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

In the Matter of

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

Respondent

NOTICE OF VIOLATION OF  
SETTLEMENT AGREEMENT/  
INTENT TO ORDER PAYMENT OF  
REMAINING CIVIL PENALTY

To: Alex Labunsky and Eugene Labunsky  
West Coast Real Estate Holdings, LLC  
25030 SW Parkway Avenue, Suite 110  
Wilsonville, OR 97070

1. The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) is authorized under ORS 448.115 to 448.290 to regulate water suppliers.
2. West Coast Real Estate Holdings, LLC (the Company) owns and operates the Dunn Court Duplexes public water system (Dunn Court) and is a water supplier.
3. The Authority issued a Notice of Intent to Impose Civil Penalty (Notice) dated December 27, 2017 to the Company. The Notice, incorporated herein by reference, proposed to impose a civil penalty of \$4,500.

4. To resolve the Notice, the Company entered into a Settlement Agreement dated January 18, 2018, incorporated herein by reference. In the Settlement Agreement the Company agreed, in pertinent part, to:

- Conduct monthly arsenic monitoring at Dunn Court and report the results to the Authority within 10 calendar days of the end of the month. (Agreement Article No. 3).
- Maintain and operate the arsenic treatment system at Dunn Court such that drinking water produced and delivered to water users at all times contained concentrations of arsenic below the maximum contaminant level (MCL) of 0.010 mg/L as specified in OAR 333-061-0030(1). (Agreement Article No. 4)
- To pay the remaining civil penalty of \$4,050.00 if the Company is found to be in violation of the Settlement Agreement. (Agreement Article No. 9).

5. Agreement Article No. 7 specifies that any failure to comply with the terms of the Settlement Agreement is a violation of the Settlement Agreement.

6. The Company failed to report arsenic monitoring for the month of June 2018. None of the circumstances that would permit the Company to stop reporting apply. The Company therefore violated Agreement Article No. 3 and is in violation of the Settlement Agreement.

7. Additionally, the Company reported an arsenic sample, collected on July 26, 2018 and reported on July 31, 2018 with an arsenic concentration of 0.0140 mg/L, which exceeds the MCL. The Company therefore failed to maintain and operate the arsenic treatment at Dunn Court such that drinking water at all times does not exceed the MCL for arsenic. The Company violated Agreement Article No. 4 and is in violation of the Settlement Agreement.

8. Each of the above violations by itself provides grounds for the Authority to issue a final order of violation of the settlement agreement and order payment of the remaining civil penalty of \$4,050 in accordance with Agreement Article No. 9.

9. The Authority intends to issue a final order of violation of the settlement agreement and order the Company to pay the remaining civil penalty of \$4,050.

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). To request a hearing, you must file a written request with the Authority within 20 days from the date this notice was mailed. **The request for hearing must be sent to: David Emme, Manager; Oregon Health Authority, Drinking Water Services; PO Box 14450; Portland, OR 97293-0450. If a request for hearing is not received with the 20-day period, you will have waived your right to a hearing.**

If you request a hearing, the Authority 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. The Authority will be represented by an Assistant Attorney General. Prior to the hearing date, the Authority 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.

**Please note that the only issue before the administrative law judge will be whether the Company violated the Settlement Agreement. There is no right to contest the underlying violations or the amount of the civil penalty.** (Agreement Article No. 9).

If you do not request a hearing within the 20 days, withdraw the request for hearing, notify the Authority or the administrative law judge that you will not appear at a scheduled hearing, or fail to appear at a scheduled hearing, the Authority may issue a final order by default imposing a civil penalty. If the Authority issues a final order by default, the Authority designates its files on this matter as the record for the purpose of proving a *prima facie* case upon default.

**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>.

For purposes of ORS 293.229 through 293.233 and ORS 293.250, the civil penalty specified herein will become a liquidated debt if a final order is issued. Pursuant to ORS 293.231, the Authority is required to assign liquidated and delinquent civil

penalties to the Department of Revenue, as provided in ORS 293.250, not later than 90 days after the final order is issued. Reasonable administrative costs, collection costs, attorney's fees, and all other costs and charges necessary for the collection of any amount not paid when due, including but not limited to collection charges assessed by the Department of Revenue may be added to the amount due of \$4,050.

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 notice, please contact Brad K. Daniels at (971) 673-0405.

Dated this 17<sup>th</sup> day of August, 2018.



David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Jeff Carlson, Oregon Health Authority, Center for Health Protection  
Gregg Baird, Oregon Health Authority, Drinking Water Services  
Greg DeBlase, County Environmental Health

DATE of Service: August 20, 2018



Signature

Brad K. Daniels  
Printed Name

By certified and first class mail