

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

In the Matter of

Galice Subdivision Water Company,
PWS OR4101424

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Janet and William Tarr
12030 Galice Road
Merlin, OR 97532

Galice Subdivision Water Company has at all times mentioned herein owned and operated, and continues to own and operate, the public water system (hereinafter “Water System”) serving homes along Galice Road, northwest of Merlin, Oregon. The Water System is a non-transient non-community public water system serving approximately 30 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.

Galice Subdivision Water Company (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 adequate water treatment facilities are not present at the Water System to remove or inactivate surface water pathogens in the drinking water delivered to consumers. 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. The absence of adequate surface water treatment demonstrates that facilities at the Water System are not free from public health hazards and Water Supplier has not cooperated with DWS to determine a schedule for installation of the appropriate water treatment. This constitutes a violation of OAR 333-061-0025.
2. OAR 333-061-0032(1)(a) requires, in part, that at every water system using a surface water source, treatment be provided that reliably achieves at least 99.9 percent removal and inactivation of *Giardia lamblia* cysts, at least 99.99 percent inactivation of viruses, and at water systems with filtration treatment, at least 99 percent removal or inactivation of *Cryptosporidium*. Treatment facilities at the Water System do not provide the required levels of protection against these pathogens identified in OAR 333-061-0032(1). This constitutes a violation of OAR 333-061-0032(1)(a).

Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. OAR 333-061-0097

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)).

1. Water Supplier must submit an action plan to DWS no later than July 31, 2022, identifying how it will provide adequate and effective surface water treatment at the Water System that meets all the applicable requirements in OAR 333-061-0032. The action plan must:
 - Identify reasonable deadlines or time frames for completing the identified tasks Water Supplier intends to perform to ensure continuous distribution of safe drinking water at the Water System. At a minimum, the action plan must include deadlines or time frames for the following tasks:
 1. Begin design;
 2. Submit complete, engineered construction plans and specifications to DWS for review and approval;
 3. Begin construction; and
 4. Begin system start-up.
 - Complete construction or installation plans that meet the requirements in OAR 333-061-0060 for the construction or modification of any facilities at the Water System must be submitted to DWS and approved by DWS prior to any construction or installation taking place.
2. Water Supplier must perform and complete all tasks in the action plan described in Corrective Action No. 1 by the deadlines in the action plan and must notify DWS in writing within 5 calendar days of completing all the tasks. For this corrective action to be met, any construction or installation that was performed must meet the applicable construction standards in OAR 333-061-0050, as approved by DWS.
3. Water Supplier must publish public notice informing customers that water treatment facilities at the Water System are not adequate and that drinking water delivered to users contains surface water pathogens. The notice must meet the requirements in OAR 333-061-0042.

- Within 10 calendar days of distributing the public notice to customers, Water Supplier must send a copy of the notice to DWS along with a written statement that it has fully complied with the distribution and public notification requirements in OAR 333-061-0040(1)(i).
4. Water Supplier must provide public notice to customers in the same manner as is described in Correction Action No. 3 every three months that includes any changes or additional information regarding the operation of surface water treatment at the Water System. Water Supplier must comply with this action until DWS notifies it that it operates continuous surface water treatment at the Water System, and that the drinking water otherwise meets all applicable state and federal drinking water laws and rules.

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 August 1, 2022, for failure to submit an action plan to DWS 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. 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 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 503-735-5438.

Date May 25, 2022



David Emme, Manager
Drinking Water Services
Oregon Health Authority

cc: Zach Golik, Oregon Health Authority, Drinking Water Services

DATE of Service: May 26, 2022



Signature

Brad K. Daniels
Printed Name

By certified mail and first-class mail