



PUBLIC HEALTH DIVISION
Center for Health Protection, Drinking Water Services

Tina Kotek, Governor

Oregon
Health
Authority

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

In the Matter of

Western Hills MHP, PWS OR4101172

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Elias Weiner
Rainier MHP Portfolio, LLC
1910 Terracina Drive 130
Sacramento, CA 95834

Rainier MHP Portfolio, LLC has at all times mentioned herein owned and operated, and continues to own and operate, the Western Hills MHP water system (hereinafter “Water System”) located at 74866 Doan Road, southwest of Rainier, Oregon. The Water System is a community public water system serving approximately 375 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.

Rainier MHP Portfolio, LLC (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 *E. coli* bacteria were confirmed to be present in the groundwater well supplying the Water System, and that water provided by the Water System exceeds the action level (AL) for lead. 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 VIOLATIONS

1. OAR 333-061-0025 requires water suppliers to take all reasonable actions to assure that the water delivered to water users does not exceed maximum contaminant levels, that water system facilities are free of public health hazards and that water system operation and maintenance are performed as required by the rules. Water samples collected on June 17, 2022 from the groundwater well supplying the Water System and identified by well tag# L34395 or well log COLU 51146, contained *E. coli* bacteria. Water Supplier was officially notified on June 21, 2022 that it must take action to ensure *E. coli* bacteria are not present in drinking water delivered to consumers. Additionally, samples collected at the Water System between August 8, 2020 and August 27, 2020, inclusive, indicated that lead exceeds the AL specified in OAR 333-061-0030(1). Water Supplier was directed to complete steps to install corrosion control treatment at the Water System to prevent consumers from being exposed to lead in drinking water. Water Supplier failed to complete the required actions described above or demonstrate it had removed sources of contamination from the Water System as required by DWS, and therefore failed to demonstrate it took all reasonable actions to ensure water delivered to users does not exceed maximum contaminant levels or that water is free of public health hazards. This constitutes a violation of OAR 333-061-0025.
2. OAR 333-061-0030(1) specifies, in part, that the action level (AL) for lead in drinking water is 0.015 mg/L and that the AL is exceeded if the concentration of lead is greater than 0.015 mg/L in more than 10 percent of tap water samples collected during any

monitoring period. The concentration of lead exceeded 0.015 mg/L in 2 of 5 samples collected between August 8, 2020 and August 27, 2020. This exceeds the AL of 0.015 mg/L.

Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure. OAR 333-061-0097

3. OAR 333-061-0032(6), in part, requires that water suppliers complete corrective action when a groundwater source is determined to have significant deficiencies or when sample results indicate the presence of *E. coli* bacteria in the groundwater source. Corrective action must be completed within 120 days or according to a schedule approved by DWS. Samples collected from a well supplying the Water System on June 10, 2022 and June 17, 2022 indicated that water from a groundwater well supplying the system contains *E. coli* bacteria. Water Supplier failed to complete corrective action within 120 days as designated by DWS. This constitutes a violation of OAR 333-061-0032(6).

E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. OAR 333-061-0097

4. OAR 333-061-0034(2) requires, in part, water suppliers to complete corrosion control steps when sample results exceed the AL for lead or copper. OAR 333-061-0034(2)(b)(F) requires, in part, water suppliers to install corrosion treatment within 24 months of an optimal corrosion control methodology being designated by DWS or selected by a water supplier. Optimal corrosion control treatment was selected by Water Supplier on March 16, 2021, and Water Supplier was directed to submit construction plans for this treatment no later than September 30, 2022, so that treatment could be installed by the 24-month deadline. Water Supplier did not submit construction plans according to the schedule specified by DWS.
5. OAR 333-061-0042 requires, in part, water suppliers to provide public notice to people served by public water systems when *E. coli* bacteria are present in a groundwater source without effective disinfection. Water suppliers must distribute the

public notice as soon as practical but no later than 24 hours after learning of the violation or situation. Additionally, OAR 333-061-0040(1)(i) requires, in part, water suppliers to submit a representative copy of any public notification as prescribed by OAR 333-061-0042 to DWS within 10 days after completing the notification. Water Supplier failed to submit a copy of the public notice required within 11 days after DWS was notified that *E. coli* bacteria were confirmed in a groundwater source at the Water System. This constitutes a violation of OAR 333-061-0042, or a violation of OAR 333-061-0040(1)(i) if a public notice was distributed but a copy was not submitted to DWS.

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 constitute compliance with the rule(s) violated (ORS 448.255(3)).

1. Water Supplier shall submit construction plans or information to DWS for treatment to achieve 4-log disinfection of viruses in water supplied by the groundwater well identified by well tag# L34395, no later 30 days after the date of service of this Order.
 - Water Supplier shall complete construction and installation of the treatment for 4-log disinfection of viruses as specified herein, no later than 60 days after conditional plan approval from DWS.
 - Any construction must be completed in accordance with plans conditionally approved by DWS.
 - Any construction of improvements or modifications at the Water System must also meet the applicable construction standards specified in OAR 333-061-0050.
2. Water Supplier must complete one of the following actions no later than June 30, 2023:
 - Submit construction plans according to all the applicable provisions of OAR 333-061-0034, for corrosion control treatment to reduce concentrations of lead to below the AL identified in OAR 333-061-0030(1); or
 - Report samples results for lead and copper monitoring, conducted at 10 different sites and according to all the applicable provisions of OAR 333-061-0036(10).

3. Water Supplier must publish public notice within 24 hours of receipt of this Order. The notice must inform customers the groundwater well supplying the Water System is contaminated with *E. coli* bacteria and that the contamination may be present in drinking water delivered to consumers. The notice must meet all the applicable requirements specified in OAR 333-061-0042.
 - Water Supplier must submit a copy of the notice to DWS along with a written statement that it has fully complied with the distribution and public notification requirements according to OAR 333-061-0040(1)(i), within 10 calendar days of the date of service of this Order.

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 \$250 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 April 1, 2023 for failure to publish public notice according to this Order, the proposed civil penalty could be as much as \$7,500.

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: Samina Panwhar, Manager; Oregon Health Authority, Drinking Water Services; and may be delivered by mail to PO Box 14450, Portland, OR 97293 or by email to samina.t.panwhar@oha.oregon.gov.**

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 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 period, you will lose your right to appeal.

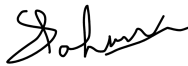
Notice to Active Duty Servicemembers

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 503-584-3571 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil>.

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 bradley.k.daniels@oha.oregon.gov or 503-735-5438.

Date 3/14/2023



Samina Panwhar, Manager
Drinking Water Services
Oregon Health Authority

cc: Pete Farrelly, Oregon Health Authority, Drinking Water Services
Daniel Osborn, Columbia County Environmental Health
Scott Van Schuten, Western Hills MHP

DATE of Service: March 15, 2023



Signature

Brad K. Daniels

Printed Name

By certified mail and first-class mail