



PUBLIC HEALTH DIVISION
Center for Health Protection, Drinking Water Services

Tina Kotek, Governor

Oregon
Health
Authority

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

Cold Springs Water Company, PWS
OR4105201

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Thomas Harbolt
Providence Nursery, LLC
PO Box 2247
Hillsboro, OR 97123

Providence Nursery, LLC, doing business as Cold Springs Water Company, has at all times mentioned herein owned and operated, and continues to own and operate, the public water system (hereinafter "Water System") identified by public water system ID# OR41-05201 and serving businesses and residences along Hardebeck and Vandehey Roads in Gaston, Oregon. The Water System is a non-transient non-community public water system serving approximately 100 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.

Providence Nursery, 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 Water Supplier did not consistently report the residual disinfectant concentration in water delivered by the water system. Water Supplier also did not report sample results for disinfection byproducts, lead and copper in tap water, nitrate, and synthetic and volatile organic chemicals. 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(1) requires water suppliers to routinely collect and submit water samples for laboratory analyses at the frequencies prescribed by OAR 333-061-0036. OAR 333-061-0036 requires sampling as described in Violations No. 2 through No. 7 below, for nitrate, synthetic and volatile organic chemicals, disinfection byproducts, lead and copper in tap water, and daily measurements of the residual disinfectant concentration at public water systems, but Water Supplier did not report sample results to DWS, which constitutes a violation of OAR 333-061-0025(1) if samples were in fact not collected.
2. 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. Water Supplier has not reported nitrate monitoring for the Water System since reporting a sample collected on December 17, 2021. 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.
3. OAR 333-061-0036(3)(a) requires, in part, water suppliers to monitor for synthetic organic chemicals at least once every three years 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. Water Supplier has not reported synthetic organic chemical monitoring for the Water System since reporting samples collected on November 20, 2019. This constitutes a violation of OAR 333-061-0036(3)(a), or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.

4. OAR 333-061-0036(3)(b) requires, in part, water suppliers to monitor for volatile organic chemicals at least once every three years 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. Water Supplier has not reported synthetic organic chemical monitoring for the Water System since reporting samples collected on November 20, 2019. This constitutes a violation of OAR 333-061-0036(3)(b), or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.
5. OAR 333-061-0036(4)(c) requires, in part, water suppliers to monitor for disinfection byproducts at the monitoring locations and during the months identified in the monitoring plan for public water systems. Samples for the Water System must be collected at least once every year at 9390 SW Hardebeck Road according to this rule. 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. Water Supplier has not reported disinfection byproduct monitoring for the Water System since reporting samples collected on August 30, 2021. This constitutes a violation of OAR 333-061-0036(4)(c), or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.
6. OAR 333-061-0036(10) requires, in part, water suppliers to monitor for lead and copper in tap water at least once every six months 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. Water Supplier has not reported lead and copper monitoring for the Water System since reporting samples collected on December 15, 2021. 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.

7. OAR 333-061-0036(11)(b)(B) requires, in part, water suppliers responsible for groundwater systems serving 3,300 or fewer people where 4-log treatment for viruses is provided, to monitor the residual disinfectant concentration each day that water is served to the public, and that the minimum residual disinfectant concentration determined by the Authority be maintained every day water from the groundwater source is served to the public. 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. Water Supplier has not reported the residual disinfectant concentration for the Water System since reporting concentrations measured during the month of October 2022. This constitutes a violation of OAR 333-061-0036(11), or a violation of OAR 333-061-0040(1)(b)(A) if monitoring was conducted but not reported.

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 must monitor for nitrate at the Water System according to the applicable provisions of OAR 333-061-0036(2)(c) and report the monitoring results to DWS no later than 30 days after the date of service of this Order.
2. Water Supplier must monitor for synthetic organic chemicals at the Water System according to the applicable provisions of OAR 333-061-0036(3)(a) and report the monitoring results to DWS no later than 60 days after the date of service of this Order.
3. Water Supplier must monitor for volatile organic chemicals at the Water System according to the applicable provisions of OAR 333-061-0036(3)(b) and report the monitoring results to DWS no later than 60 days after the date of service of this Order.
4. Water Supplier must monitor for disinfection byproducts at the Water System according to the applicable provisions of OAR 333-061-0036(4) and during the month of August 2023 at the 9390 SW Hardebeck Rd. sampling location. Water Supplier must report the monitoring results to DWS no later than October 10, 2023.
5. Water Supplier must monitor for lead and copper according to OAR 333-061-0036(10)(a) through (d) at the Water System.

- This monitoring must be conducted no later than August 31, 2023 and reported to DWS no later than October 10, 2023.
6. Water Supplier must immediately begin monitoring the disinfectant residual at the Water System every day, according to the applicable provisions of OAR 333-061-0036(11).
- Water Supplier must report the monitoring results to DWS at the end of every calendar month according to OAR 333-061-0040(1).
 - Water Supplier will be considered in compliance with this corrective action after disinfectant residual monitoring is reported to DWS for six consecutive months and the minimum residual disinfectant concentration determined by DWS is maintained every day the Water System delivers drinking water to users during this period.

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 September 1, 2023 for failure to report monitoring for nitrate and synthetic and volatile organic chemicals according to this Order, the proposed civil penalty could be as much as \$4,500.

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 6/15/2023



Samina Panwhar, Manager
Drinking Water Services
Oregon Health Authority

cc: Nicole Alfafara, Oregon Health Authority, Drinking Water Services
Ashley Davis, Washington County Environmental Health

DATE of Service: June 16, 2023



Signature

Brad K. Daniels

Printed Name

By certified mail and first-class mail