

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

In the Matter of

The City of Monument, PWS  
OR4100541

Respondent

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

To: Sahara Derowitsch, Mayor  
City of Monument  
PO Box 426  
Monument, OR 97864

The City of Monument (City) has at all times mentioned herein owned and operated, and continues to own and operate the public water system serving the residents of Monument, Oregon, a community public water system serving approximately 130 people and subject to regulation according to Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules 333-061-0005 to 333-061-0272. The City 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 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 Monument water system.

The Authority found, during its investigation, that the Monument water system does not provide the appropriate water treatment for a groundwater source determined to be under the direct influence of surface water. The City is therefore unable to assure its water users that 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 the City 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 333-061-0032(1)(c) requires the appropriate surface water treatment be provided within 18 months of a groundwater source being determined to be under the direct influence of surface water. The Authority determined the infiltration gallery-well serving the Monument water system, identified by well log GRAN 107, to be groundwater under the direct influence of surface water on June 10, 2011. The City entered into an agreement with the Authority on April 4, 2013 whereby it affirmed that treatment would be provided for the well no later than June 30, 2016 but as of March 1, 2017 the City has not provided the necessary treatment as required. This constitutes a violation of OAR 333-061-0032(1)(c).
- Violation No. 2: OAR 333-061-0032(1)(a)(A), in part, requires that water systems supplied by a groundwater source under the direct influence of surface water provide at least 99.9 percent removal or inactivation of *Giardia lamblia* cysts. This protection against *Giardia lamblia* is not provided at the Monument water system, which constitutes a violation of OAR 333-061-0032(1)(a)(A).
- Violation No. 3: OAR 333-061-0032(1)(a)(C), in part, requires that water systems supplied by a groundwater source under the direct influence of surface water provide at least 99 percent removal of *Cryptosporidium*. This protection against *Cryptosporidium* is not provided at the Monument water system, which constitutes a violation of OAR 333-061-0032(1)(a)(C).

Inadequately treated water may contain disease causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. OAR 333-061-0097

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

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

- Compliance Action No. 1: The City must submit to the Authority, according to OAR 333-061-0060, complete construction plans identifying a new water source or water treatment to be installed at the Monument water system. A water source shall be reasonably expected to replace the existing infiltration gallery serving the Monument water system. Water treatment shall ensure that water from the infiltration gallery meets the requirements for the treatment of groundwater under the direct influence of surface water specified in OAR 333-061-0032.
  - The plans must be submitted to the Authority no later than July 1, 2018.
  - The plans shall have sufficient detail to completely and clearly illustrate what will be constructed.
- Compliance Action No. 2: The City must complete construction and installation of the new source or water treatment at the Monument water system within 12 months of the Authority granting conditional approval of the City's construction plans.
  - Construction of a water source or filtration treatment, including any other necessary improvements, shall be completed according to plans approved by the Authority.
  - Construction shall comply with all applicable standards specified in OAR 333-061-0050.
- Compliance Action No. 3: The City must submit to the Authority a statement by a professional engineer registered in Oregon certifying that the project was constructed according to the approved plans and specifications as required by OAR 333-061-0060(2)(b) within thirty (30) days of completing construction.
- Compliance Action No. 4: The City must comply with the interim standards for turbidity monitoring and disinfection specified OAR 333-061-0032(1)(c) until regular operation of a new source or water treatment specified in Compliance Action No. 2 is commenced.



- The City must report the measurements and calculations specified in OAR 333-061-0032(1)(c) every month, no later than the tenth day of the month following the month in which the measurements and calculations were completed.
- Reports must be submitted to the Oregon Health Authority, Drinking Water Services, PO Box 14350, Portland, OR 97293-0350.
- Compliance Action No. 5: The City must publish public notice for failing to utilize water treatment for a well determined to be under the direct influence of surface water. The notice shall meet all of the applicable requirements of OAR 333-061-0042(4) and be distributed so that every person served by the Monument water system receives the notice. The notice shall be reissued every three months, until all corrections are made, and all system users receive drinking water that meets all applicable state and federal drinking water laws and rules (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)). A copy of the notice and certification of the method of distribution shall be submitted to the Authority no later than 10 days after completing the public notification per OAR 333-061-0040(1)(i).

#### 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 administrative rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve the City 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 \$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 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, you will be notified of the time and place of the hearing. You will also be given information about the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing.

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 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 Monument 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 971-673-0407.

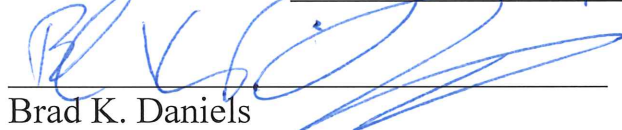
Dated this 8<sup>th</sup> day of MARCH, 2017.



\_\_\_\_\_  
Jere High, ND  
Administrator, Center for Health Protection  
Oregon Health Authority

cc: Bill Goss, Oregon Health Authority, Drinking Water Services  
Amy Word, Oregon Health Authority, Drinking Water Services

DATE of Service: March 9, 2017



\_\_\_\_\_  
Brad K. Daniels

By certified mail and first class mail