

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: Jesse Culver
5215 Sepulveda, Unit 10D
Culver City, CA 90230

Craig Bennett purchased the property whereupon the Mt. Terrace Mobile Home Park water system (hereinafter "Water System") is located on June 29, 2016. The Water System is a community public water system located at 59779 Roderick Road in Coos County, Oregon, 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.

Craig Bennett died on October 24, 2018. Mr. Bennett's will names two of his children, Amber Corrina Bennett and Jesse Bennett Culver, jointly, as the executors of his estate and successor trustees for his living trust. Amber Corrina Bennett and Jesse Bennett Culver (hereinafter "Water Supplier") are 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, 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 (DWS) has investigated the operation of the Water System.

DWS found, during its investigation, that water provided by the Water System exceeds the maximum contaminant level (MCL) for arsenic. 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 333-061-0030(1) specifies that the MCL for arsenic in drinking water is 0.010 mg/L but sample results reported for the Water System have exceeded the MCL, beginning with a sample collected on March 19, 2017. Additionally, the average concentration of arsenic in drinking water at the Water System, calculated according to OAR 333-061-0036(2)(h) and based on samples collected and reported to DWS between January 1, 2018 and December 31, 2018 is 0.0186 mg/L. This exceeds the MCL of 0.010 mg/L and constitutes a violation of OAR 333-061-0030(1).

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 complete installation of arsenic treatment devices according to DWS plan review #126-2018 and according to any other applicable DWS requirements related to the review and approval of water treatment facilities at the Water System.
 - o Installation must be completed within 60 days of the date this Order.

- 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.
2. Water Supplier must complete construction or modification of the new groundwater well (identified as well #4) according to DWS plan review #60-2018 and according to any other applicable DWS requirements related to the review and approval groundwater wells at the Water System.
- Installation must be completed within 60 days of the date this Order.
 - 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 monitor for arsenic 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).
 - Arsenic monitoring must continue until sample results demonstrate that drinking water delivered by the Water System contains concentrations of arsenic below the MCL for at least four consecutive calendar quarters.
4. Water Supplier must publish public notice according to OAR 333-061-0042 within 30 days of the date of this Order that informs customers that arsenic exceeds the MCL in drinking water at the Water System. The notice must be distributed to every person served by the Water System and must also meet all the applicable requirements of OAR 333-061-0042(4).
- Water Supplier must submit a copy of the notice to DWS, 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).

5. Water Supplier must provide public notice to customers in the same manner as is described in Compliance Action No. 4 every three months that includes any changes or additional information regarding arsenic in the drinking water at the Water System. Water Supplier must comply with this action until DWS notifies it that its drinking water is below the MCL for arsenic, 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 April 20, 2019 for failure to install arsenic treatment 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 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>.

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 Daniels at 971-673-0407.

Dated this 11th day of February, 2019.



David Emme, Manager
Drinking Water Services
Oregon Health Authority

cc: Betsy Parry, Oregon Health Authority, Drinking Water Services
Rick Hallmark, Coos County Environmental Health

DATE of Service: February 12, 2019


Signature

Brad K Daniels
Printed Name

By certified mail and first-class mail