

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

Cline Falls Mobile Home Park, PWS  
OR4101126

Respondent

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

To: Cheri Cooley  
PO Box 33124  
Portland, OR 97292

You have at all times mentioned herein owned and operated and continue to own and operate the Cline Falls Mobile Home Park water system (hereinafter "Water System") located at 7915 W Highway 126 in Redmond, Oregon. The Water System is a community public water system that serves approximately 85 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.

You are therefore a water supplier (hereinafter "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 Supplier failed to install treatment for disinfectant residual maintenance following the persistent and unresolved presence of coliform bacteria at the Water System. 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 VIOLATION

- Violation No. 1: OAR 333-061-0032(6)(g) requires, in part, water suppliers to install treatment for disinfectant residual maintenance within six months after three or more coliform investigations as described in OAR 333-061-0078 are triggered in a rolling twelve-month period. The presence of coliform bacteria in drinking water at the Water System triggered a third coliform investigation in a rolling twelve-month period on April 7, 2017, and as of October 7, 2017, the required water treatment was not installed according to the rule nor was an alternate schedule approved.

Additionally, a letter was mailed to Water Supplier on April 25, 2018 requiring treatment for disinfectant residual maintenance be installed no later than July 24, 2018 but as of the date of this Order the treatment is not installed. This constitutes a violation of OAR 333-061-0032(6)(g).

#### 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)).

- Compliance Action No. 1: Water Supplier must submit complete construction plans and the applicable fee according to OAR 333-061-0060 for treatment to maintain a disinfectant residual throughout the Water System.

- The plans must be submitted to DWS within 30 days of the date of service of this Order.
- Construction plans must be approved by DWS prior to any construction or installation taking place and construction must be completed according to the plans approved by DWS.
- Compliance Action No. 2: Water Supplier must complete construction and installation of treatment to maintain a disinfectant residual throughout the Water System within 30 days after DWS conditionally approves the plans submitted according to Compliance Action No. 1.
  - Construction of all improvements or modifications at the Water System must meet the applicable construction standards specified in OAR 333-061-0050 as approved by DWS.

#### 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 \$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 DWS issues a Notice of Intent to Impose Civil Penalty. For example, if DWS issues a Notice of Intent to Impose Civil Penalty on October 29, 2018 for failure to submit construction plans according to this Order, the proposed civil penalty could be as much as \$1,650.

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 K. Daniels at (971) 673-0405.


Dated this 20<sup>th</sup> day of September, 2018.



David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Michelle Byrd, Oregon Health Authority, Drinking Water Services  
Jeff Freund, Deschutes County Environmental Health  
Ken Hick, Cline Falls Mobile Home Park  
Gene Ramey, Cline Falls Mobile Home Park

DATE of Service: September 20, 2018



Signature

Brad K. Daniels  
Printed Name

By certified and first-class mail