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

In the Matter of

Harper School District #66 / Harper
Elementary and High School Public
Water System

BILATERAL COMPLIANCE AGREEMENT

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) and Harper School District #66 agree to the following:

1. Harper School District #66 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 Harper Elementary and High School public water system (hereinafter “Water System”), identified by public water system ID # OR4190575 and located at 2987 Harper/Westfall Road in Harper, Oregon. The Water System is a non-transient non-community water system serving approximately 120 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) as specified in OAR

333-061-0030 for arsenic. 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 the responsibilities for water suppliers described in OAR 333-061-0025.
2. Water Supplier operates treatment to reduce the concentration of arsenic in drinking water at the Water System but that treatment malfunctioned or was not operated correctly, resulting in arsenic exceeding the MCL in a sample collected on May 18, 2022.
3. The MCL for arsenic is 0.010 mg/L. OAR 333-061-0030(1).
4. Sample results for the Water System demonstrate that the water has been above the MCL for arsenic in violation of OAR 333-061-0030(1). On May 25, 2022, test results showed that the concentration of arsenic in drinking water at the Water System was 0.0485 mg/L. This will cause the running annual average of arsenic concentration in the water provided by the Water System to be 0.012 mg/L or greater, for at least one year.
5. Water Supplier is not in compliance with OAR 333-061-0030(1).

CORRECTIVE ACTIONS

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

1. Water Supplier shall submit an action plan to DWS no later than August 15, 2022 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. At a minimum, the action plan shall include deadlines or time frames for repairing or replacing the arsenic treatment system and all associated activities.
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. 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.
3. Water Supplier shall monitor for arsenic at the Water System according to OAR 333-061-0036(2)(a) and report the sample results according to OAR 333-061-0040(1)(b)(A).
 - Monitoring must be conducted every month according to OAR 333-061-0036(1)(g), for at least six months.
 - Water Supplier may return to monitoring arsenic once every calendar quarter, according to OAR 333-061-0036(2)(a), if every sample collected according to this compliance action has a concentration of arsenic at or below the MCL for at least six consecutive months.
4. Water Supplier will have satisfied the terms of the Agreement when testing shows the concentration of arsenic in drinking water produced by the Water System is not above the MCL specified in OAR 333-061-0030(1) for four consecutive calendar quarters.

5. Water Supplier shall continue to publish a public notice every three months that informs customers that drinking water at the Water System exceeds the MCL for arsenic. Each notice shall meet the requirements in OAR 333-061-0042 and include any changes or additional information since the previous notice was published related to arsenic in drinking water at the Water System.
 - 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) within 10 calendar days of distributing the public notice to water users.
 - Water Supplier shall continue this action until DWS notifies it 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. 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.

Date

7-25-22



Ron Talbot

Superintendent

Harper School District #66

Date August 10, 2022

Kari Salis

Kari Salis, PE
Interim Section Manager
Drinking Water Services
Oregon Health Authority

cc: Bill Goss, Oregon Health Authority, Drinking Water Services
Amy Word, Oregon Health Authority, Drinking Water Services