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BEFORE THE STATE OF OREGON
OREGON HEALTH AUTHORITY
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Valley Vista Water Improvement
District, PWS OR4101426

Respondent

NOTICE OF INTENT TO IMPOSE
CIVIL PENALTY

To: Paula Vincent, President
Valley Vista Water Improvement District
3285 Valley Vista Dr.
Central Point, OR 97502

Pursuant to Oregon Revised Statutes (ORS) 448.280, 448.285, and Oregon Administrative Rules (OAR) 333-061-0090, the Oregon Health Authority, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Program) intends to impose a civil penalty of \$1,000 against you for violations of OAR 333-061-0025 and OAR 333-061-0040(1)(j).

Valley Vista Water Improvement District (Valley Vista) has at all times mentioned herein owned and operated, and continues to own and operate, the water system located on Valley Vista and Robleda Drives in Central Point, Oregon, which is a community public water system serving between 25 and 100 people and subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0290.

The Program notified Valley Vista of the violations identified in this notice in a letter delivered by certified and first-class mail on February 24, 2010. The letter is incorporated by reference.

The proposed civil penalty is based on the following violations:

1. OAR 333-061-0025 requires water suppliers to take all reasonable precautions to assure that water delivered to water users does not exceed maximum contaminant levels.

Valley Vista collected a water sample on December 2, 2008 that exceeded the maximum contaminant level (MCL) for arsenic as specified in OAR 333-061-0030(1). Jackson County Environmental Health mailed Valley Vista a letter on May 26, 2009 stating that corrective action was needed and requiring public notice to be issued. HBH Consulting Engineers drafted a report in July 2009 that identified treatment options and corrective action available to Valley Vista.

In September 2009 Valley Vista submitted a plan review fee and the outline of a proposed treatment system, but has not installed the treatment system identified in the plans nor responded to the related Program letter dated October 27, 2009. The Program issued a Notice of Violation on September 1, 2010 citing the exceedance of the MCL for arsenic at the Valley Vista water system, and requiring the installation of the arsenic treatment system identified in the plans previously submitted. Construction or installation of the arsenic treatment system was required to be completed no later than December 31, 2010

Valley Vista's failure to complete construction of an arsenic treatment system demonstrates that it is not taking all reasonable precautions to assure that water does not exceed the MCL for arsenic, which constitutes a violation of OAR 333-061-0025.

2. OAR 333-061-0025(4) requires water suppliers to notify all the customers of a water system as well as the general public when maximum contaminant levels have been exceeded. OAR 333-061-0042(3)(b)(C) specifically requires water suppliers to repeat the distribution of a public notice every three months as long as a violation or situation persists. OAR 333-061-0040(1)(j) requires water suppliers to submit to the Program, a representative copy of any public notification distributed to water users, within ten days after publishing the notice.

Valley Vista initially published public notice and submitted a copy of that public notification to the Program in January 2009, but has not submitted a copy of any public notification to the Program since the initial notice. Sampling results indicate that water provided by the Valley Vista water system continues to exceed the MCL for arsenic, and is therefore required to publish public notice every three months according to OAR 333-061-0042(3)(b)(C). A representative of Valley Vista has stated that the public notice has been published as required, but this has never been verified, and Valley Vista has not submitted a copy of any recently published public notice to the Program, which constitutes a violation of OAR 333-061-0040(1)(j).

CIVIL PENALTY

Pursuant to OAR 333-061-0090, Valley Vista will be assessed a civil penalty in the amount of \$50 for each distinct violation, for every day the violation occurred. The total civil penalty of \$1,000 is based upon the population served by the public water system, for each distinct violation and for every day the within the period of time from March 7, 2011 through March 16, 2011, inclusive. Each day within this ten day period has two associated violations in the amount of \$50 per violation, for a total penalty of \$1,000.

If the violations identified in this notice, or other violations incorporated by reference, continue, you may be subject to additional civil penalties of \$50 per day per violation.

CIVIL PENALTY FACTORS CONSIDERED

In assessing the civil penalty, the Program considered the factors set out in ORS 448.285(2).

- (a) The past history of the person incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct the violations:
 - Valley Vista has not submitted any documentation to the Program demonstrating an effort to obtain funding for the installation of the treatment system or actual installation of the treatment system. The public notice published by Valley Vista in June 2009 stated that the problem was expected to be resolved within six months, but this has not occurred.

- Valley Vista has not submitted a public notice to the Program as required by the Notice issued on September 1, 2010 even though the notice specifically required this action, and staff from Jackson County Environmental Health and the Program have contacted Valley Vista requesting the public notice be published and submitted to the Program.
 - (b) Prior violations:
 - Valley Vista violated OAR 333-061-0025(1), which requires water suppliers to collect and submit samples for laboratory analyses at the frequencies prescribed in OAR 333-061-0036, two times since January 1, 2009 by failing to complete the sampling requirements specified below.
 - Valley Vista violated OAR 333-061-0036(2)(a) two times since January 1, 2009 by failing to sample for arsenic every quarter as required by the rule.
 - (c) Economic and financial conditions of the person incurring the penalty:
 - The Program has no information about your economic or financial details, or the economic or financial conditions at the Echo Mountain Park water system.

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 the Program within 20 days from the date this Notice was mailed. The request for hearing must be sent to: David E. Leland, Manager; DHS - Drinking Water Program; PO Box 14450; Portland, OR 97293-0450. If a request for hearing is not received within the 20-day period, you will have waived your right to a hearing.

If you request a hearing, you will be notified of the time and place of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings (ORS 183.635).

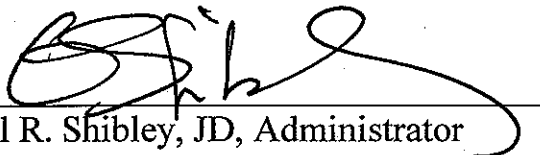
If you do not request a hearing within 20 days, or if you withdraw a request for hearing, notify the Program or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Program may issue a final order by default ordering

you to pay a civil penalty. If the Program issues a final order by default, the Program designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purposes of proving a prima facie case upon default.

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 Program 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 \$1,000.

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, DHS-DWP at (971) 673-0405.

Dated this 4th day of March, 2011.



Gail R. Shibley, JD, Administrator
Office of Environmental Public Health

- cc: David G. Cooper, Valley Vista Water Improvement District
- Scott Curry, OHA-DWP
- Daniel Hough, OHA-DWP
- Carol Kurtz, Valley Vista Water Improvement District
- Mike Obereigner, Jackson County Environmental Health

DATE of Service: March 10, 2011



Brad K. Daniels

By certified and first class mail

