

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

In the Matter of

Lawson Acres Water Association,  
Public Water System # OR4100707

Respondent

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

This Notice of Violation and Administrative Order (Order) supersedes and replaces the Order issued by the Oregon Health Authority, Public Health Division, Center for Health Protection, (Authority) on December 10, 2014.

Lawson Acres Water Association (Association) has at all times mentioned herein owned and operated, and continues to own and operate the community public water system serving approximately 75 people living in homes along Yokum Rd., Winter Green Dr. and Loren Ln. in Riddle, Oregon. The Lawson Acres water system is 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 Association 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 that are identified in OAR 333-061-0025.

Pursuant to its authority established in ORS 431A.010 and ORS 448.255, the Authority investigated the operation of the Lawson Acres water system.

The Authority found, during its investigation, that water provided by the Lawson Acres water system continues to exceed the maximum contaminant level (MCL) for haloacetic acids (HAA5) and total trihalomethanes (TTHM) despite the Association's efforts to reduce concentrations of the contaminants. The Association is therefore unable to assure its water users 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 Order is being issued to the Association 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 333-061-0025 requires water suppliers to take all reasonable actions to assure that the water delivered to water users does not exceed maximum contaminant levels and is free of public health hazards. The Association reported monitoring that indicates TTHM concentrations have routinely exceeded the MCL following samples collected on September 6, 2013 and that HAA5 concentrations exceeded the MCL in every sample reported to the Authority beginning with samples collected on April 24, 2014. The Association directed its water system operators to make minor changes to disinfection and maintenance practices but did not investigate changes to water treatment processes expected to significantly reduce HAA5 and TTHM concentrations. The Association therefore has not taken all reasonable actions to assure water does not exceed maximum contaminant levels and to prevent public health hazards at the Lawson Acres water system. This constitutes one violation of OAR 333-061-0025.
  - Violation No. 2: OAR 333-061-0030(2)(b), in part, specifies that the MCL for HAA5 is 0.060 mg/l based on a locational running annual average (LRAA). The LRAA for HAA5 samples reported for the Lawson Acres water system exceeded the MCL every calendar quarter the average was calculated beginning at 0.074 mg/l in the fourth calendar quarter of 2014 to 0.126 mg/l in the second calendar quarter of 2016. This exceeds the MCL for HAA5 and constitutes seven violations of OAR 333-061-0030(2)(b).
- Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer (OAR 333-061-0097).

- Violation No. 3: OAR 333-061-0030(2)(b), in part, specifies that the MCL for TTHM is 0.080 mg/l based on a LRAA. The LRAA for TTHM samples reported for the Lawson Acres water system exceeded the MCL every calendar quarter the average was calculated beginning at 0.119 mg/l in the third calendar quarter of 2014 to 0.090 mg/l in the second calendar quarter of 2016. This exceeds the MCL for TTHM and constitutes eight violations 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 (OAR 333-061-0097).

### ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

The 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: The Association must submit to the Authority, a completed feasibility study designed to evaluate rehabilitating or replacing the existing water treatment plant at the Lawson Acres water system and connecting the Lawson Acres water system to the City of Riddle public water system to receive finished drinking water.
  - The feasibility study must be submitted to the Authority no later than January 15, 2017.
  - The feasibility study must identify the reduction of HAA5 and TTHM concentrations as a necessary goal of the evaluation.
- Compliance Action No 2: The Association must submit to the Authority, verification that it has applied for a grant or loan to finance corrective action and construction at the Lawson Acres water system.
  - The verification must be submitted to the Authority no later than April 1, 2017.
  - The application must clearly indicate reduction of HAA5 and TTHM concentrations as a primary objective of the corrective action and construction at the Lawson Acres water system.

- Compliance Action No. 3: The Association must submit to the Authority complete construction plans for the Lawson Acres water system reasonably expected to ensure compliance with the MCL for both HAA5 and TTHM.
  - The construction plans must be submitted to the Authority no later than July 1, 2017.
  - The construction plans must meet all the applicable requirements of OAR 333-061-0060 and have sufficient detail to completely and clearly illustrate what will be constructed.
- Compliance Action No. 4: The Association must ensure construction of the project for which plans were submitted as specified in Compliance Action No. 3 is completed no later than January 1, 2018.
  - Construction of all improvements or modifications at the Lawson Acres water system must meet the applicable construction standards specified in OAR 333-061-0050.
- Compliance Action No 5: The Association must report monitoring results according to OAR 333-061-0040 that demonstrate compliance with the MCL for HAA5 and for TTHM as specified in OAR 333-06-0030(2)(b).
  - Monitoring must be conducted according to all the applicable provisions of OAR 333-061-0036(4) for at least four consecutive quarters.
  - The Association must report the final round of monitoring to the Authority no later than January 10, 2019.
- Compliance Action No. 6: The Association must publish and distribute public notice according to OAR 333-061-0042 for exceeding the MCL for TTHM and for HAA5. The notice must meet all of the applicable requirements of OAR 333-061-0042(4) and 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 certify the method of distribution 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 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 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 \$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 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 E. Leland, 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 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 the Authority subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

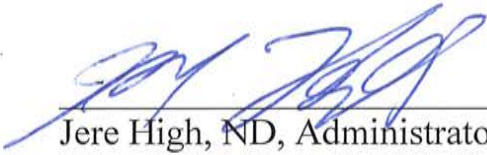
If you withdraw a request for hearing, or notify the Authority or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Authority may issue a final order by default. If the Order becomes final in this manner, you will have the right to appeal the Order to 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 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 16<sup>th</sup> day of JUNE, 2016.



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

cc: RosAnna Noval, Rural Community Assistance Corporation  
Shannon O'Fallon, Oregon Department of Justice  
Rebecca Templin, Oregon Health Authority, Drinking Water Services

DATE of Service: 

June 17, 2016  
Brad K. Daniels

By certified mail and first class mail

To: Donna Witt  
Lawson Acres Water Association  
PO Box 317  
Riddle, OR 97469