



PUBLIC HEALTH DIVISION
Center for Health Protection, Drinking Water Services

Tina Kotek, Governor

Oregon
Health
Authority

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
CENTER FOR HEALTH PROTECTION

In the Matter of

The City of Monroe, Public Water
System OR4100540

Respondent

FINAL ORDER IMPOSING
CIVIL PENALTY BY DEFAULT

To: Dan Sheets, Mayor
The City of Monroe
664 Commercial Street
Monroe, OR 97456

The Oregon Health Authority (hereinafter “Authority”), Public Health Division, Center for Health Protection, Drinking Water Services (hereinafter “DWS”) issued a Notice of Intent to Impose Civil Penalty (hereinafter “Notice”) to the City of Monroe (hereinafter “Water Supplier”) on June 26, 2023 for specific violations of the Oregon Drinking Water Quality Act and rules. The Notice is incorporated herein by reference. The Notice offered Water Supplier an opportunity for hearing if requested within 20 days of service of the Notice. No hearing was timely requested. The Notice designated the relevant portions of the Authority’s file on this matter, as the record for purposes of default.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Water Supplier has at all times mentioned herein owned and operated the public water system (hereinafter “Water System”) serving the residences and businesses of Monroe, Oregon. The Water System is a community water system that serves approximately 600 people and is subject to regulation according to the Oregon Drinking Water Quality Act

(ORS 448.115 to 448.290) and Oregon Administrative Rules 333-061-0005 to OAR 333-061-0272. The Authority has no information about Water Supplier's economic or financial details, or the economic or financial conditions at the Water System.

Water suppliers, as defined in ORS 448.115(12) and OAR 333-061-0020(211), are required to take all reasonable actions to assure water delivered to users does not exceed maximum contaminant levels and that water system facilities are free of public health hazards. OAR 333-061-0025. Maximum containment level (MCL) is defined in OAR 333-061-0020(83) and means the maximum allowable level of a contaminant in the water delivered to users of a public water system. The MCL for total trihalomethanes (TTHM) in drinking water is 0.080 mg/L as specified in OAR 333-061-0030(2)(b) and Table 3 of that rule. TTHM occur in drinking water as a byproduct of drinking water disinfection. OAR 333-061-0043(3)(m). OAR 333-061-0042 requires water suppliers to provide public notice to people served by public water systems when violations or other situations occur.

Due to the failure to comply with the MCL for TTHM, DWS served a Notice of Violation and Administrative Order to Water Supplier regarding the Water System on April 11, 2022 (hereinafter "Order"). The Order required Water Supplier to take several actions, including but not limited to: submit a copy of a feasibility study to DWS; submit a revised action plan to DWS within 90 days of completing the feasibility study; perform and complete the action plan by the deadlines identified in the action plan; after completing the action plan, demonstrate that the TTHM concentrations do not exceed the MCL for at least four consecutive calendar quarters and monitor for TTHM in accordance with OAR 333-061-0036(4)(e); publish public notice within 30 days of the date of service of the Order that informs customers of the TTHM MCL exceedance in accordance with OAR 333-061-0042; and submit a copy of the public notice to DWS within 10 days of distributing public notice. The Order is incorporated by reference.

Water Supplier did not appeal the Order and did not comply with the Order by the deadlines specified therein. Specifically, Water Supplier failed to submit a revised action plan within 90 days of completing the feasibility study and failed to submit a copy of public notice to DWS within 10 days of providing the notice to the public in accordance with the Order. Water Supplier also did not contact DWS regarding the Order and has not otherwise taken any apparent action to ensure water system facilities are free from public health hazards and that TTHM concentrations will be reliably reduced to below the MCL

Between April 1, 2023 and April 30, 2023, Water Supplier violated OAR 333-061-0090(3)(i) by failing to comply with an order issued by the Authority.

CIVIL PENALTY

Pursuant to OAR 333-061-0090(4), the penalty amount for a violation by a public water system serving 600 people is \$250 per day. In determining the appropriate penalty amount, the Authority considered all the mitigating and aggravating factors as described in the Notice. The Authority considered that although Water Supplier did enter into a bilateral compliance agreement with DWS on June 17, 2020 and later submitted a feasibility study after initial corrective actions failed to reduce concentrations of HAA5 and TTHM, Water Supplier failed to submit a revised action plan to DWS or demonstrate continued action to resolve the contamination in the Water System. Water Supplier's prior violations also weighed against reducing the civil penalty. The Authority has no information about the Water Supplier's economic or financial condition and thus this factor is neutral. Based on the Authority's consideration of these factors, the Authority determined the civil penalty of \$250 per day is warranted in this matter.

Each day of violation is a separate and distinct violation. ORS 448.280(1)(a); OAR 333-061-0090(2).

The Order directed Water Supplier to submit a revised action plan to DWS within 90 days after completing a feasibility study. A completed feasibility study was submitted to DWS on December 26, 2023 but Water supplier did not submit a revised action plan by March 19, 2023. Therefore, Water Supplier violated OAR 333-061-0090(3)(i) beginning on April 1, 2023 and continuing each day until April 30, 2023, for a total of 30 days. The total civil penalty is therefore \$7,500 (30 x \$250).

The Authority finds that Water Supplier violated OAR 333-061-0090(3)(i) for the time period above, but nothing in this final order precludes the Authority from making future findings regarding additional time periods of noncompliance.

ORDER

Based on the foregoing, the Authority hereby finds that Water Supplier committed 30 violations of OAR 333-061-0090(3) between April 1, 2023 and April 30, 2023. **WATER SUPPLIER IS HEREBY ORDERED** to pay a civil penalty in the amount of \$7,500.

Date August 8, 2023



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

GENERAL PROVISIONS

Civil penalty amounts are established in Oregon Administrative Rule 333-061-0090. If unpaid, civil penalties may be recorded and filed with county clerks as liens against property 10 days after the expiration of the statutory appeals period. DWS may assign liquidated and delinquent civil penalties to the Department of Revenue, as provided in ORS 293.250.

If you have any questions about payment, or wish to make payment arrangements, please refer to the invoice attached to this final order. Make Checks payable to the Oregon Health Authority, Drinking Water Services. Refer to the attached invoice for where to send the payment and payment options.

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.

You are entitled to a judicial review of this Order in accordance with ORS 183.482. To appeal, you must file a petition for judicial review with the Court of Appeals within 60 days from the date of service of this Order.

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

cc: Cynthia Branger Munoz, Oregon Health Authority
Michelle Byrd, Oregon Health Authority, Drinking Water Services
Samina Panwhar, Oregon Health Authority, Drinking Water Services
Mai Quach, Oregon Health Authority, Public Health Division
Jean Schindler, Oregon Health Authority, Center for Health Protection
Shawn Stevenson, Oregon Health Authority, Drinking Water Services
Erin Williams, Oregon Department of Justice

DATE of Service: August 2, 2023



Brad K Daniels

By certified and first-class mail