

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

In the Matter of

Mt. Terrace Mobile Home Park,
Public Water System OR4105364

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Craig Bennett
Mt. Terrace Mobile Home Park
2940 Kuehner Drive
Simi Valley, CA 93063-5401

You own and operate the Mt. Terrace Mobile Home Park (Mt. Terrace) water system located at 59977 Roderick Road in Coos Bay, Oregon. The Mt. Terrace 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(211), 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 (Authority) has investigated the operation of the Mt. Terrace water system.

The Authority found, during its investigation, that water produced by the Mt. Terrace water system exceeds the maximum contaminant level (MCL) for arsenic. You are therefore unable to assure the water users at the Mt. Terrace water system 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 you for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during the Authority's investigation as described below.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 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 these rules. One of the groundwater wells supplying water to the Mt. Terrace water system; however, was not reviewed and approved for use. Additionally, a certified water system operator is not present to serve in direct responsible charge of the Mt. Terrace water system. These two factors, combined with the presence of arsenic exceeding the MCL in water samples collected at the Mt. Terrace water system beginning on March 19, 2017 and the lack of corrective action thereafter demonstrate that you have failed to take all the reasonable actions to ensure arsenic in drinking water at the Mt. Terrace water system does not exceed the MCL and to ensure that facilities at the Mt. Terrace water system are free of public health hazards. This constitutes a violation of OAR 333-061-0025.
- Violation No. 2: OAR 333-061-0030(1) specifies that the MCL for arsenic in drinking water is 0.010 mg/L but sample results reported for the Mt. Terrace water system beginning with a sample collected on March 19, 2017 have exceeded the MCL. Additionally, the average concentration of arsenic in drinking water at the Mt. Terrace water system, based upon all sample results reported for the 2017 calendar year, is 0.0189 mg/L, which constitutes a violation of OAR 333-061-0030(1).

Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system and may have an increased risk of getting cancer. OAR 333-061-0097(3)(b).

- Violation No. 3: OAR 333-061-0060(1) requires water suppliers to submit construction plans for review and approval before facilities are constructed or installed for use at public water systems. A groundwater well, identified as well #3, is being utilized as a water source at the Mt. Terrace water system but was not approved for use, which constitutes a violation of the OAR 333-061-0060(1).
- Violation No. 4: OAR 333-061-0225(1) requires that water suppliers employ, contract with, or otherwise utilize a certified operator to supervise and to be in direct responsible charge of community water systems; however, you have not designated a qualified operator to be in direct responsible charge of the Mt. Terrace water system. This constitutes a violation of OAR 333-061-0225(1).
- Violation No. 5: OAR 333-061-0036(6)(k) requires water suppliers to monitor fecal contamination in groundwater sources when chlorine is used for disinfection but does not achieve 4-log inactivation of viruses. Chlorine is applied to maintain a disinfectant residual in the distribution system at the Mt. Terrace water system but you did not report source water monitoring for the 2015 or 2016 calendar years as required. This constitutes two violations of OAR 333-061-0036(6)(k) if samples were in fact not collected.

OAR 333-061-0040(1)(b)(A) requires water suppliers to report to the Authority, monitoring and sample analyses conducted according to OAR 333-061-0036 by accredited laboratories. If the monitoring described above was conducted but not reported to the Authority, this instead constitutes two violations of OAR 333-061-0040(1)(b)(A).

- Violation No. 6: OAR 333-061-0076(6)(b) requires water suppliers responsible for water systems supplied only by groundwater sources to correct any significant deficiencies identified during a sanitary survey within 120 days of written notification or to be in compliance with a corrective action plan. A sanitary survey was conducted on September 17, 2014 at the Mt. Terrace water system and a letter was mailed to a representative on October 1, 2014 identifying significant deficiencies discovered during the survey. These deficiencies were required to be corrected by February 4,

2015 but that date passed without the deficiencies being corrected as required. This constitutes a violation of OAR 333-061-0076(6)(b).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

- Compliance Action No. 1: You must immediately submit complete construction plans to the Authority for the groundwater well identified as well #3 serving the Mt. Terrace water system.
 - The Authority must receive the construction plans within 30 days of the date of service of this administrative order.
 - The construction plans must meet all the applicable requirements of OAR 333-061-0060(1) and have sufficient detail to completely and clearly identify how the well was constructed and how it supplies the water system.
- Compliance Action No. 2: You must complete construction of any modifications or improvements to well #3 required by the Authority in response Compliance Action No. 1.
 - Construction must be completed within 30 days of the date the Authority grants conditional approval of well #3 or according to the schedule set by the Authority in its conditional plan approval letter.
- Compliance Action No. 3: You must submit an action plan clearly identifying how you will ensure arsenic concentrations in drinking water produced by the Mt. Terrace water system are below the MCL specified in OAR 333-061-0030(1) at all times.
 - You must submit the action plan to the Authority within 90 days of the date of service of this administrative order.
- Compliance Action No. 4: You must complete construction or any other corrective action approved by the Authority and reasonably expected to reduce arsenic concentrations in drinking water at the Mt. Terrace water system no later than December 31, 2019.
 - Construction must be completed according to plans approved by the Authority in advance, prior to construction.

- Construction plans must meet all the applicable requirements of OAR 333-061-0060 and have sufficient detail to completely and clearly illustrate what will be constructed.
- Construction of any improvements or modifications at the Mt. Terrace water system must meet the applicable construction standards specified in OAR 333-061-0050.
- Compliance Action No. 5: You must ensure arsenic monitoring is conducted according to OAR 333-061-0036(2)(a) every calendar quarter at the Mt. Terrace water system.
 - Monitoring results must be reported to the Authority no more than 10 days after the end of each calendar quarter according to OAR 333-061-0040(1).
 - Following completion of Compliance Action No. 4, you must report arsenic monitoring conducted according to OAR 333-061-0036(2)(a) that demonstrates drinking water produced by the Mt. Terrace water system consistently contains concentrations of arsenic below the MCL for at least four calendar quarters. Quarterly monitoring must continue until the completion of every other compliance action specified in this administrative order.
- Compliance Action No. 6: You must immediately publish public notice according to OAR 333-061-0042 for arsenic exceeding the MCL and distribute the notice to every person served by the Mt. Terrace water system. The notice must meet all of the applicable requirements of OAR 333-061-0042(4).
 - You must certify that public notice was delivered by hand to every household served by the Mt. Terrace water system.
 - You must certify that public notice was posted in conspicuous public locations throughout the water system and identify each location where the notice was placed.
 - You must reissue the notice every three months until all other compliance actions specified in the order are fulfilled (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)).

- You must submit a copy of the notice to the Authority, including the certification of delivery and certification of the locations where the notice was posted, no later than 10 days after completing the public notification according to OAR 333-061-0040(1)(i).
- Compliance Action No. 7: You must immediately designate a qualified water system operator to serve in direct responsible charge of the Mt. Terrace water system.
 - The designation must be received by the Authority within 60 days of the date of service of this administrative order.
 - The individual designated must possess the necessary certification at the time of notification to the Authority.
- Compliance Action No. 8: You must ensure that any significant deficiencies related to wells #1 or #3 and identified in the report from the Coos County Health Department relating to the sanitary survey conducted on May 1, 2017 at the Mt. Terrace water system are corrected according to the time frames specified in Compliance Actions No. 1 and No. 2.
 - Each significant deficiency must be corrected to the satisfaction of Authority personnel and verified in writing.
- Compliance Action No. 9: You must immediately ensure monitoring is conducted for *E. coli* bacteria according to OAR 333-061-0036(6)(k) at the raw water sampling location for each groundwater source supplying water to the Mt. Terrace water system.
 - Monitoring must be reported to the Authority within 30 days of the date of service this administrative 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 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 the Authority 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 the Authority issues a Notice of Intent to Impose Civil Penalty.

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 the Authority 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, the Authority 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, the Authority 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 the Authority 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 the Authority or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, The Authority 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>.

The Authority has designated its complete file on the Mt. Terrace 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 Daniels at 971-673-0405.

Dated this 2nd day of November, 2017.



André Ourso, JD, MPH

Administrator

Oregon Health Authority

Public Health Division

Center for Health Protection

cc: Glenn Doetsch, Mt. Terrace Mobile Home Park
Rick Hallmark, Coos County Environmental Health
Shannon O'Fallon, Oregon Department of Justice
Betsy Parry, Oregon Health Authority, Drinking Water Services

DATE of Service: November 6, 2017



Brad K. Daniels

By certified mail and first class mail