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

In the Matter of

Nestucca Valley School District /  
Nestucca K-8 School

BILATERAL COMPLIANCE AGREEMENT

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

1. Nestucca Valley School District 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 public water system (hereinafter “Water System”) serving the Nestucca K-8 School, located at 36925 U.S. Highway 101 S in Cloverdale, Oregon, and identified by public water system ID# OR4190595. The Water System is a non-transient non-community water system serving approximately 325 people and is 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 drinking water provided by the system exceeds the maximum contaminant level (MCL) as specified in OAR 333-061-0030(2) for haloacetic acids (HAA5) and total trihalomethanes (TTHM). Water with HAA5 and TTHM above the MCL represents a potential public health hazard.

Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer. OAR 333-061-0097.

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. 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 to 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. The MCL for HAA5 is 0.060 mg/L. OAR 333-061-0030(2)(b).
3. The MCL for TTHM is 0.080 mg/L. OAR 333-061-0030(2)(b).
4. On January 19, 2022, a drinking water sample was collected showing the concentration of HAA5 was 0.110 mg/L. On April 12, 2022, a drinking water sample was collected showing the concentration of HAA5 was 0.043 mg/L. The average concentration of HAA5 in these two samples is 0.076 mg/L.
5. On January 19, 2022 and April 12, 2022, drinking water samples were collected showing the concentration of TTHM was 0.116 mg/L and 0.107 respectively. The concentration of TTHM in both samples exceeded the MCL and the average concentration of TTHM is 0.112 mg/L.

6. These sampling results demonstrate that, as of April 12, 2022, the running annual average concentration of both HAA5 and TTHM in drinking water provided by the Water System at the Kitchen Tap sampling site exceeds the MCL.
7. This constitutes noncompliance with OAR 333-061-0030(2)(b).
8. Water Supplier utilizes chlorine as part of a process to remove iron from drinking water at the Water System. When chlorine is in contact with disinfection byproduct precursors, it leads to the formation of HAA5 and TTHM in drinking water.
9. Water Supplier reduced the concentration of chlorine in water treated at the Water System to reduce HAA5 and TTHM formation.

### 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 December 31, 2022 identifying how it will ensure compliance with the MCL for both HAA5 and TTHM 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 both HAA5 and TTHM and set reasonable deadlines for completing all the identified tasks. Upon approval by DWS, the submitted tasks and deadlines shall become enforceable by incorporation.
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 collect water samples according to OAR 333-061-0036(4) and submit testing results to DWS within sixty (60) calendar days of notifying DWS that all the tasks of the action plan have been completed.

4. Water Supplier will have satisfied the terms of the Agreement when testing shows the drinking water produced by the Water System has concentrations of HAA5 and TTHM below the MCL in OAR 333-061-0030(2)(b) for four consecutive calendar quarters.
  - If monitoring indicates that concentrations of HAA5 or TTHM continue to exceed the MCL after monitoring for four consecutive calendar quarters, DWS may require Water Supplier to take further corrective action.
5. Water Supplier shall continue to publish a public notice according to the requirements in OAR 333-061-0042, that informs water users that drinking water at the Water System exceeds the MCL for HAA5 and TTHM.
  - Within 10 calendar days of distributing every public notice to water users, 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 provide public notice to water users every three months according to OAR 333-061-0042. Recurring notices shall include any changes or additional information regarding HAA5 and TTHM in the drinking water at the Water System. Water Supplier shall comply with this action until DWS notifies it that its drinking water is below the MCL for HAA5 and TTHM, 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.

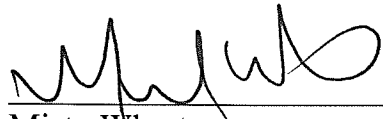
### GENERAL PROVISIONS

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 8/29/2022

  
\_\_\_\_\_  
Misty Wharton  
Superintendent  
Nestucca Valley School District

Date August 30, 2022

  
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Kari Salis, Interim Manager  
Drinking Water Services  
Oregon Health Authority

cc: Jaime Craig, Tillamook County Environmental Health  
Evan Hofeld, Oregon Health Authority, Drinking Water Services  
Bill Wilkinson, Nestucca Valley School District