

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

In the Matter of

Weiss Estates Water System, PWS  
OR4105581

Respondent

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

To: Corinne Clifton  
Weiss Estates Water System Company, Inc.  
57259 Dodger Road  
Bandon, OR 97411

Weiss Estates Water System Company, Inc. has at all times mentioned herein owned and operated, and continues to own and operate, the Weiss Estates water system (hereinafter “Water System”) serving homes along Weiss Estates Lane and Dodger Rd. in Bandon, Oregon. The Water System is a community public water system serving approximately 35 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.

Weiss Estates Water System Company, Inc. (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 disinfection processes at the Water System are not sufficient to ensure the required level of inactivation of surface water pathogens in finished drinking water. Additionally, sample results exceed the maximum contaminant levels for haloacetic acids (HAA5) and total trihalomethanes (TTHM). 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 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 the rules.

Beginning in October 2021, disinfection treatment at the Water System failed to adequately inactivate pathogens in the surface water used at the system. This failure of treatment at the Water System has recurred and persisted since October 2021 without Water Supplier taking sufficient actions to resolve the issue so water is adequately disinfected on a continuous basis. Additionally, Water supplier has failed to properly evaluate and operate the treatment facilities to prevent HAA5 and TTHM from exceeding the maximum contaminant level (MCL). This constitutes a violation of OAR 333-061-0025.

2. OAR 333-061-0032(5)(a) requires, in part, that total treatment processes achieve at least 99.9 percent inactivation or removal of *Giardia lamblia* cysts and at least 99.99 percent inactivation or removal of viruses at water systems where a surface water source is utilized with filtration. Water Supplier reported that disinfection treatment at the Water System did not achieve the required levels of inactivation for the months of October 2021 through February 2022. This constitutes a violation of OAR 333-061-0032(5).

Inadequately treated water may contain disease causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. OAR 333-061-0097

3. OAR 333-061-0030(2)(b) specifies that the MCL for HAA5 in drinking water is 0.060 mg/L. Sample results reported for the Water System, collected at the 57259 Dodger Road sample location and beginning with a sample collected on February 23, 2021 exceeded the MCL of 0.060 mg/L. The average concentration of HAA5 in drinking water at this location, calculated according to OAR 333-061-0036(4)(c)(D) and based on samples collected between February 23, 2021 and November 17, 2021 is 0.096 mg/L. This exceeds the MCL of 0.060 mg/L and constitutes a violation of OAR 333-061-0030(2).

Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

4. OAR 333-061-0030(2)(b) specifies that the MCL for TTHM in drinking water is 0.080 mg/L. Sample results reported for the Water System, collected at the 57259 Dodger Road sample location and beginning with a sample collected on February 23, 2021 exceeded the MCL of 0.080 mg/L. The average concentration of TTHM in drinking water at this location, calculated according to OAR 333-061-0036(4)(c)(D) and based on samples collected between February 23, 2021 and November 17, 2021 is 0.090 mg/L. This exceeds the MCL of 0.080 mg/L and constitutes a violation of OAR 333-061-0030(2).

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.

#### 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 submit a corrective action plan for improving both raw water quality and treatment effectiveness, and to reduce concentrations of HAA5 and TTHM in drinking water. The plan must be reasonably expected to ensure disinfection

treatment achieves the inactivation requirements specified in OAR 333-061-0032(5)(a) and reduces concentrations of both HAA5 and TTHM below the MCL. The plan must be submitted to DWS in writing no later than April 30, 2022 and specify whether Water Supplier will:

- A. Move the Water System's raw water intake to a location a greater distance from the shore of Fahy lake;
  - B. Install additional pre-treatment to remove disinfection byproduct precursors from raw water, prior to the injection of chlorine; or
  - C. Take some alternative and equivalent method reasonably expected to achieve the same removal of disinfection byproduct precursors or that reduces HAA5 and TTHM to below their respective maximum contaminant levels.
- The plan must identify all tasks Water Supplier intends to perform to ensure drinking water produced by the Water System has concentrations below the MCL for HAA5 and TTHM and set reasonable deadlines for completing all the identified tasks.
2. Water Supplier must monitor total organic carbon according to OAR 333-061-0036(4)(k)(A) and OAR 333-061-0036(1)(g) beginning in April 2022 and be conducted at least once every month according to OAR 333-061-0036(1)(g). Sample results must be reported to the Authority no more than 10 days after the end of each month according to OAR 333-061-0040(1).
3. Following completion of corrective actions as specified in Compliance Action No. 1, Water Supplier must:
- A. Demonstrate that disinfection treatment achieves the inactivation requirements specified in OAR 333-061-0032(5)(a) in all water delivered to users at the Water System for at least six consecutive months; and
  - B. Monitor for HAA5 and TTHM according to all applicable provisions in OAR 333-061-0036(4) and demonstrate that concentrations do not exceed the respective maximum contaminant levels specified in OAR 333-061-0030(2)(b) for at least four consecutive calendar quarters.

#### 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 May 11, 2022 for failure to submit a corrective action plan and to report total organic carbon monitoring 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 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 503-735-5438.

Dated this 28th day of March, 2022.



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David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Kent Downs, Oregon Health Authority, Drinking Water Services

DATE of Service: March 29, 2022



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Signature

Brad K. Daniels  
Printed Name

By certified mail and first-class mail