



PUBLIC HEALTH DIVISION
Center for Health Protection, Drinking Water Services

Tina Kotek, Governor

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Health
Authority

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

In the Matter of

Manzanita Hills Homeowners
Association, Public Water System
OR4106155

Respondents

SETTLEMENT AGREEMENT AND FINAL
ORDER

James Robinson, President
PO Box 157
Shady Cove, OR 97539

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) issued a Notice of Violation and Administrative Order (Order) on January 9, 2023. The Order, issued for violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and Oregon Administrative Rules, is incorporated by reference and required planning and construction of a new arsenic treatment system at the public water system serving homes along Cindy Court, Cindy Way and Linda Lane in Shady Cove, Oregon (hereinafter “Water System”). On January 14, 2023, Manzanita Hills Homeowners Association (hereinafter “Water Supplier”) requested a hearing.

The Authority and Water Supplier agree to resolve the matter of the Order by stipulating as follows:

1. Water Supplier agrees to certify in writing a new groundwater well was constructed to supply the Water System within 45 calendar days of signing this Settlement Agreement and Final Order (Settlement).
2. Water Supplier agrees to report to DWS, arsenic testing and water yield for the well, within 30 days of certifying well construction according to Settlement Article No. 1.
3. Water Supplier agrees to complete the DWS plan approval process to the best of its ability, according to the letter dated November 29, 2022 for a new groundwater well at the Water System, within 90 days of certifying well construction according to Settlement Article No. 1.
4. If water produced by the groundwater well, constructed according to Settlement Article No. 3, contains concentrations of arsenic exceeding the maximum contaminant level (MCL) specified in OAR 333-061-0030(1), Water Supplier agrees to submit complete construction plans for treatment to reduce concentrations of arsenic to below the MCL.
 - The 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.
 - The plans and any additional information required by DWS to approve the treatment system described in this agreement article, shall be submitted to DWS no later than 60 days after completing well construction.
5. Water Supplier agrees to complete construction of the arsenic treatment as specified in Settlement Article No. 4, if applicable, no later than six months after conditional plan approval is granted by DWS.
 - Water Supplier must notify DWS in writing within 5 calendar days of completing construction or installation of the arsenic treatment system.
 - Construction must be completed according to plans approved by DWS and construction of all improvements or modifications at the Water System must meet the applicable construction standards specified in OAR 333-061-0050.

6. Water Supplier agrees to begin operating the arsenic treatment system constructed according to Settlement Article No. 5, no later than 60 days after notifying DWS of completing construction.
7. Water Supplier agrees to monitor arsenic at the Water System, if applicable, according to OAR 333-061-0036(2)(a) and 333-061-0036(1)(g) every month after beginning operation of an arsenic treatment system as described in Settlement Article No. 6.
 - 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).
8. If any sample exceeds the MCL for arsenic, Water Supplier must immediately investigate the cause of the treatment failure and submit a report to DWS identifying the cause for the failure and how Water Supplier will return the treatment to effective operation such that concentrations of arsenic in drinking water are below the MCL specified in OAR 333-061-0030(1).
 - The report must be submitted to DWS within five business days of receipt of sample results exceeding the MCL from the laboratory. Each day Water Supplier fails to timely submit written verification to DWS is a separate violation of this Order.
- 9. It is a violation of this Settlement if the average concentration of arsenic in samples reported for any calendar quarter exceeds the MCL. Each instance of arsenic concentration exceeding the MCL within a calendar quarter is a separate violation.**
10. Water Supplier will comply with this Settlement and may return to monitoring arsenic once every calendar quarter according to OAR 333-061-0036(2)(a) upon notification from DWS, after sample results reported for the Water System have concentrations of arsenic below the MCL specified in OAR 333-061-0030(1) every month for 12 consecutive months.
11. Water Supplier has been fully informed of its rights to a contested case hearing, including having been provided with a Notice of Contested Case Rights and Procedures, and waives all rights to a contested case hearing or any judicial review of the Order.

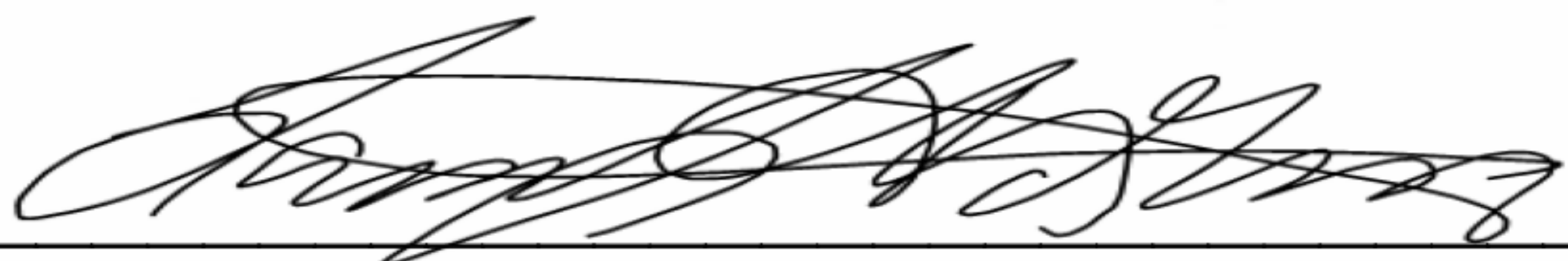
- 12.If DWS determines that Water Supplier has violated this Settlement, it will notify Water Supplier of the violation. Water Supplier will be given the opportunity to contest whether it is in violation in a contested case proceeding but shall have no right to contest the underlying violations specified in the Order.
- 13.This Settlement is terminated if Water Supplier fails to complete any of the articles agreed upon herein or fails to meet any of the listed deadlines.
- 14.DWS will permanently vacate the Order upon completion of all the actions specified herein, if completed by the dates agreed upon or if the Settlement is terminated according to Settlement Article No. 13.

GENERAL PROVISIONS

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 333-061-0050 to 333-061-0272, which remain in full force and effect.

This Agreement does not relieve Water Supplier of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

The Parties agree that this Settlement Agreement and Final Order 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.



James Robinson, on behalf of Manzanita Hills Homeowners Association

Date March 7, 2023



Date 3/8/2023

Samina Panwhar, Manager
Drinking Water Services
Oregon Health Authority

FINAL ORDER

NOW THEREFORE, the Authority finds and concludes that arsenic exceeded the MCL specified in OAR 333-061-0030(1) at the Water System. Further, DWS adopts all other terms of the Settlement Agreement.

It is so ORDERED.



3/8/2023

Samina Panwhar, Manager
Drinking Water Services
Oregon Health Authority

Date

cc: Susan Baker, Jackson County Environmental Public Health
Zach Golik, Oregon Health Authority, Drinking Water Services