure to comply with surface water treatment requirements. The notice will direct water users to boil water before using the water for drinking or cooking purposes, and also include the adverse health effects language specified in OAR 333-061-0097(5)(c). The notice will be delivered by hand to each customer served by the Bear Creek Water System, and will also be posted in a conspicuous location within the area served by the water system (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)). A copy of the notice will be submitted to the Agency every calendar quarter, within ten days of being delivered to customers, and will also include certification of when the notice was hand delivered and each location where the notice was posted. This requirement remains in effect until improvements to the surface water filtration system are made and all system users receive drinking water that consistently meets all applicable state and federal drinking water laws and rules.

5.9 Notify the Agency immediately, or at least within 24 hours, by calling 541-726-2587 extension 27 any time the distribution system pressure at the Bear Creek water system falls below 20 pounds per square inch (psi). Rose Lodge will also immediately notify the Agency when normal operating pressure is restored, the cause for the loss of pressure, and what steps have been taken to prevent a future loss of pressure for the same reason.

6 In the event Rose Lodge violates the terms this Agreement it shall pay the remaining \$900 of the civil penalty within 10 days of the issuance of a Notice of Violation of Settlement Agreement.

GENERAL PROVISIONS

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 333-061-0050 to 333-061-0295, which remain in full force and effect.

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This Agreement does not relieve the Rose Lodge of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

For purposes of ORS 293.229 through 293.233 and ORS 293.250, the civil penalty specified herein will become a liquidated debt if a final order is issued. Pursuant to ORS 293.231 the Agency is required to assign liquidated and delinquent civil penalties to the Department of Revenue, as provided in ORS 293.250, not later than 90 days after the final order is issued. Reasonable administrative costs, collection costs, attorney's fees, and all other costs and charges necessary for the collection of any amount not paid when due, including but not limited to collection charges assessed by the Department of Revenue may be added to the amount due of \$1,000.

VIOLATION OF THIS AGREEMENT

Violation of this settlement agreement may lead to the issuance of further civil penalties or further legal action being taken under ORS 448.250.

If the Agency notifies Rose Lodge that it has violated this settlement agreement Rose Lodge will be given the opportunity to contest whether it violated the agreement but as stated above may not contest the violations cited in the Order issued on April 29, 2010 or the civil penalty amount specified herein.

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 Notice, please contact Brad K. Daniels, DHS-DWP at (971) 673-0407.

Dated this 14 day of Dec, 2010.

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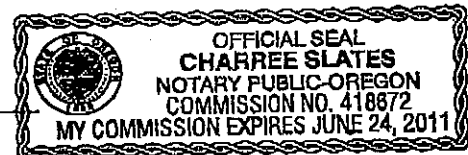
Bette Carter, President
Bette Carter
President
Rose Lodge Water Co., Inc.

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Subscribed and sworn before me this 14 day of December, 2010

[Signature]
Notary Public for Oregon

My commission expires June 24, 2011



David E. Leland DAVID E. LELAND 12/17/10