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

In the Matter of

Fern Ridge School District / Elmira  
High School and Elmira Elementary  
School Public Water System

BILATERAL COMPLIANCE AGREEMENT

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

1. Fern Ridge 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”), identified by public water system ID # OR4191805 and serving school facilities at 24936 Fir Grove Lane and 88960 Territorial Road in Elmira, Oregon. The Water System is a non-transient non-community water system serving approximately 750 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 and determined that water provided by the Water System exceeds the action level (AL) as specified in OAR 333-061-0030 for copper. Water with copper above the AL represents a potential public health hazard.

Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor. OAR 333-061-0043.

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 AL. 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. OAR 333-061-0025 requires water suppliers, in part, to take all reasonable actions to assure that water system facilities are free of public health hazards and to assure that water system operation and maintenance are performed as required by the Oregon Administrative Rules in Chapter 333, Division 61.
3. The AL for copper is 1.3 mg/L. OAR 333-061-0030(1).
4. On August 23, 2019 and February 9, 2021 sample results showed that copper was greater than 1.3 mg/L in more than 10 percent of tap water samples collected at the Water System. These sample results reported for the Water System demonstrate that copper exceeded the AL as specified in OAR 333-061-0030(1).
5. OAR 333-061-0034 requires, in part, water suppliers to operate and maintain optimal corrosion control treatment such that water quality parameters are maintained at or above minimum values and that samples do not exceed the AL for lead or copper.
6. DWS issued a letter to Water Supplier on October 28, 2019 requiring, in part, Water Supplier to collect water quality parameters and demonstrate the existing treatment system effectively prevents copper from exceeding the AL. Water Supplier did not

complete all the actions required by the letter and has not demonstrated the existing corrosion control treatment is operating effectively.

7. Water Supplier is not in compliance with OAR 333-061-0025, OAR 333-061-0030(1) or OAR 333-061-0034 because it did not complete the steps to evaluate the existing optimal corrosion control treatment or operate and maintain the treatment as required after samples exceeded the AL for copper.

### 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 within 60 days of this agreement being signed by both parties identifying how it will evaluate the existing corrosion control treatment and ensure compliance with the AL for copper 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 AL for copper and set reasonable deadlines for completing all the identified tasks.
  - Include complete construction or installation plans that 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.
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 lead and copper at the Water System according to OAR 333-061-0036(10) at a minimum of 20 sample sites approved by DWS and report the results to DWS. A minimum of two rounds of monitoring shall be conducted.

- The first round of monitoring shall be conducted immediately after evaluation of optimal corrosion control treatment and in no case later than June 30, 2022, with the results of the monitoring reported to DWS no later than July 10, 2022.
  - The second round of monitoring shall be conducted six months after the first round and in no case later than December 31, 2022, with the results of the monitoring reported to DWS no later than January 10, 2023.
4. Water Supplier shall monitor water quality parameters according to OAR 333-061-0036(10)(f) and report the results to DWS.
- Water quality parameter samples shall be collected at two sites in the distribution system at the same time as each of the two rounds of lead and copper tap water monitoring specified in Corrective Action No. 3. Two samples shall be collected at each site, the first sample at the same time as lead and copper tap water monitoring and the second sample two weeks later.
  - Water quality parameter samples shall be collected at the entry point to the distribution system, after corrosion control treatment, at a frequency determined by DWS and at least once every two weeks beginning after treatment evaluation is complete. This sampling shall continue until optimized water quality control parameters are specified by DWS.

#### 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 15<sup>th</sup> day of DECEMBER, 2021



Gary Carpenter, Superintendent  
Fern Ridge School District

Dated this 12<sup>th</sup> day of DECEMBER, 2021



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David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Jay MacPherson, Oregon Health Authority, Drinking Water Services  
Lenore Smith, Lane County Environmental Health