

FILED
Malheur County Circuit Court

JUN 03 2014

Time: 3:25 pm By: gm

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

STATE OF OREGON, by and through its
OREGON HEALTH AUTHORITY,

Plaintiff,

v.

ROBERT M. COOK,

Defendant.

Case No. 1307377L. 11307377CT

ORDER TO SHOW CAUSE FOR CONTEMPT
(ORS 33.015 *et seq.*)

ORS 20.140 - State fees deferred at filing

This matter having come before the Court upon plaintiff's motion for an order to appear and show cause why defendant should not be held in contempt of court and have imposed against him remedial sanctions, and it appearing to the Court from the records and files herein, and from plaintiff's motion and associated pleadings and declaration, that good cause exists for such order:

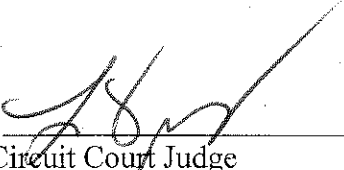
IT IS SO ORDERED that defendant shall appear before the Malheur County Circuit Court, 251 B St. West, Vale, Oregon 97918, Room 1, at the hour of 3:30 pm on the 20th day of June, 2014; and show cause, if any there be, why defendant should not be held to remedial sanctions for having willfully violated this Court's default judgment ordering a permanent injunction on November 25, 2013. *mountain Time*

NOTICE

FAILURE TO APPEAR AT THE TIME AND PLACE IN THIS ORDER MAY SUBJECT YOU TO ARREST. THIS ORDER MAY RESULT IN THE COURT IMPOSING A FINE OR IMPRISONMENT. IF YOU QUALIFY AS INDIGENT AND ARE UNABLE TO AFFORD AN ATTORNEY, YOU MAY BE ENTITLED TO A COURT APPOINTED ATTORNEY. IF YOU WANT TO APPLY FOR A COURT APPOINTED ATTORNEY, YOU

1 MUST CONTACT THE CIRCUIT COURT FOR AN APPLICATION FOR A COURT
2 APPOINTED ATTORNEY BEFORE THE DATE OF YOUR APPEARANCE.

3 DATED this 3rd day of May, 2014.

4
5
6 
Circuit Court Judge
Lung S. Hung
Circuit Judge

7 Submitted by:
8 Stephanie M. Parent #925908
9 Senior Assistant Attorney General
Of Attorneys for Plaintiff

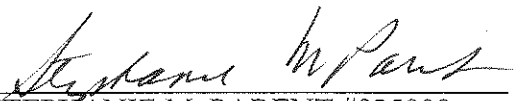
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1 **CERTIFICATE OF SERVICE**

2 I certify that on May 28, 2014, I served the foregoing PLAINTIFF'S MOTION FOR
3 ORDER TO SHOW CAUSE WHY DEFENDANT SHOULD NOT BE HELD IN CONTEMPT
4 AND IMPOSITION OF REMEDIAL SANCTIONS AND ATTORNEY FEES;
5 DECLARATION OF JOSEPH CARLSON; COMPLAINT FOR CONTEMPT OF COURT
6 AND IMPOSITION OF SANCTIONS; AND ORDER TO SHOW CAUSE FOR CONTEMPT
7 upon the parties hereto by the method indicated below, and addressed to the following:

8
9 Cliff Bentz
10 Yturri Rose LLP
11 89 SW 3rd Ave
12 PO Box S
13 Ontario, OR 97914

___ HAND DELIVERY
X MAIL DELIVERY
___ OVERNIGHT MAIL
___ TELECOPY (FAX)
X E-MAIL
___ E-FILE

14
15 
16 STEPHANIE M. PARENT #925908
17 Senior Assistant Attorney General
18 Trial Attorney
19 Tel (971) 673-1880
20 Fax (971) 673-5000
21 Stephanie.M.Parent@doj.state.or.us
22 Of Attorneys for Plaintiff
23
24
25
26

MAY 30 2014

Time: 11:00 .m By [Signature]

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

STATE OF OREGON, by and through its
OREGON HEALTH AUTHORITY,

Plaintiff,

v.

ROBERT M. COOK,

Defendant.

Case No. 1307377L

PLAINTIFF'S EX PARTE MOTION FOR
ORDER TO SHOW CAUSE WHY DEFENDANT
SHOULD NOT BE HELD IN CONTEMPT AND
IMPOSITION OF REMEDIAL SANCTIONS
AND ATTORNEY FEES
(ORS 33.015 *et seq.*)

ORS 20.140 - State fees deferred at filing

EXPEDITED HEARING REQUESTED

Due to defendant's ongoing contempt of court and the health and safety issues at stake, plaintiff requests an expedited hearing requiring defendant to show cause why defendant should not be held in contempt. Cases filed under ORS 448.250 shall be given preference on the docket over all other civil cases except those given an equal preference by statute. ORS 448.250(3).

MOTION FOR ORDER TO SHOW CAUSE

Plaintiff, STATE OF OREGON, by and through its Oregon Health Authority, moves this Court for an order requiring defendant Robert M. Cook to appear before the Court and show cause, if any there be, why the Court should not find defendant in contempt of court and impose remedial sanctions for having violated this Court's permanent injunction entered by Default General Judgment in this action on November 25, 2013. Further, plaintiff moves for remedial sanctions against defendant and an award of plaintiff's attorney fees and costs pursuant to ORS 33.105.

[Signature]

1 **POINTS AND AUTHORITIES**

2 The Court's permanent injunction entered by Default Judgment on November 25,
3 required defendant ROBERT M. COOK, *inter alia*, to bring Golf Mobile City's public water
4 system into compliance with State Maximum Contaminant Level for arsenic and nitrate through
5 installation of a central water treatment system and to submit to Oregon Health Authority by
6 January 24, 2014 construction and installation plans to bring Golf Mobile City into compliance.
7 Further, the Court's Default Judgment stated that if defendant failed to comply with the orders of
8 this Court, the Court may appoint a special master to operate the water system or require the sale
9 of a water system under a special master to a responsible party.

10 Plaintiff relies upon ORS 33.015 *et seq.*, including ORS 33.055 and ORS 33.105, ORCP
11 78(b), the Declaration of Joseph R. Carlson attached hereto, and the Complaint for Contempt of
12 Court and Imposition of Remedial Sanctions filed herewith in its motion for an order to show
13 cause. Specifically, as set forth in the Declaration of Joseph R. Carlson, defendant has failed to
14 comply with the injunction to submit construction and installation plans to the Oregon Health
15 Authority for approval within 60 days of the entry of the Stipulated General Judgment, nor has
16 defendant otherwise brought the water system into compliance with the Maximum Contaminant
17 Levels for arsenic or nitrate. *See* Declaration of Joseph R. Carlson, *passim* and attached exhibits.

18 Plaintiff seeks remediation from defendant for disobedience of the Court's order entered
19 on November 25, 2013, and so seeks pursuant to ORS 33.105(1), which authorizes the following
20 remedial sanctions:

- 21 (a) Payment of a sum of money sufficient to compensate a party for loss, injury, or costs
22 suffered by the party as a result of the contempt of court,
23 (b) Confinement for so long as the contempt continues, or six months, whichever is the
24 shorter period,
25 (c) An amount not to exceed \$500 or one percent of the defendant's annual gross income,
26 whichever is greater, for each day the contempt of court continues. The sanction imposed

1 under this paragraph may be imposed as a fine or to compensate a party of the effects of
2 the continuing contempt,

3 (d) An order designed to ensure compliance with a prior order of this Court, including
4 probation,

5 (e) Payment of all or part of any attorney fees incurred by a party as a result of a
6 contempt of court,

7 (f) A sanction other than the sanctions specified in paragraphs (a) to (e) of this subsection
8 if the court determines that the sanction would be an effective remedy for the contempt.

9 Defendant, unlawfully and without legal justification, has failed and continues to fail to
10 comply with the injunction ordered in this Court's default judgment entered on November 25,
11 2013.

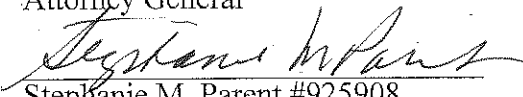
12 The conduct of defendant has defeated and prejudiced the duty of the Court to administer
13 the law. Defendant is therefore subject to remedial sanctions set forth in ORS 33.105(1) for
14 contempt of court as found to be appropriate by this Court.

15 THEREFORE, plaintiff seeks an order directing defendant to appear and show cause, if
16 any there be, why defendant should not be held in contempt and have imposed remedial
17 sanctions for willfully violating this Court's Default Judgment ordering a permanent injunction:

18 DATED this 28th day of May, 2014.

19 Respectfully Submitted,

20 ELLEN F. ROSENBLUM
21 Attorney General

22 
23 Stephanie M. Parent #925908
24 Senior Assistant Attorney General
25 Department of Justice
26 1515 SW Fifth Ave., Suite 410
Portland, OR 97201
Telephone: (971) 673-1880
Facsimile: (971) 673-2196
stephanie.m.parent@doj.state.or.us
Of Attorneys for Plaintiff

MAY 30 2014

Time: 11:14 a.m. By ARM

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

STATE OF OREGON, by and through its
OREGON HEALTH AUTHORITY,

Plaintiff,

v.

ROBERT M. COOK,

Defendant.

Case No. 1307377L

COMPLAINT FOR CONTEMPT OF COURT
AND IMPOSITION OF REMEDIAL
SANCTIONS
(ORS 33.055)

ORS 20.140 - State fees deferred at filing

Plaintiff, State of Oregon, by and through its Oregon Health Authority, for its Complaint for Contempt of Court and Imposition of Remedial Sanctions, accuses defendant Robert M. Cook of committing the following violations of an existing permanent injunction in a Default General Judgment and alleges the following:

1.

The State of Oregon must ensure that "all Oregonians have safe drinking water." ORS 448.250. The Oregon Health Authority (OHA) is the state agency charged with implementation of the Oregon Drinking Water Act, ORS 448.115 *et seq.* Accordingly, the Oregon Health Authority has statutory authority and the duty to ensure that public water suppliers provide water that meets minimum state standards, including the authority to institute actions seeking compliance with the aforementioned laws. ORS 431.262, 448.131. Included in this authority is the power to institute actions for a mandatory injunction to remove the public health hazard or threat of public health hazard. ORS 448.250.

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2.

Defendant Robert M. Cook is an individual who owns and operates a water system (PSW OR4100588) for the provision of water for human consumption at Golf Mobile City, a mobile home or manufactured dwelling park located at 3375 SW 18th Avenue, Ontario, Oregon. As such, Defendant Robert M. Cook is a “water supplier” pursuant to ORS 448.115(12) and OAR 333-061-0020(211).

3.

On November 25, 2013 Judge Lung S. Hung signed a Default General Judgment against defendant Robert M. Cook in this action. The Default General Judgment was subsequently filed and entered with the Malheur County Clerk. Defendant was notified of the Default General Judgment, in accordance with ORS 18.078, on November 26, 2013.

4.

The Default General Judgment ordered defendant to bring Golf Mobile City’s public water system into compliance with State Maximum Contaminant Levels for arsenic and nitrate through installation of a central water treatment system. The Oregon Administrative Rules require that arsenic concentrations not exceed 0.010 mg/L and nitrate concentrations not exceed 10 mg/L. Judgment ¶ 1.

5.

Specifically, the Default General Judgment ordered defendant, no later than 60 days after entry of judgment (January 24, 2014), to submit to OHA construction and installation plans to bring Golf Mobile City into compliance with State Maximum Contaminate Levels for arsenic and nitrate. Judgment ¶ 1(a). The Court ordered that the construction and installations plans, *inter alia*, meet all the requirements specified in OAR 333-061-0060(1) and clearly identify how a proposed treatments system would enable Golf Mobile City water system to supply water with arsenic and nitrate levels at or below State Maximum Contaminate Levels.

1 6.

2 The Default General Judgment provided that if defendant failed to comply with the
3 orders of this Court, the Court may appoint a special master to operate the water system or
4 require the sale of the water system under a special master to a responsible party. Judgment ¶ 7.

5 7.

6 As of May 19, 2014, defendant has unlawfully and willfully violated and disobeyed the
7 Default General Judgment by failing to bring Golf Mobile City's public water system into
8 compliance with State Maximum Contaminate Levels for arsenic and nitrate. Defendant has not
9 submitted construction plans to OHA or installed a central water treatment system and defendant
10 has continued to exceed 0.010 mg/L levels of arsenic and 10 mg/L levels of nitrate.

11 8.

12 Defendant's actions contrary to the Default General Judgment present a threat to public
13 health in that defendant is continuing to operate the Golf Mobile City's public water system with
14 arsenic and nitrate concentrations at unsafe levels.

15 9.

16 Defendant is liable for contempt pursuant to ORS 33.015 *et seq.* (contempt proceedings)
17 for failing to comply with the Default General Judgment by continuing to operate Golf Mobile
18 City's public water system out of compliance with State Maximum Contaminate Levels and by
19 failing to submit construction plans for approval to Oregon Health Authority.

20 10.

21 Specifically, ORS 33.105(1) authorizes the following remedial sanctions:

22 (a) Payment of a sum of money sufficient to compensate a party for loss, injury, or costs
23 suffered by the party as a result of the contempt of court,

24 (b) Confinement for so long as the contempt continues, or six months, whichever is the
25 shorter period,

1 (c) An amount not to exceed \$500 or one percent of the defendant's annual gross income,
2 whichever is greater, for each day the contempt of court continues. The sanction imposed
3 under this paragraph may be imposed as a fine or to compensate a party of the effects of
4 the continuing contempt,

5 (d) An order designed to ensure compliance with a prior order of this Court, including
6 probation,

7 (e) Payment of all or part of any attorney fees incurred by a party as a result of a
8 contempt of court,

9 (f) A sanction other than the sanctions specified in paragraphs (a) to (e) of this subsection
10 if the court determines that the sanction would be an effective remedy for the contempt.

11 11.

12 Further, ORCP 78(b) authorizes this Court to enforce an order or judgment directing a
13 party to perform a specific act by punishing the party refusing or neglecting to comply therewith,
14 as for a contempt as provided in ORS 33.015 to 33.155.

15 12.

16 Therefore, pursuant to ORS 33.105(1), plaintiff seeks the following remedial sanctions
17 against defendant ROBERT M. COOK:

18 (a) Until such time that defendant complies with the Default General Judgment to bring
19 Golf Mobile City's public water system into compliance with State Maximum
20 Contaminant Levels for arsenic and nitrate, defendant shall cease and desist operating
21 Golf Mobile City's public water system;

22 (b) An award of attorney fees and costs for plaintiff (ORS 33.105(1)(e)); and

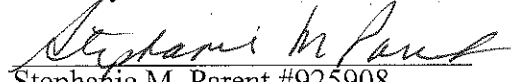
23 (c) An Order of such other relief as the Court may deem just and proper (ORS
24 33.105(1)(f)).

25 WHEREFORE, plaintiff prays to this Court for a Judgment finding defendant in
26 contempt of court for willfully and knowingly violating the terms of the Default General

1 Judgment, and respectfully asks that this Court impose the remedial sanctions as requested herein
2 above, to the extent this Court finds them appropriate.

3 DATED this 28th day of May, 2014.

4 ELLEN F. ROSENBLUM
5 Attorney General

6 
7 Stephanie M. Parent #925908
8 Senior Assistant Attorney General
9 Department of Justice
10 1515 SW Fifth Ave., Suite 410
11 Portland, OR 97201
12 Telephone: (971) 673-1880
13 Facsimile: (971) 673-2196
14 stephanie.m.parent@doj.state.or.us
15 Of Attorneys for Plaintiff

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Malheur County Circuit Court
MAY 30 2014
Time: 11:20 am By: JRM

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

STATE OF OREGON, by and through its
OREGON HEALTH AUTHORITY,

Plaintiff,

v.

ROBERT M. COOK,

Defendant.

Case No. 1307377L

DECLARATION OF JOSEPH R. CARLSON

I, Joe Carlson, hereby declare as follows:

1. I am the Manager of Data Management for the Drinking Water Program (DWP), Public Health Division, Office of Environmental Public Health, Oregon Department of Human Services/Oregon Health Authority (OHA). I make this declaration from personal knowledge.

2. As described in the original complaint commencing this action, defendant Robert M. Cook has been under an administrative order to ensure the drinking water he delivers is below the maximum contaminant levels for arsenic and nitrates since approximately May 27, 2011. As set forth in more detail below, defendant failed to comply with the administrative order, necessitating this civil action, which resulted in a Default General Judgment. Defendant has failed to comply with the Default General Judgment and continues to deliver drinking water that exceeds the maximum contaminant levels for arsenic and nitrates.

3. On May 27, 2011, OHA issued a Notice of Violation and Administrative Order (NOV/AO) notifying Defendant that all the samples for arsenic and nitrates for the entire sampling history for the Golf Mobile City water system exceeded the MCL for arsenic and nitrates. OAR 333-061-0030(1). Therefore, Defendant failed to assure that the water was

1 sufficiently free from contaminants and that the people drinking the water would not be exposed
2 to disease or harmful physiological effects as required by ORS 448.115(8). The May 27, 2011
3 NOV/AO required Defendant, by December 31, 2011, to submit a construction plan that clearly
4 indicates which of the following options would be selected to meet the MCL for arsenic and
5 nitrate: (1) Install an approved treatment system; (2) Develop a new water source; (3) Connect to
6 and receive water from another public water system. Construction was to be completed by June
7 30, 2012. A true and correct copy of the May 27, 2011 NOV/AO is attached as Exhibit 1.

8 4. On April 13, 2012, OHA served Defendant with a notice that Defendant was in
9 violation of the May 27, 2011 administrative order (NOV/AO) and was at risk of being assessed
10 civil penalties. Specifically, Defendant had failed to submit construction plans and failed to
11 report sampling results for inorganic chemicals, nitrite, SOCs, VOCs, and radionuclides. A true
12 and correct copy of the April 13, 2012 Notice of Violation is attached as Exhibit 2. A final civil
13 penalty order was issued December 6, 2012 for failure to comply with the May 27, 2011
14 NOV/AO. A true and correct copy of the December 6, 2012 final civil penalty order is attached
15 as Exhibit 3.

16 5. OHA commenced this action because Defendant Cook refused to comply with
17 OHA's administrative orders to bring the water system into compliance with contaminant levels
18 for arsenic and nitrates and other regulations designed to provide for public health and safety.
19 Exposure to water contaminated with arsenic can increase a person's risk of cancer and can
20 cause acute health problems such as nausea, vomiting, diarrhea, swelling of the hands and face,
21 and nasal congestion. Exposure to nitrate-contaminated water increases risk of
22 methemoglobinemia, or "blue baby" disease with short term exposure to levels above the
23 Maximum Contaminant Level.

24 6. Since issuance of the NOV/AO on May 27, 2011, Defendant Cook's water system
25 at Golf Mobile City has not complied with the MCL for arsenic and the MCL for nitrates. The
26


1 most recent sample for arsenic dated February 19, 2014 is 0.02660 mg/l. The most recent sample
2 for nitrates dated February 19, 2014 is 21.1 mg/l.

3 7. This Court entered a Default Judgment that enjoined Defendant Cook to install a
4 central water treatment system that ensures water delivered to every customer's service
5 connection has arsenic and nitrate levels at or below the MCL for arsenic and nitrates,
6 specifically, by first submitting to OHA for approval construction and installation plans for the
7 central water system within 60 days of entry of judgment. Defendant Cook has never submitted
8 construction and installation plans to OHA for approval. To my knowledge, Defendant Cook has
9 not otherwise complied by installing a central water system that delivers water at or below the
10 MCL for arsenic and nitrates. Nor, to my knowledge, has Defendant Cook taken alternative
11 actions of connecting to the City of Ontario water system or selling the property to a responsible
12 person who would operate the water system in compliance with state laws and regulations
13 designed to protect public health and safety.

14 8. For these reasons, Defendant Cook must cease delivering water that exceeds the
15 MCL for arsenic and nitrates to eliminate the threat of and increased risk of harm to public health
16 and safety.

17 **I hereby declare that the above statement is true to the best of my knowledge and**
18 **belief, and that I understand it is made for use as evidence in court and is subject to penalty**
19 **for perjury.**

20 DATED this 21st day of May, 2014.

21 
22 _____
23 Joseph R. Carlson
24 Manager, Data Management
25 Compliance & Enforcement for
26 Drinking Water Services

BEFORE THE STATE OF OREGON
OREGON HEALTH AUTHORITY
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Robert Cook/Golf Mobile City, PWS
OR4100588

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To Robert Cook
155 Caldwell Blvd.
Nampa, ID 9783651

You are 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, have specific responsibilities that are identified in OAR 333-061-0025.

You have at all times mentioned herein owned and operated, and continue to own and operate the Golf Mobile City water system, which is a community public water system located at 3375 SW 18th Avenue in Ontario, Oregon. Golf Mobile City serves between 25 and 100 people and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0290.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Program) has investigated the operation of the Golf Mobile City water system.

The Program found, during its investigation, that water provided by Golf Mobile City exceeds the maximum contaminant level (MCL) for both arsenic and nitrate. Also, you have failed to correct significant deficiencies and have not consistently reported sample results for inorganic chemicals, lead and copper, nitrite, synthetic organic chemicals, volatile organic chemicals, and radionuclides. You are therefore unable to assure the water users at Golf Mobile City 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 you for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during the Program's investigation and are listed below.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333-061-0025 requires water suppliers to take all reasonable precautions to assure that the water delivered to water users does not exceed maximum contaminant levels. Water samples collected at the Golf Mobile City water system indicate that water provided by the system exceeds the MCL for both arsenic and nitrate as specified in OAR 333-061-0030(1). The entire sampling history for the Golf Mobile City water system shows that levels of arsenic and nitrate exceed the current MCL for each respective chemical.

Water with nitrate in excess of the MCL has the significant potential to have serious adverse effects on human health as a result of short term exposure (OAR 333-061-0042(2)(a)). Infants below the age of 6 months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome (OAR 333-061-0097(3)(k))

Water with arsenic in excess of the MCL has the potential to have serious adverse effects on human health (OAR 333-061-0042(2)(b)). Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer (OAR 333-061-0097(3)(b)).

You were officially notified on May 19, 2010 that you would need to take action to ensure that the Golf Mobile City water system delivered water with levels of arsenic and nitrate below the MCL.

You have however failed to demonstrate that you have taken all the reasonable actions or precautions to ensure that water does not exceed the MCL for arsenic or nitrate by seeking an alternate water source or beginning the process to install a treatment system. This constitutes a violation of OAR 333-061-0025.

- Violation No. 2: OAR 333-061-0025(1) requires water suppliers to routinely collect and submit water samples for laboratory analysis at the frequencies prescribed by OAR 333-061-0036. Violations No. 4 through No. 9 describes your failure to report water sampling results to the Program for multiple chemical contaminants. It constitutes a violation of OAR 333-061-0025(1) if the samples were in fact not collected as required.
- Violation No. 3: OAR 333-061-0036(2)(a) requires sampling for inorganic chemicals at water systems. OAR 333-061-0040(1)(b)(A) requires water suppliers to submit sampling results to the Program within ten days of the end of the specified monitoring period. Samples for inorganic chemicals were required to be collected at the Golf Mobile City water system within the 2008 to 2010 three-year monitoring period. You however failed to report any inorganic chemical sampling results for the specified monitoring period, which constitutes a violation of OAR 333-061-0036(2)(a) if samples were not collected, or constitutes a violation of OAR 333-061-0040(1)(b)(A) if samples were collected but the sample analysis was not reported.
- Violation No. 4: OAR 333-061-0036(2)(c) requires sampling for lead and copper in tap water. OAR 333-061-0040(1)(b)(A) requires water suppliers to submit sampling results to the Program within ten days of the end of the specified monitoring period. Samples for lead and copper were required to be collected at the Golf Mobile City water system in the six-month monitoring period from July through December 2010. You however failed to report any lead an copper sampling results for the specified monitoring period, which constitutes a violation of OAR 333-061-0036(2)(c) if samples were not collected, or a violation of OAR 333-061-0040(1)(b)(A) if samples were collected but the sample analysis was not reported.
- Violation No. 5: OAR 333-061-0036(2)(e) requires sampling for nitrite at water systems. OAR 333-061-0040(1)(b)(A) requires water suppliers to submit sampling results to the Program within ten days of the end of the specified monitoring period. Samples for nitrite were required to be collected at the Golf Mobile City water system within the 2008 to 2010 three-year monitoring period. You however failed to report any nitrite sampling results for the specified monitoring period, which constitutes a violation of OAR 333-061-0036(2)(e) if samples were not collected, or a violation of

OAR 333-061-0040(1)(b)(A) if samples were collected but the sample analysis was not reported.

- Violation No. 6: OAR 333-061-0036(3)(a) requires sampling for synthetic organic chemicals at water systems. OAR 333-061-0040(1)(b)(A) requires water suppliers to submit sampling results to the Program within ten days of the end of the specified monitoring period. Samples for synthetic organic chemicals were required to be collected at the Golf Mobile City water system within the 2010 annual monitoring period. You however failed to report any synthetic organic chemical sampling results for the specified monitoring period, which constitutes a violation of OAR 333-061-0036(3)(a) if samples were not collected, or a violation of OAR 333-061-0040(1)(b)(A) if samples were collected but the sample analysis was not reported.
- Violation No. 7: OAR 333-061-0036(3)(b) requires sampling for volatile organic chemicals at water systems. OAR 333-061-0040(1)(b)(A) requires water suppliers to submit sampling results to the Program within ten days of the end of the specified monitoring period. Samples for volatile organic chemicals were required to be collected at the Golf Mobile City water system within the 2010 annual monitoring period. You however failed to report any volatile organic chemical sampling results for the specified monitoring period, which constitutes a violation of OAR 333-061-0036(3)(b) if samples were not collected, or a violation of OAR 333-061-0040(1)(b)(A) if samples were collected but the sample analysis was not reported.
- Violation No. 8: OAR 333-061-0036(7) requires sampling for radionuclides at community water systems. OAR 333-061-0040(1)(b)(A) requires water suppliers to submit sampling results to the Program within ten days of the end of the specified monitoring period. Samples for radionuclides were required to be collected at the Golf Mobile City water system within each of the calendar quarters from July 2010 through March 2011. You however failed to report any radionuclide sampling results for the specified monitoring periods, which constitutes a violation of OAR 333-061-0036(7) if samples were not collected, or a violation of OAR 333-061-0040(1)(b)(A) if samples were collected but the sample analysis was not reported.
- Violation No. 9: OAR 333-061-0076(6)(b) requires water systems utilizing only groundwater sources to, within 120 days of written notification, correct any significant deficiencies identified during a sanitary survey, or to be in compliance with a corrective action plan. A sanitary survey was conducted on May 19, 2010 at the Golf Mobile City water system, and a letter was mailed to you on July 9, 2010 identifying significant deficiencies found during the survey. As of the date of this order, you have

not corrected all of the significant deficiencies identified in the July 9, 2010 letter, nor are you in compliance with an action plan to correct the remaining deficiencies, which constitutes a violation of OAR 333-061-0076(6).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

You are 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) allegedly violated (ORS 448.255(3)).

- Compliance Action No. 1: You must submit an action plan that identifies how the water system at Golf Mobile City will be made to produce water with levels of arsenic and nitrate below the applicable MCLs specified in OAR 333-061-0030(1). The action plan must:
 - Be submitted to the Program no later than July 31, 2011;
 - Identify how remediation of the arsenic and nitrate contamination at the Golf Mobile City water system will be funded;
 - Identify when remediation of the arsenic and nitrate contamination at the Golf Mobile City water system is expected to be completed; and
 - Identify which of the following three options will be utilized for remediation of the arsenic and nitrate contamination at the Golf Mobile City water system:
 1. Installation an approved treatment system that meets the construction standards listed in OAR 333-061-0050(4);
 2. Development of a new water source that meets all applicable requirements in OAR 333-061-0050; or
 3. Connection to another public water system for the purpose of receiving potable water from that system.
- Compliance Action No. 2: You must submit construction plans to the Program no later than December 31, 2011. The plans must meet all the applicable requirements of OAR 333-061-0060, and must clearly identify how the water system at Golf Mobile

City will be made to produce water with levels of arsenic and nitrate below the applicable MCLs specified in OAR 333-061-0030(1).

- Compliance Action No. 3: You must complete construction of the project for remediation of the arsenic and nitrate contamination at the Golf Mobile City water system no later than June 30, 2012. All physical or infrastructure changes at Golf Mobile City are subject to inspection by Program staff to verify that the water system meets the applicable construction standards specified in OAR 333-061-0050.
- Compliance Action No. 4: You must demonstrate that every person served by the Golf Mobile City water system receives drinking water that consistently meets all applicable state and federal drinking water laws and rules no later than September 30, 2012.
- Compliance Action No. 5: You must correct each of the significant deficiencies identified in the letter dated July 9, 2010 relating to the sanitary survey conducted on May 19, 2010 at the Golf Mobile City water system. Every significant deficiency will be corrected to the satisfaction of Program staff no later than August 31, 2011, except for compliance with the MCLs for arsenic and nitrate, for which correction will occur as specified in Compliance Actions No. 1 through No. 4 of this order.
- Compliance Action No. 6: You must collect samples for lead and copper at the Golf Mobile City water system in accordance with OAR 333-061-0036(2)(c) between July 1, 2011 and December 31, 2011, and submit the sampling results to the Program no later than January 10, 2012.
- Compliance Action No. 7: You must collect samples for lead and copper at the Golf Mobile City water system in accordance with OAR 333-061-0036(2)(c) between January 1, 2012 and June 30, 2012, and submit the sampling results to the Program no later than July 10, 2012.
- Compliance Action No. 8: You must publish public notice for exceeding the MCL for arsenic and for nitrate 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)). The notice must meet all of the applicable requirements of OAR 333-061-0042(4), must be distributed to every customer served by the Golf Mobile City water system in accordance with OAR 333-061-0042(3)(b)(E). A copy of the notice must be

submitted to the Agency no later than 10 days after completing the public notification per OAR 333-061-0040(1)(j).

- Submit copies of the public notice to: Brad Daniels, OHA - Drinking Water Program, PO Box 14450, Portland, OR 97293-0450.

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 333-061-0290, which remain in full force and effect.

This Order does not relieve you 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 Program 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 dates 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 Program 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 Program within 10 days from the date this Order was mailed. The request for hearing must be sent to: David E. Leland, Manager; OHA - Drinking Water Program; 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 on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing.

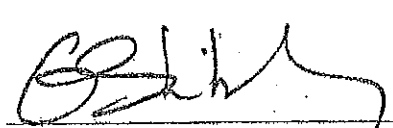
If you do not make a timely request for a hearing, or if you withdraw a request for hearing, notify the Program or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Program may issue a final order by default. If the Program issues a final order by default, the Program designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purposes of proving a prima facie case upon 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 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 Program subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

The Program has designated the Program's complete file on the Golf Mobile City water system as the record in this case for purposes of proving a prima facie case upon default.

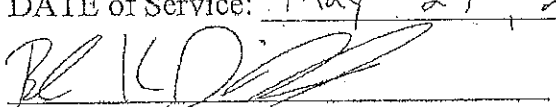
If you need to receive the information in this letter in an alternate format, or if you have any questions about the requirements in this Order, please contact Brad K. Daniels at 971-673-0405.

Dated this 25th day of May, 2011.



Gail R. Shibley, JD, Administrator
Office of Environmental Public Health

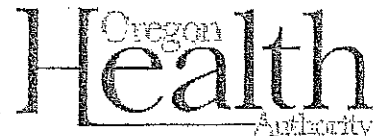
cc: Amy Baker, OHA-DWP
Bill Goss, OHA-DWP

DATE of Service: May 27, 2011


Brad K. Daniels

By certified mail and first class mail

PUBLIC HEALTH DIVISION
Office of Environmental Public Health, Drinking Water Program
John A. Kitzhaber, MD, Governor



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

April 13, 2012

Robert M. Cook
Golf Mobile City water system
155 Caldwell Blvd.
Nampa, ID 83651

RE: Violation of the Administrative Order issued on May 27, 2011 and possible civil penalties.

On May 27, 2011, the Oregon Health Authority, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Program) issued an Administrative Order to you requiring corrective action to be completed at the Golf Mobile City water system (PWS ID# OR4100588).

Specifically, the Administrative Order required that you submit construction plans to the Program no later than December 31, 2011. The Program never received the required construction plans, which is a violation of the Administrative Order, and you are now at risk of being assessed civil penalties in the amount of \$50 for every distinct rule violation and for every day the Golf Mobile City water system remains in violation of a rule (OAR 333-061-0090).

Furthermore, you have failed to report sampling results for inorganic chemicals as required by OAR 333-061-0036(2)(a), nitrite as required by OAR 333-061-0036(2)(e), both synthetic organic chemicals and volatile organic chemicals as required by OAR 333-061-0036(3)(a) and (b) respectively, and radionuclides as required by OAR 333-061-0036(7)(a). Failing to collect the samples is a violation of each these rules as specified above, but if the samples were collected and not reported to the Program then you have committed a violation of OAR 333-061-0040(1)(b).

Golf Mobile City water system
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In the event that the Program assesses a civil penalty against you, you will be notified in writing and provided an opportunity for a hearing pursuant to the Oregon Administrative Procedures Act (ORS chapter 183).

Respectfully,

A handwritten signature in black ink, appearing to read "BK Daniels", with a long horizontal flourish extending to the right.

Brad K. Daniels
Enforcement Coordinator
OHA - Drinking Water Program

cc: Bill Goss, OHA DWP
Darcy Porter, Golf Mobile City

PUBLIC HEALTH DIVISION
Center for Health Protection, Drinking Water Services
John A. Kitzhaber, MD, 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

Robert M. Cook
Golf Mobile City, PWS 4100588

Respondent

FINAL ORDER IMPOSING
CIVIL PENALTY

To: Robert M. Cook
Golf Mobile City
155 Caldwell Blvd.
Nampa, ID 83651

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) issued a Notice of Intent to Impose Civil Penalty (Notice) on November 7, 2012 for specific violations of the Oregon Drinking Water Quality Act and rules at the Golf Mobile City water system. The Notice offered you an opportunity for hearing, if requested within 20 days of service of the Notice, and designated the relevant portion of DWS' file on this matter, including all materials submitted by Golf Mobile City as the record for purposes of default.

You submitted a request for hearing on November 30, 2012, which was past the 20 day deadline and was therefore considered late. Under OAR 333-137-0528, an agency may grant a late request only if the requestor has good cause for the failure to timely request the hearing and a final order has not been issued. In your request for hearing, you stated that you did not understand the time frame allowed for requesting a hearing.

DWS findings regarding good cause:

1. Two copies of the Notice were mailed to you on November 7, 2012, one was mailed by first class mail and one was mailed by certified mail.
2. The Notice clearly set forth details regarding a request for hearing and that it must be received within 20 days.
3. The good cause exception means that something outside the requestor's control prevented them from timely requesting a hearing. You have not demonstrated good cause for failing to request a hearing within the 20 day deadline.

THEREFORE, after considering the relevant portions of DWS's file relating to this matter, DWS DENIES your late hearing request and enters the following Order.

FINDINGS OF FACT

1. DWS issued a Notice of Violation and Administrative Order (Order) on May 27, 2011 which, in part, required you to demonstrate that every person served by the Golf Mobile City water system receives drinking water that consistently meets all applicable state and federal drinking water laws and rules no later than September 30, 2012. You did not appeal the Order, and did not comply with the Order by the deadlines specified therein. The Order is incorporated by reference.
2. You failed to demonstrate that every person served by the Golf Mobile City water system receives drinking water that consistently meets all applicable state and federal drinking water laws and rules no later than September 30, 2012.
3. You failed to demonstrate that you have taken all the reasonable actions or precautions to ensure that water does not exceed the maximum contaminant levels for arsenic and nitrate at the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0025.
4. You failed to ensure that sampling for inorganic chemicals has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(2)(a).
5. You failed to ensure that sampling for nitrite has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(2)(e).

6. You failed to ensure that sampling for synthetic organic chemicals has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(3)(a).
7. You failed to ensure that sampling for volatile organic chemicals has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(3)(b).
8. You failed to ensure that sampling for radionuclides has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(7).
9. You failed to comply with an order issued by the Administrator, which constitutes an act for which civil penalties can be assessed as prescribed by OAR 333-061-0090(4)(i).
10. Pursuant to OAR 333-061-0090, civil penalties are calculated based upon the population served by the public water system, the number of distinct rule violations, and the number of days the violations occurred. The Notice assessed a civil penalty of \$3,500 based on:
 - \$50 per violation based on the population served of 32 people;
 - Seven (7) distinct rule violations; and
 - Ten days of violations for the period of time from October 1, 2012 through October 10, 2012, inclusive.

The total civil penalty therefore equals \$3,500. The Notice is incorporated by reference.

11. In assessing the civil penalty, DWS considered the factors set out in ORS 448.285(2). The Notice includes DWS' consideration of these factors.

CONCLUSIONS OF LAW

On October 1, 2012, you violated the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) by failing to comply with an order issued by the Administrator.

Robert M. Cook/Golf Mobile City
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ORDER

Based on the foregoing, YOU ARE HEREBY ORDERED to pay a civil penalty in the amount of \$3,500.

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. The Program may assign liquidated and delinquent civil penalties to the Department of Revenue, as provided in ORS 293.250, not later than 90 days after the Notice becomes final.

If you have any questions about payment, or wish to make payment arrangements, please call Drinking Water Services at 971-673-0405. Make Checks payable to OHA-Drinking Water Services. Mail checks to OHA-Drinking Water Services, PO Box 14450, Portland, Oregon 97293-0450.

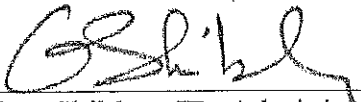
Reasonable administrative costs, collection costs, attorney's fees, and all other costs and charges necessary for the collection of any amount not paid when due, including but not limited to collection charges assessed by the Department of Revenue, may be added to the amount due.

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 Notice, please contact Brad K. Daniels, OHA-Drinking Water Services, (971) 673-0405.

Robert M. Cook/Golf Mobile City
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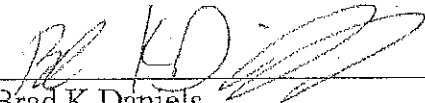
Dated this 6th day of December, 2012.



Gail R. Shibley, JD, Administrator
Center for Health Protection

cc: Bill Goss, OHA-DWS
Shannon O'Fallon, Oregon Department of Justice
Amy Word, OHA-DWS

DATE of Service: December 6, 2012



Brad K Daniels

By certified and first class mail