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

In the Matter of

Dunn Court Duplexes,
Public Water System OR4100962 and
West Coast Real Estate Holdings, LLC

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Eugene Labunsky
West Coast Real Estate Holdings, LLC
4350 Galewood St., Suite. 110
Lake Oswego, OR 97035

West Coast Real Estate Holdings, LLC (the Company) has at all times mentioned herein owned and operated the public water system serving residents living in the 11 properties located at 1034-1035, 1040-1044, 1041-1045, 1050-1054, 1051-1055, 1060-1064, 1061-1065, 1070-1074, 1071-1075, 1080-1084 and 1081-1085 Dunn Court in Woodburn, Oregon. The Dunn Court Duplexes (Dunn Court) water system is a community public water system serving approximately 90 people and 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 Company 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 Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (Authority) has investigated the operation of the Dunn Court water system.

The Authority found, during its investigation, that water produced by the Dunn Court water system exceeds the maximum contaminant level (MCL) for arsenic. The Company is therefore unable to assure the water users at the Dunn Court 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 Company 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, in part, water suppliers to take all reasonable actions to assure that the water delivered to users does not exceed maximum contaminant levels and that water system facilities are free of public health hazards. Water samples collected at the Dunn Court water system indicate that water provided by the system exceeds the MCL for arsenic as specified in OAR 333-061-0030(1) despite the Company's installation of an arsenic treatment system. The Company's failure to operate the treatment system effectively combined with its failure to seek guidance from the Authority regarding the operation of the treatment system demonstrates the Company has not taken all reasonable actions to ensure that water does not exceed the MCL for arsenic. This constitutes a violation of OAR 333-061-0025.
- Violation No. 2: OAR 333-061-0030(1) specifies that the MCL for arsenic in drinking water is 0.010 mg/L. Initial sample results reported for the Dunn Court water system after the installation of arsenic treatment indicated no presence of arsenic. Sample results reported since and beginning with a sample collected on July 7, 2016; however, exceeded the MCL and indicate the current average concentration of arsenic in drinking water is 0.012 mg/L at the Dunn Court water system. This constitutes a violation of OAR 333-061-0030(1).

Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system and may have an increased risk of getting cancer. OAR 333-061-0097(3)(b).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

The Company must conduct the remedial actions described below which, if completed within the time specified in this order, will achieve compliance with the rule(s) violated (ORS 448.255(3)).

- Compliance Action No. 1: The Company must submit an action plan clearly identifying how it will operate the arsenic treatment system to ensure drinking water produced by the Dunn Court water system contains concentrations of arsenic below the MCL specified in OAR 333-061-0030(1) at all times.
 - The Company must submit the action plan to the Authority within 45 days of the date of service of this administrative order.
- Compliance Action No. 2: The Company must complete any repair, maintenance or adjustment to the arsenic treatment at the Dunn Court water system such that drinking water produced by the water system consistently contains concentrations of arsenic below the MCL within 60 days of the date of service of this order.
- Compliance Action No. 3: The Company must conduct arsenic monitoring according to OAR 333-061-0036(2)(a) at the Dunn Court water system.
 - Monitoring must begin immediately and be conducted every month according to OAR 333-061-0036(1)(g) with results reported to the Authority no more than 10 days after the end of each month according to OAR 333-061-0040(1).
 - Monitoring must continue until Compliance Action No. 5 is fulfilled.
- Compliance Action No. 4: The Company must publish public notice for exceeding the MCL for arsenic. The notice must meet all of the applicable requirements of OAR 333-061-0042(4) and be distributed so that every person served by the Dunn Court water system receives the notice.

- The Company must certify that public notice was delivered by hand to every household served by the Dunn Court water system.
- The Company must certify to the Authority that public notice was posted in conspicuous public locations throughout the community and identify each location where the notice was placed.
- The Company must reissue the notice every three months until all other compliance actions specified in the order are fulfilled (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)).
- The Company must submit to the Authority a copy of the notice and certification of the method of distribution and locations where the notice was posted no later than 10 days after completing the public notification per OAR 333-061-0040(1)(i).
- Compliance Action No. 5: The Company must report sample results according to Compliance Action No. 3 that demonstrate water produced by the Dunn Court water system has concentrations of arsenic below the MCL every month for 12 consecutive months.
 - The twelfth consecutive sample result must be reported to the Authority no later than December 10, 2018.

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 Company 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

The Company is entitled to a hearing as provided by the Administrative Procedure Act (Oregon Revised Statutes, Chapter 183). To request a hearing, a written request must be filed with the Authority 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 the Company requests a hearing, the Authority will notify it of the time and place at which the hearing will be held. The Company 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. The Authority will be represented by an Assistant Attorney General. Prior to the hearing date, the Authority will provide the Company 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 the Company does 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, the Company will have the right to appeal the order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal, the Company must file a petition for judicial review with the Court of Appeals within 71 days from the day this order was mailed. If the Company does not file a petition for judicial review within the 71-day time period, it will lose its right to appeal.

If the Company does not request a hearing and the Authority subsequently issues a Notice Imposing a Civil Penalty, the Company will have waived any right to contest the violations.

If the Company withdraws a request for hearing, or notifies the Authority or the administrative law judge that a representative will not appear or fails to appear at a scheduled hearing, the Authority may issue a final order by default. If the order becomes

final in this manner, the Company will have the right to appeal the order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal the Company must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order was mailed. If the Company does not file a petition for judicial review within the 60-day time period, it will lose its 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 Dunn Court 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 971-673-0407.

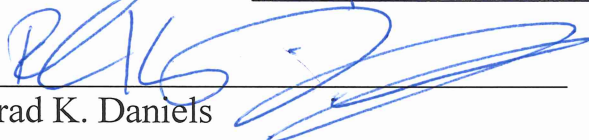
Dated this 11th day of September, 2017.



André Ourso
Interim Administrator, Center for Health Protection
Public Health Division
Oregon Health Authority

cc: Gregg Baird, Oregon Health Authority, Drinking Water Services
Greg DeBlase, Marion County Environmental Health
Shannon O'Fallon, Oregon Department of Justice

DATE of Service: September 13, 2017



Brad K. Daniels

By certified mail and first class mail