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

In the Matter of

Manzanita Hills Homeowners
Association/Manzanita Hills
Subdivision Public Water System

BILATERAL COMPLIANCE AGREEMENT

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) and Manzanita Hills Homeowners Association agree to the following:

1. Manzanita Hills Homeowners Association (hereinafter “Water Supplier”) is a water supplier as defined in Oregon Revised Statute (ORS) 448.115 and Oregon Administrative Rule (OAR) 333-061-0020. The responsibilities of water suppliers are identified in OAR 333-061-0025.
2. Water Supplier owns and operates the Manzanita Hills Subdivision public water system (hereinafter “Water System”), identified by public water system ID # OR4106155 and serving homes along Cindy Court, Cindy Way and Linda Lane in Shady Cove, Oregon. The Water System is a community water system serving approximately 30 people and subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0272.
3. DWS has reviewed the operation of the Water System pursuant to its authority in ORS 431A.010, 448.150 and 448.255. DWS has determined that water provided by the water system exceeds the maximum contaminant level (MCL) for arsenic as specified

in OAR 333-061-0030(1). Water with arsenic above the MCL represents a potential public health hazard.

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

4. This Bilateral Compliance Agreement (“Agreement”) is entered into between DWS and Water Supplier to address the contamination of the drinking water provided by the Water System. This Agreement establishes the corrective action(s) that Water Supplier must take and the deadlines for completing those actions with the purpose of reducing the contamination in the drinking water below the MCL. The corrective actions and respective deadlines are described in detail below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Water Supplier is required to meet all of the responsibilities for water suppliers described in OAR 333-061-0025 which, in part, requires water suppliers to take all reasonable actions to assure that the water delivered to water users does not exceed maximum contaminant levels and that water system facilities are free of public health hazards.
2. Water delivered to users of a public water system may not exceed maximum allowable levels of contaminant. OAR 333-061-0030(1); OAR 333-061-0020(82).
3. The MCL for arsenic is 0.010 mg/L. OAR 333-061-0030(1). Arsenic is a naturally occurring element found in rock formations. As water flows through certain rock formations, arsenic can dissolve and be carried into water systems.
4. Sample results for the Water System demonstrate that the drinking water has concentrations of arsenic above the MCL, in violation of OAR 333-061-0030(1). On April 6, 2018, test results showed that the running annual average of arsenic concentration in the water provided by the Water System was 0.015 mg/L.
5. Water Supplier is not in compliance with OAR 333-061-0030(1).
6. The arsenic concentration also exceeded the MCL in drinking water samples collected at the Water System in July and October 2018. Water Supplier cannot assure water users that water delivered will not exceed maximum contaminant levels and must

therefore take all reasonable actions to assure that water delivered does not exceed maximum contaminant levels.

7. Jackson County Health & Human Services sent a letter to Water Supplier on February 13, 2018 requiring a plan identifying corrective action to be taken and a projected date by which the Water System shall produce drinking water with arsenic below the MCL. Water Supplier is in the process of applying for assistance to conduct a feasibility study to determine the most effective method to resolve the arsenic contamination and to implement that corrective action.

CORRECTIVE ACTIONS

Water Supplier agrees to take the following corrective actions and meet the deadlines set out or incorporated below:

- Corrective Action No. 1: Water Supplier shall submit an action plan to DWS no later than June 1, 2019 identifying how it will ensure compliance with the MCL for arsenic at the Water System. The action plan shall:
 - Identify all tasks Water Supplier intends to perform to ensure drinking water produced by the Water System has concentrations below the MCL for arsenic and set reasonable deadlines for completing all the identified tasks. Identified tasks must at a minimum, include:
 1. Begin design;
 2. Complete design;
 3. Submit complete, engineered construction plans and specifications to OHA for review and approval;
 4. Begin construction; and
 5. Begin treatment start-up.
 - Upon approval by DWS, the action plan and its identified tasks and deadlines are incorporated into this Agreement.
- Corrective Action No. 2: Water Supplier shall perform and complete all tasks in the action plan described in Corrective Action No. 1 by the deadlines in the action plan and shall notify DWS in writing within 5 calendar days of completing all the tasks. To satisfy this corrective action, any construction or installation performed must meet the applicable construction standards in OAR 333-061-0050, as approved by DWS.

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- Corrective Action No. 3: Water Supplier shall collect water samples according to OAR 333-061-0036(2)(a) and submit testing results to DWS within sixty (60) calendar days of notifying DWS that all the tasks in the action plan have been completed. The testing results must show the drinking water produced by the Water System is below the MCL for arsenic in OAR 333-061-0030(1). If the drinking water is not below the MCL for arsenic, DWS may require the Water Supplier to take further corrective action.
- Corrective Action No. 4: Water Supplier shall publish public notice as required by OAR 333-061-0042 that informs customers that drinking water at the Water System exceeds the MCL for arsenic. This includes publishing public notice any time arsenic exceeds the MCL in drinking water at the Water System. The notice must meet the requirements in OAR 333-061-0042.
 - Within 10 calendar days of distributing the public notice to customers, Water Supplier shall send a copy of the notice to DWS along with a written statement that it has fully complied with the distribution and public notification requirements in OAR 333-061-0040(1)(i).
 - Water Supplier shall, if necessary, provide public notice to customers every three months that includes any changes or additional information regarding arsenic in the drinking water at the Water System. This action must be complied with until DWS notifies Water Supplier 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.

DWS RESPONSIBILITIES

- DWS shall review and approve any corrective action plan or construction plans submitted by Water Supplier within thirty (30) days of receipt. DWS shall approve or require changes to the submitted plans immediately upon completing the review.

GENERAL PROVISIONS

1. Water Supplier satisfies the terms of this Agreement by completing the corrective actions listed above according to the deadlines specified herein.
2. If Water Supplier is aware of events beyond its control that may affect its ability to complete an obligation according to this agreement, Water Supplier shall notify DWS as quickly as practical and in no case on or after the deadline for completing the

obligation. If DWS agrees the anticipated delay is due to events beyond Water Supplier's control, the deadline for completing the obligation shall be extended by written agreement of the parties; or DWS may, at its discretion, extend the deadline after receipt of notification of the potential delay.

3. This Agreement does not constitute a waiver, suspension or modification of the requirements of the Oregon Drinking Water Quality Act; ORS 448.115 to 448.285 and administrative rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.
4. This Agreement does not relieve Water Supplier of any responsibilities or liabilities established by any applicable federal, state, or local law or regulation.
5. If Water Supplier fails to complete any of the corrective actions listed above or fails to meet any of the listed deadlines, DWS may pursue any enforcement action, which may include assessment of civil penalties or other legal remedies pursuant to ORS 431A.010, 431.155, 448.255 and 448.280. If DWS proceeds with such an enforcement action, Water Supplier will have the right to a hearing.
6. DWS may consider the findings of fact and violations cited in the conclusions of law of this Agreement for purposes of any future enforcement action or sanction involving Water Supplier.
7. Water Supplier is aware of its rights to contest the violations listed in this Agreement in a contested case hearing under the Administrative Procedure Act (Oregon Revised Statutes, Chapter 183) and its rights to judicial review of a final order issued in the contested case. Water Supplier freely and voluntarily waives all rights to a contested case hearing and to all judicial review of the findings of fact or conclusions of law contained in this Agreement in a proceeding brought by DWS to enforce this Agreement or take enforcement action or sanction against Water Supplier.

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8. This Agreement may be executed in one or more multiple counterparts, including facsimile, scanned, and electronically transmitted counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

Dated this 27th day of December, 2018.



James Robinson

President

Manzanita Hills Homeowners Association

Dated this 3rd day of January, 2018.



David Emme, Manager

Drinking Water Services

Oregon Health Authority

cc: Susan Baker, Jackson County Health & Human Services
Russ Kazmierczak, Oregon Health Authority, Drinking Water Services