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

In the Matter of

United States Forest Service /  
Timberline Lodge Public Water System

BILATERAL COMPLIANCE AGREEMENT

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) and the United States Department of Agriculture, Forest Service agree to the following:

1. The United States Department of Agriculture, Forest Service and R.L.K. and Company are water suppliers 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. R.L.K. and Company (hereinafter “Water Supplier”) operates, and the United States Department of Agriculture, Forest Service owns, the public water system (hereinafter “Water System”) serving Timberline Lodge, identified by public water system ID # OR4192641 and located at 27500 E Timberline Road north of Government Camp, Oregon. The Water System is a non-transient non-community water system serving approximately 1,500 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 supplier did not maintain water quality parameters at or above the minimum values for optimal

corrosion control treatment as designated by DWS, in September and October 2021. Water treated with optimal corrosion control but where minimum water quality parameter values are not met represents a potential public health hazard.

4. This Bilateral Compliance Agreement (“Agreement”) is entered into between DWS and Water Supplier to address the failure to properly operate water treatment at 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 returning the water system to compliance with the applicable requirements. The corrective actions and respective deadlines are described in detail below.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Water Supplier was and is required to meet all of the responsibilities for water suppliers described in OAR 333-061-0025.
2. OAR 333-061-0034(3)(1) requires, in part, water suppliers to operate and maintain corrosion control treatment such that water quality parameters are maintained at or above minimum values designated by DWS at water systems where optimal corrosion control treatment is installed. Water Suppliers are out of compliance with this rule if water quality parameters are below minimum values designated by DWS on more than nine days during any six-month compliance period.
3. Measurements reported for the Water System demonstrated that water quality parameters were below the designated minimums for 18 days cumulatively during September and October 2021.
4. Water Supplier is not in compliance with OAR 333-061-0034(3)(1).
5. Measurements reported for the Water System demonstrated that water quality parameters were at or above the designated minimums every day in November and December 2021, and every day in March 2022. Additionally, water quality parameters were at or above the designated minimums all but three days cumulatively in January and February 2022.
6. Water Supplier is projected to return to compliance with OAR 333-061-0034(3)(1) in July 2022, after reporting water quality parameters for the six-month compliance period.

### CORRECTIVE ACTIONS

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

1. Water Supplier shall report corrosion control water quality parameter measurements for the Water System every month. Measurements shall be conducted according to OAR 333-061-0036(10)(f) and reported every month according to OAR 333-061-0040(1)(h),
2. Water Supplier shall monitor for lead and copper at the Water System according to OAR 333-061-0036(10)(a) through (e) and report the results to DWS according to OAR 333-061-0040(1)(b). A minimum of two rounds of monitoring shall be conducted.
  - The first round of monitoring shall be conducted no 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.
3. Water Supplier shall have satisfied the terms of this agreement when:
  - Measurements demonstrate water quality parameters were maintained at or above minimum values designated by DWS according to OAR 333-061-0034(3)(l) for the six-month period from January through June 2022; and
  - Tap water monitoring demonstrates lead and copper were both below their respective action levels calculated according to OAR 333-061-0030(1) for two consecutive six-month monitoring periods.

### 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 26<sup>TH</sup> day of April, 2022.

A handwritten signature in dark ink, appearing to read 'Aaron Madsen', is written over a horizontal line.

Aaron Madsen  
R.L.K and Company

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Joel Ferguson, Clackamas County Environmental Health  
Keith Male, Oregon Health Authority, Drinking Water Services

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Aaron Madsen  
R.L.K and Company

Dated this 26th day of April, 2022.



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David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Joel Ferguson, Clackamas County Environmental Health  
Keith Male, Oregon Health Authority, Drinking Water Services