

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
PUBLIC HEALTH DIVISION
CENTER FOR HEALTH PROTECTION

In the Matter of

Pinewood Mobile Manor, PWS
OR4100872

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

Respondents

Rick Brown
13214 NE 2nd Court
Vancouver, WA 98685

Lesley Langan
Scooby Properties, LLC
3930 SE Glenwood Street
Portland, OR 97202

Bea Brown and Scooby Properties, LLC have at all times mentioned herein owned and operated, and continue to own and operate, the Pinewood Mobile Manor public water system (hereinafter "Water System") located at 4405 Highway 30W in The Dalles, Oregon. The Water System is a community public water system serving approximately 130 people and is subject to regulation under Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules 333-061-0005 to 333-061-0272.

Bea Brown and Scooby Properties, LLC (hereinafter “Water Supplier”) are therefore a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020, and as a water supplier, have specific responsibilities that are 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 (DWS) has investigated the operation of the Water System.

DWS found, during its investigation, that water provided by the Water System exceeds the maximum contaminant level (MCL) for nitrate. Also, Water Supplier did not consistently report sample results for lead and copper. Water Supplier 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 Notice of Violation and Administrative Order (Order) is being issued to Water Supplier for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during DWS' investigation as described below.

DESCRIPTION OF RULE VIOLATIONS

1. OAR 333-061-0030(1) specifies that the maximum contaminant level (MCL) for nitrate in drinking water is 10 mg/L. Sample results for the Water System demonstrate that the concentration of nitrate in drinking water has been above the MCL for nitrate, in violation of OAR 333-061-0030(1), since samples collected on October 7 and November 4, 2016. The concentration of nitrate in drinking water at the Water System, calculated according to OAR 333-061-0036(2)(h) and based on the most recent sample reported on February 13, 2020 is 12.2 mg/L. This exceeds the MCL of 10 mg/L and constitutes a violation of OAR 333-061-0030(1).

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.

2. 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(10) requires sampling for lead and copper in tap water at public water systems at least once every three years, but Water Supplier has not reported

sample results to DWS since reporting samples on August 11, 2014. This constitutes a violation of OAR 333-061-0025(1) if samples were in fact not collected.

3. OAR 333-061-0036(10) requires, in part, water suppliers to monitor for lead and copper in tap water at least once every three years at community public water systems. Additionally, OAR 333-061-0040(1)(b)(A) requires water suppliers to report monitoring required by OAR 333-061-0036 to DWS within 10 days of the end of the required monitoring period. Water Supplier has not reported lead and copper monitoring for the Water System since reporting samples collected on April 11, 2014. This constitutes a violation of OAR 333-061-0036(10), or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Water Supplier 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)).

1. Water Supplier must complete construction or installation of the waterline to deliver water from the groundwater well identified by well tag L128006 to all portions of the Water System, no later than May 31, 2020.
 - For this corrective action to be met, any construction or installation that was performed for both the waterline and well L128006 must meet the applicable construction standards in OAR 333-061-0050, as approved by DWS.
 - Water Supplier must notify DWS within five calendar days of completing construction of the waterline identified in this corrective action.
 - Water Supplier must also notify DWS within five calendar days of any circumstance that is expected to delay construction of the waterline identified in this corrective action beyond the May 31, 2020 deadline.
2. Water Supplier must collect water samples according to OAR 333-061-0036(2)(c) and report testing results to DWS within 30 calendar days of completing construction according to Corrective Action No. 1.
 - Water samples must demonstrate that drinking water delivered by the Water System is not above the MCL in OAR 333-061-0030(1) for nitrate. If drinking

water supplied by well L128006 is not below the MCL for nitrate, DWS will require Water Supplier to take further corrective action.

3. Water Supplier must collect samples for lead and copper according to OAR 333-061-0036(10)(a) through (d) at the Water System after completing construction according to Corrective Action No. 1. A minimum of two rounds of standard monitoring must be conducted at 10 or more approved tap sample sites per round.
 - The first round of monitoring must be conducted as soon as possible after construction and in no case later than June 30, 2020, with the results of the monitoring reported to DWS no later than July 10, 2020.
 - The second round of monitoring must be conducted six months after the first round and in no case later than December 31, 2020, with the results of the monitoring reported to DWS no later than January 10, 2021.
4. Water Supplier must continue to publish a public notice, according to OAR 333-061-0042, that informs customers drinking water at the Water System exceeds the MCL for nitrate. The notice must meet all the applicable requirements in OAR 333-061-0042.
 - Water Supplier shall send a copy of the notice to DWS within 10 calendar days of distributing the public notice to customers, along with a written statement that it has fully complied with the distribution and public notification requirements in 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 Oregon Administrative Rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve Water Supplier 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 \$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 DWS issues a Notice of Intent to Impose Civil Penalty. For example, if DWS issues a Notice of Intent to Impose Civil Penalty on June 5, 2020 for failure to complete construction of the waterline to deliver water from well L128006 to all portions of the Water System according to this Order, the proposed civil penalty could be as much as \$9,600.

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 Emme, Manager; Oregon Health Authority, Drinking Water Services; PO Box 14450; Portland, OR 97293.**

If you request a hearing, DWS will notify you of the time and place at which the hearing will be held. You may enlist representation by legal counsel. Per ORS 413.041, a party that is not a natural person may be represented by an attorney or by any officer or authorized agent or employee of the party. Parties are ordinarily represented by counsel. DWS will be represented by an Assistant Attorney General. Prior to the hearing date, DWS will provide you with information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing. An administrative law judge from the Office of Administrative Hearings will be assigned to preside over the hearing, as required by ORS 183.635.

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.

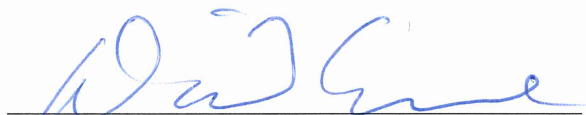
Notice to Active Duty Servicemembers

Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information, contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

DWS has designated its complete file on the 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 Order 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 25th day of February, 2020.



David Emme, Manager
Drinking Water Services
Oregon Health Authority

cc: Nicole Bailey, North Central Public Health District
Michelle Byrd, Oregon Health Authority, Drinking Water Services

DATE of Service: February 26, 2020


Signature

Brad K. Daniels
Printed Name

By certified mail and first-class mail