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

In the Matter of

Hidden Pines II, LLC / Hidden Pines RV  
Park Public Water System

BILATERAL COMPLIANCE AGREEMENT

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) and Hidden Pines II, LLC agree to the following:

1. Hidden Pines II, LLC is a water supplier (hereinafter "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 Hidden Pines RV Park public water system (hereinafter "Water System"), identified by public water system ID # OR4190137 located at 52158 Elderberry Lane, La Pine OR 97739. The Water System is a transient non-community water system serving approximately 46 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 nitrate maximum contaminant level (MCL) of 10 mg/L as specified in OAR 333-061-0030. Drinking water with concentrations of nitrate above 10 mg/L can cause Methemoglobinemia or blue baby syndrome. There is also an increased risk of recurrent respiratory infections, thyroid dysfunction, negative reproductive outcomes and certain cancers including cancer of the stomach or bladder 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 purchased the Water System and the property where the Water System is located on March 6, 2017
2. As of March 6, 2017, the Water Supplier was and is required to meet all the responsibilities for water suppliers described in OAR 333-061-0025.
3. 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.
4. Samples collected at the Water System indicate that water provided by the system exceeds the MCL for nitrate as specified in OAR 333-061-0030(1) despite Water Supplier’s installation of a nitrate treatment system. Water Supplier’s failure to operate the treatment system effectively demonstrates Water Supplier has not taken all reasonable actions to ensure that water does not exceed the MCL for nitrate. Additionally, a treatment system to remove nitrate from water produced by well #2 was not installed or approved by DWS while nitrate values continued to exceed the MCL. Water Supplier is not in compliance with OAR 333-061-0025.
5. The MCL for nitrate is 10 mg/L. OAR 333-061-0030(1).
6. Sample results for Well #1 (identified as “south” and with well tag L60449) demonstrate the nitrate values were 12.6 mg/L on December 15, 2016 and 12.1 mg/L on December 28, 2016. A treatment system to remove nitrate from water from well #1 was approved by DWS on June 7, 2017 but nitrate values continued to exceed the nitrate MCL, with nitrate values of 11.7 mg/L on July 14, 2017 and at 12.4 mg/L on August 7, 2018.



7. Sample results for Well #2 (identified as “north” and with tag L60448) demonstrate the nitrate values were 12.4 mg/L on December 15, 2016, 12.5 mg/L on July 14, 2017 and 13.0 mg/L on August 7, 2018.
8. Water Supplier is not in compliance with OAR 333-061-0030(1).
9. Water Supplier has not provided a corrective action plan to reduce nitrate in drinking water below the MCL by January 17, 2019, the deadline specified in the October 18, 2018 letter from DWS.

### CORRECTIVE ACTIONS

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

- Corrective Action No. 1: Water Supplier shall submit complete construction plans to DWS for water treatment or other facilities at the Water System that will ensure compliance with the MCL for nitrate. The construction plans shall:
  - Be submitted within 60 days of signing this Agreement; and
  - Meet the requirements in OAR 333-061-0060 for the construction or modification of any facilities at the Water System. Construction plans must be approved by DWS prior to any construction or installation taking place.
- Corrective Action No. 2: Water supplier shall complete construction or installation of water treatment facilities at the Water System that will ensure compliance with the MCL for nitrate and according to the plans approved by DWS.
  - Construction and installation must be completed within 90 days of DWS granting conditional approval of the construction plans submitted according to Corrective Action No. 1. Water Supplier shall notify DWS in writing within 5 calendar days of completing construction or installation.
  - 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.
- Corrective Action No. 3: Water Supplier shall collect water samples according to OAR 333-061-0036(2)(c) and submit testing results to DWS within 30 calendar days

of notifying DWS that construction was completed. The test results must show the drinking water produced by the Water System is below the MCL in OAR 333-061-0030(1) for nitrate.

- Corrective Action No. 4: Water Supplier must publish a public notice according to OAR 333-061-0042 that informs customers that drinking water at the Water System exceeds the MCL for nitrate whenever sample results exceed the MCL. The notice must meet all the applicable 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).

### 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. 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.
3. This Agreement does not relieve Water Supplier of any responsibilities or liabilities established by any applicable federal, state, or local law or regulation.
4. 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.

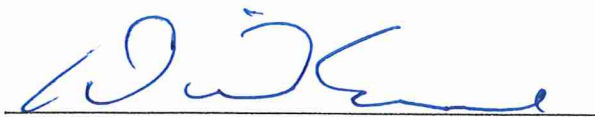
5. DWS may consider the findings of fact and violations cited in the conclusions of law of this Agreement for purposes of any future enforcement action or sanction involving Water Supplier.
6. Water Supplier is aware of its rights to contest the violations listed in this Agreement in a contested case 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.
7. 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 21 day of Feb., 2019.



David Schalker  
Hidden Pines II, LLC

Dated this 21<sup>st</sup> day of February, 2019.



David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Michelle Byrd, Oregon Health Authority, Drinking Water Services  
Jeff Freund, Deschutes County Environmental Health