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673-0694

BEFORE THE STATE OF OREGON
DEPARTMENT OF HUMAN SERVICES
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Boulder Creek Water System/Rose
Lodge Water Co., Inc., PWS
OR4100722

AMENDED SETTLEMENT ORDER

The Oregon Department of Human Services, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Agency) issued a Notice of Violation and Administrative Order (Order) to Rose Lodge Water Co., Inc. (Rose Lodge) on April 14, 2010 for specific violations of the Oregon Administrative Rules. Rose Lodge, the entity that operates and owns the Boulder Creek Water System, violated that Order on May 16, 2010 by failing to submit information regarding the certified operator in direct responsible charge of the water system. The Agency then issued a Notice of Intent to Impose Civil Penalty on June 29, 2010 assessing a \$2,700 civil penalty against Rose Lodge for the violation of the Order and other violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.285) and Oregon Administrative Rules.

On July 13, 2010, Rose Lodge requested a hearing as provided by the Administrative Procedures Act (Oregon Revised Statutes Chapter 183), but subsequently agreed to a settlement on September 29, 2010 in order to resolve the matter of the \$2,700 civil penalty. Rose Lodge waived all rights to a contested case hearing and further judicial review as part of the settlement signed on September 29, 2010.

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Rose Lodge has complied with the settlement signed on September 29, 2010, but is still out of compliance with the Oregon Drinking Water Quality Act and the Administrative Order issued on April 14, 2010 because it has not completed construction of the improvements to the surface water filtration system that will enable it to deliver safe drinking water.

In lieu of being assessed additional civil penalties or other enforcement actions Rose Lodge agrees to an amendment of the settlement signed on September 29, 2010. The amended settlement is as follows.

- Agreement Article No. 1: The Agency agrees to continue to hold in abeyance the remaining civil penalty of \$2,430 as long as Rose Lodge complies with all of the terms of this Amended Settlement Order.
- Agreement Article No. 2: Rose Lodge shall submit a completed General Application and Application Supplement for Safe Drinking Water Revolving Loan Fund, Drinking Water Project to the Oregon Business Development Department (OBDD) and to the Agency, no later than December 31, 2010. The application and supplement must clearly indicate that the intended project is construction of a surface water treatment system and any associated system improvements at the Boulder Creek water system in Otis, Oregon.
- Agreement Article No. 3: Rose Lodge shall ensure as soon as possible, but no later than February 15, 2011, that it has provided all the information to OBDD necessary for OBDD to make a funding decision for the project identified in the application and supplement specified in Agreement Article No. 2.
- Agreement Article No. 4: Rose Lodge shall submit to the Agency a legally binding contract with an appropriate entity to construct and install the surface water treatment system specified in Agreement Article No. 2 no later than March 31, 2010.
- Agreement Article No. 5: Rose Lodge shall ensure that construction of the surface water treatment system and any necessary water system improvements are completed at the Boulder Creek water system no later than May 31, 2011.
- Agreement Article No. 6: Rose Lodge shall begin operation of the surface water treatment system so that all system users receive drinking water that consistently

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meets all applicable state and federal drinking water laws and rules as soon as possible but no later than August 31, 2011.

- Agreement Article No. 7: Rose Lodge shall continue to sample for total trihalomethanes (TTHM) and haloacetic acids (HAA5) as prescribed by Oregon Administrative Rule (OAR) 333-061-0036(4)(c) every calendar quarter until December 31, 2011 and submit the sampling results to the Agency no later than 10 days after the end of the calendar quarter. All samples will be collected at locations specified in the monitoring plan developed in accordance with OAR 333-061-0036(4)(c)(C).
- Agreement Article No. 8: Rose Lodge shall continue to issue public notice every calendar quarter for failure to comply with surface water treatment requirements. The notice will direct water users to boil water before using the water for drinking or cooking purposes, and also include the adverse health effects language specified in OAR 333-061-0097(5)(c). The notice will be delivered by hand to each customer served by the Boulder Creek Water System, and will also be posted in a conspicuous location within the area served by the water system (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)). A copy of the notice will be submitted to the Agency every calendar quarter, within ten days of being delivered to customers, and will also include certification of when the notice was hand delivered and each location where the notice was posted. This requirement remains in effect until improvements to the surface water filtration system are made and all system users receive drinking water that consistently meets all applicable state and federal drinking water laws and rules.
- Agreement Article No. 9: Rose Lodge shall continue to notify the Agency immediately, or at least within 24 hours, by calling 541-726-2587 extension 27 any time the distribution system pressure at the Boulder Creek water system falls below 20 pounds per square inch (psi). Rose Lodge will also immediately notify the Agency when normal operating pressure is restored, the cause for the loss of pressure, and what steps have been taken to prevent a future loss of pressure for the same reason. This requirement remains in effect until this Amended Settlement Order is terminated.
- Agreement Article No. 11: Rose Lodge agrees to pay the remaining civil penalty of \$2,430 should it fail to meet any of the terms of this agreement. Payment of the civil penalty shall be due and payable within 10 days of the issuance of a Notice of Violation of Settlement Agreement.

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GENERAL PROVISIONS

This Agreement does not constitute a waiver, suspension or modification of the requirements of the Oregon Drinking Water Quality Act; ORS 448.115 to 448.285 and administrative rules OAR 333-061-0050 to 333-061-0295, which remain in full force and effect.

This Agreement does not relieve the Rose Lodge of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

Rose Lodge may request extensions to the deadlines specified in this settlement order, if for reasons beyond its control, it cannot complete an agreed upon action by the deadline previously agreed to.

To the extent the deadlines or provisions in this Order conflict with the Administrative Order issued on April 14, 2010, the deadlines and provisions in this settlement order supersede the Administrative Order.

If Rose Lodge complies with all the terms of this Order the Agency will notify Rose Lodge that it is released from the terms of the Order.

VIOLATION OF THIS ORDER

Violation of this order may lead to the issuance of further civil penalties or further legal action being taken under ORS 448.250.

If the Agency notifies Rose Lodge that it has violated this Order Rose Lodge will be given the opportunity to contest whether it violated the Order but may not contest the violations cited in the Notice of Intent to Impose Civil Penalties issued on June 29, 2010.

Dated this 14 day of Dec, 2010.

Bette Carter
Bette Carter
President
Rose Lodge Water Co., Inc.

David E. Leung DAVID E LEUNG

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