

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

In the Matter of

Lawson Acres Water Association, PWS
OR4100707

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Lawson Acres Water Association
119 Wintergreen Drive
Riddle, OR 97469

Lawson Acres Water Association (the Association) is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(207), and as a water supplier, has specific responsibilities that are identified in OAR 333-061-0025.

The Association has at all times mentioned herein owned and operated, and continues to own and operate the Lawson Acres water system, a community public water system serving approximately 75 people and homes along Yokum Rd., Winter Green Dr. and Loren Ln. in Riddle, Oregon. The Lawson Acres water system is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0272.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) has investigated the operation of the Lawson Acres water system.

DWS found, during its investigation, that the Association failed to consistently operate treatment and disinfection systems to provide drinking water which meets standards for safe drinking water. Furthermore, the Association did not adequately notify water users when health hazards were found to be present in the water system and did not perform radionuclide sampling as required.

The Association is therefore unable to assure water users at the Lawson Acres water system 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 the Association due to the potential public health hazard and specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules identified during DWS' investigation as described below.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333-061-0032(5) requires, in part, water suppliers who utilize surface water sources and provide filtration to disinfect sufficiently to ensure that the total treatment process achieves at least 99.9 percent (3-log) inactivation and/or removal of *Giardia lamblia* cysts. OAR 333-061-0036(5)(b) requires that water suppliers determine disinfection effectiveness by calculating CT every day water treatment is operated. CT means the product of the residual disinfectant concentration (C, measured in mg/L) and the disinfectant contact time (T, measured in minutes). The Association failed to provide disinfection sufficient to meet treatment requirements during the months of February, June and October 2014, which constitutes one violation of OAR 333-061-0032(5).

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).

- Violation No. 2: 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 and is free of public health hazards. The failure to operate treatment systems to ensure effective disinfection at the Lawson Acres water system indicates that water provided by the system represents a potential public health hazard to users at the Lawson Acres water system. The failure to publish public

notice including a boil water advisory or to immediately return surface water treatment processes to an effective state indicates the Association has not taken all reasonable precautions to prevent public health hazards at the Lawson Acres water system, which constitutes a violation of OAR 333-061-0025.

- Violation No. 3: OAR 333-061-0030(2)(b), in part, specifies that the maximum contaminant level (MCL) for total trihalomethanes (TTHM) is 0.080 mg/l based on a locational running annual average. Samples collected at the Lawson Acres water system exceeded the MCL for TTHM based upon drinking water samples collected between November 15, 2013 and September 2, 2014, inclusive. This constitutes one violation of OAR 333-061-0030(2)(b).

Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.

- Violation No. 4: OAR 333-061-0050(6)(a)(I) requires that finished water storage facilities have watertight roofs. DWS records indicate that a finished water storage facility at the Lawson Acres water system was damaged and has not been repaired or replaced as of the date of this administrative order. The Association was provided information in a letter on June 3, 2013 regarding how to complete the plan review process for a new finished water storage facility but no response to the letter was received by DWS. The presence of a finished water storage facility without a watertight roof constitutes one violation of OAR 333-061-0050(6).
- Violation No. 5: OAR 333-061-0025(5) requires water suppliers to publish a public notice as specified in OAR 333-061-0042 when maximum contaminant levels are exceeded and for other situations as specified in the rule. Violations and situations are differentiated into three tiers in OAR 333-061-0042(2) based on the seriousness of the situation, and a tier two public notice was required to be published no later than 30 days after learning of the situation for both failing to effectively disinfect surface water and for exceeding the MCL for TTHM according to OAR 333-061-0042(3)(b)(A). Additionally OAR 333-061-0040(1)(i) requires water suppliers to submit copies of public notices to DWS within 10 days of completing the notification action. DWS has not received public notification for the Lawson Acres water system as specified in OAR 333-061-0042 and 333-061-0040 for failing to provide effective disinfection of surface water for three distinct occurrences in February, June and October 2014, or for exceeding the MCL for TTHM as determined in September 2014. The failure to publish public notice as described above constitutes four

violations of OAR 333-061-0025(5) and OAR 333-061-0042.

- Violation No. 6: OAR 333-061-0025(1) requires water suppliers to routinely collect and submit water samples for laboratory analyses at the frequencies prescribed by OAR 333-061-0036. OAR 333-061-0036(7) requires water suppliers to conduct sampling for radionuclides at public water systems, and specifically requires quarterly initial monitoring be completed no later than December 31, 2007 at all water systems for which acceptable historical data was not available. The Association has not reported radionuclide sampling results to DWS for four consecutive quarters as required by the rule, which constitutes one violation of OAR 333-061-0025(1) and OAR 333-061-0036(7), if samples were not collected as required.

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Lawson Acres Water Association 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)).

- Compliance Action No. 1: Related to compliance with the MCL for TTHM, the Association must:
 - Submit an action plan clearly identifying how it will ensure compliance with the MCL for TTHM specified in OAR 333-061-0030(2)(b) no later than **December 31, 2014**.
 - Complete corrective action as specified in Compliance Action No. 1 above for compliance with the MCL for TTHM according to a plan approved by DWS no later than **December 31, 2015**.
- Compliance Action No. 2: The Association must demonstrate it operates effective surface water treatment as prescribed by OAR 333-061-0032(4) and (5) no later than **March 31, 2015** by reporting surface water treatment operating reports for two consecutive months that demonstrate the water treatment system at the Lawson Acres water system meets the applicable water treatment requirements.
 - Surface water treatment operating reports must accurately reflect water quality and treatment processes at the Lawson Acres water system and demonstrate that disinfection was effective and the required CT was met every day.

- Compliance Action No. 3: Related to the damaged finished water storage facility, the Association must:
 - Submit a construction plan identifying how the existing water storage facility will be repaired or replaced no later than **December 31, 2014**.
 - Complete construction of a finished water storage facility that meets all the applicable requirements of OAR 333-061-0050(6) according to a plan approved by DWS no later than **March 31, 2015**.
- Compliance Action No. 4: The Association must ensure radiological samples are collected in accordance with OAR 333-061-0036(7) and that the first round of sampling results is reported no later than **April 10, 2015**.
- Compliance Action No 5: The Association must report sample results collected according to OAR 333-061-0036(4) that demonstrate compliance with the MCL for TTHM specified in OAR 333-06-0030(2). Sample results must be reported according to OAR 333-061-0040 for four consecutive quarters and the final round of results must be received by DWS no later than **January 10, 2017**.
- Compliance Action No. 6: The Association must publish and distribute public notice according to OAR 333-061-0042 within 30 days of the date of this letter for failing to provide effective disinfection treatment of surface water and for exceeding the MCL for TTHM. The notice must direct water users to boil the water before drinking or using it for cooking, food preparation, or any other activity that might result in consumption of the water. The notice must also meet all of the applicable requirements of OAR 333-061-0042(4). The public notice must be re-published every three months as necessary to include changes or additional information regarding drinking water at the Lawson Acres water system, 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 Association must submit a copy of the notice and certification of the method of distribution to DWS 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 Association 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.

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 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, 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.

DWS has designated DWS's complete file on the Lawson Acres 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 10 day of December, 2014.



Steven A. Wagner, MPH, Administrator
Oregon Health Authority, Center for Health Protection

cc: Casey Lyon, Oregon Health Authority, Drinking Water Services
Rebecca Templin, Oregon Health Authority, Drinking Water Services
Shannon O'Fallon, Oregon Department of Justice

Date of Service: December 10, 2014



Brad K. Daniels

By certified mail and first class mail