

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

In the Matter of

Weiss Estates Water System Company,
Inc.

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Bobbie Bolden
Weiss Estates Water System Company, Inc.
88567 Weiss Estates Lane
Bandon, OR 97411

Weiss Estates Water System Company, Inc. (the Company) is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(207), and, as a water supplier, has specific responsibilities that are identified in OAR 333-061-0025.

The Company has at all times mentioned herein owned and operated, and continues to own and operate the Weiss Estates water system, serving homes along Weiss Estates Lane and Dodger Rd. in Bandon, Oregon and identified by public water system ID number OR41-05581. The Weiss Estates water system is a community public water system which serves approximately 27 people, and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0272.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) has investigated the operation of the Weiss Estates water system.

DWS found, during its investigation, that water provided by the Weiss Estates water system exceeds the maximum contaminant level (MCL) for total trihalomethanes (TTHM) and haloacetic acids-five (HAA5). The Company 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 the Company 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

- 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 and is free of public health hazards. TTHM first exceeded the MCL in drinking water samples collected on September 9, 2013. The failure to collect samples in December 2013 or to immediately consider corrective action indicates the Company has not taken all reasonable actions to assure water does not exceed maximum contaminant levels and to prevent public health hazards at the Weiss Estates water system. This constitutes a violation of OAR 333-061-0025.
- Violation No. 2: OAR 333-061-0030(2)(b), in part, specifies that the MCL for TTHM is 0.080 mg/l based on a locational running annual average. Samples collected at the Weiss Estates water system between May 19, 2014 and February 2, 2015, inclusive have an average TTHM concentration of 0.113 mg/l. This exceeds the MCL for TTHM and constitutes one violation of OAR 333-061-0030(2)(b).

Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer (OAR 333-061-0097).

- Violation No. 3: OAR 333-061-0030(2)(b), in part, specifies that the MCL for HAA5 is 0.060 mg/l based on a locational running annual average. Samples collected at the Weiss Estates water system between May 19, 2014 and February 2, 2015, inclusive have an average HAA5 concentration of 0.098 mg/l. This exceeds the MCL for HAA5 and constitutes one violation of OAR 333-061-0030(2)(b).

Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer (OAR 333-061-0097).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

The Company 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)).

- Compliance Action No. 1: The Company must submit an action plan clearly identifying how it will reduce concentrations of TTHM and HAA5 in drinking water at the Weiss Estates water system and ensure compliance with the MCL for TTHM and for HAA5 as specified in OAR 333-061-0030(2)(b).
 - The action plan must be submitted to DWS no later than June 30, 2015.
- Compliance Action No. 2: The Company must complete corrective action according to a plan submitted as prescribed by Compliance Action No. 1 and approved by DWS.
 - Corrective Action must be completed no later than December 31, 2015.
- Compliance Action No 3: The Company must report, according to OAR 333-061-0040, sample results collected according to OAR 333-061-0036(4). The sample results must demonstrate compliance with the MCL for TTHM and for HAA5 as specified in OAR 333-06-0030(2) and be reported for four consecutive quarters.
 - The Company must report the final round of results to DWS no later than January 10, 2017.
- Compliance Action No. 4: The Company must publish and distribute public notice according to OAR 333-061-0042 for exceeding the MCL for TTHM and for HAA5. The notice must meet all of the applicable requirements of OAR 333-061-0042(4) and be re-published every three months as necessary to include changes or additional information regarding drinking water at the Weiss Estates water system, until all

corrections are made and all system users receive drinking water that meets all applicable state and federal drinking water laws and rules (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)).

- The Company must submit a copy of the notice and certify the method of distribution to DWS no later than 10 days after completing the public notification per OAR 333-061-0040(1)(i).

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 administrative rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve the Company 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.

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 E. Leland, Manager; OHA - Drinking Water Program; PO Box 14450; Portland, OR 97293.**

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>.

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.

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.

DWS has designated DWS's complete file on the Weiss Estates 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 1 day of MAY, 2015.



Steven A. Wagner, MPH, Administrator
Oregon Health Authority, Center for Health Protection

cc: Corinne Clifton, Weiss Estates Water System Company, Inc.
Casey Lyon, Oregon Health Authority, Drinking Water Services
Jay MacPherson, Oregon Health Authority, Drinking Water Services

DATE of Service: May 4, 2015



Brad K. Daniels

By certified mail and first class mail