

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

In the Matter of

Sunset Lake RV Park, PWS
OR4100933

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Ken Hick
Resources Northwest, Inc.
PO Box 16756
Portland, OR 97292

Resources Northwest, Inc. has at all times mentioned herein owned and operated, and continues to own and operate, the Sunset Lake RV Park public water system (hereinafter "Water System") serving 33242 Sunset Beach Lane in Warrenton, Oregon. The Water System is a community public water system that serves approximately 170 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.

Resources Northwest, Inc. (hereinafter "Water Supplier") is 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, 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 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 drinking water provided by the Water System exceeds the maximum contaminant level (MCL) for total trihalomethanes. 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.

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.

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(2)(b) specifies that the maximum contaminant level (MCL) for total trihalomethanes (TTHM) in drinking water is 0.080 mg/L. Sample results reported for the Water System, collected at the *Space N* sample location and beginning with a sample collected on June 27, 2019 exceeded the MCL of 0.80 mg/L. The average concentration of TTHM in drinking water at this location, calculated according to OAR 333-061-0036(4)(c)(D) and based on samples collected between June 27, 2019 and February 26, 2020, is 0.087 mg/L. This exceeds the MCL of 0.080 mg/L and constitutes a violation of OAR 333-061-0030(2).

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 submit an action plan to DWS no later than June 30, 2020 identifying how it will ensure concentrations of TTHM are consistently below the MCL throughout the Water System. The action plan shall:

- Identify all tasks Water Supplier intends to perform to ensure TTHM concentrations at the Water System are below the MCL on an ongoing basis and set reasonable deadlines for completing all the identified tasks; and
 - Upon approval by DWS, the submitted deadlines for the following tasks shall become enforceable by incorporation:
 - 1. Begin repairs or maintenance of existing facilities;
 - 2. Modify water system operations;
 - 3. Submit complete, engineered construction plans and specifications to OHA for review and approval, if necessary;
 - 4. Begin construction, if necessary; and
 - 5. Complete all construction, modifications, repairs or maintenance.
 - Construction or installation plans must meet the requirements in OAR 333-061-0060 for the construction or modification of any facilities at the Water System and be approved by DWS prior to any construction or installation taking place.
 - Water Supplier shall perform and complete all tasks in the action plan by the deadlines in the plan and shall notify DWS in writing within 5 calendar days of completing all the tasks. For this corrective action to be met, any construction or installation performed must be approved by DWS and meet the applicable construction standards in OAR 333-061-0050.
2. Following completion of all tasks specified in the action plan, Water Supplier must demonstrate that TTHM concentrations do not exceed the MCL specified in OAR 333-061-0030(2)(b) for at least four consecutive calendar quarters. For this corrective action to be met, Water Supplier must monitor HAA5 and TTHM according to OAR 333-061-0036(4)(e).
- If concentrations of TTHM continue to exceed the MCL at the Water System following completion of all tasks specified in the action plan, DWS will require Water Supplier to take further corrective action.
3. Water Supplier must publish a public notice within 30 days of the date of service of this Order that informs customers that drinking water at the Water System exceeds the MCL for TTHM. The notice must meet the requirements in OAR 333-061-0042.
- Within 10 calendar days of distributing the public notice to customers, Water Supplier shall send a copy of the notice to DWS along with a written statement that

it has fully complied with the distribution and public notification requirements in OAR 333-061-0040(1)(i).

4. Water Supplier must provide public notice to customers in the same manner as is described in Correction Action No. 3 every three months that includes any changes or additional information regarding TTHM in the drinking water at the Water System. Water Supplier must comply with this action until DWS notifies it that its drinking water is below the MCL for these contaminants, and that the drinking water otherwise meets all applicable state and federal drinking water laws and rules.

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 July 1, 2020 for failure to submit an action plan according to this Order, the proposed civil penalty could be as much as \$6,000.

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 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>.

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 971-673-0405.

Dated this 17th day of April, 2020.



David Emme, Manager
Drinking Water Services
Oregon Health Authority

cc: Pete Farrelly, Oregon Health Authority, Drinking Water Services
Gene Ramey, Sunset Lake RV Park
Meredith Reiley, Clatsop County Environmental Health

DATE of Service: April 20, 2020


Signature

Brad K. Daniels
Printed Name

By certified mail and first-class mail