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

In the Matter of

Bolder City Water System, PWS
OR4101154

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Henrietta Knott
Bolder City Water System
PO Box 430
Jacksonville, OR 97530

You have at all times mentioned herein owned and operated, and continue to own and operate the Bolder City water system located at 11425 Upper Applegate Road in Jackson County, Oregon. The Bolder City water system is a community public water system which serves approximately 60 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 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 Bolder City water system and found that you did not report monitoring for coliform bacteria, lead and copper, and nitrate.

You are therefore unable to assure water users that drinking 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 you 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 333-061-0036(2)(c) requires water suppliers to monitor for nitrate at least once every year at 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. You have not reported nitrate monitoring for the Bolder City water system since a sample collected on December 29, 2016. This constitutes a violation of OAR 333-061-0036(2)(c) or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.
- 2) OAR 333-061-0036(6)(c) requires water suppliers to monitor for coliform bacteria at least once every month 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. You have not reported coliform monitoring for the Bolder City water system since a sample collected on October 13, 2017. This constitutes a violation of OAR 333-061-0036(6) or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.
- 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 and non-transient non-community 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. You have not reported lead and copper monitoring for the Bolder City water system since September 30, 2013. 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

You are 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) You must immediately monitor for nitrate according to OAR 333-061-0036(2)(c) at the Bolder City water system and report this monitoring to DWS no later than July 1, 2018.
- 2) You must immediately monitor for coliform bacteria according to all the applicable provisions of OAR 333-061-0036(6) at the Bolder City water system.
 - Regular monitoring for coliform bacteria must be conducted for the month of May 2018 and the results reported to DWS no later than June 10, 2018.
 - Regular, repeat and source water monitoring for coliform bacteria must be conducted according to the applicable provisions of OAR 333-061-0036(6) for at least the months of May through July 2018 and all results reported to DWS according to OAR 333-061-0040(1)(b)(A).
- 3) You must monitor for lead and copper according to OAR 333-061-0036(10)(a) through (d) at the Bolder City water system.
 - This monitoring must be conducted between June 1, 2018 and July 15, 2018.
 - This monitoring must be reported to DWS no later than August 15, 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 Oregon Administrative Rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve you 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 July 2, 2018 for failure to report nitrate and coliform bacteria monitoring according to this Order, the proposed civil penalty could be as much as \$3,000.

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. The Authority 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 Bolder City 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.


Dated this 17th day of May, 2018.



David Emme, Manager
Drinking Water Services
Oregon Health Authority

cc: Susan Baker, Jackson County Environmental Health
Russ Kazmierczak, Oregon Health Authority, Drinking Water Services
Charlotte Knott, Bolder City Water System

DATE of Service: May 17, 2018



Brad K. Daniels

By certified mail and first class mail