

BEFORE THE STATE OF OREGON  
OREGON HEALTH AUTHORITY  
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Canby School District/Ninety-One  
School, PWS OR4193718

BILATERAL COMPLIANCE  
AGREEMENT

Canby School District (CSD) is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(211), and as a water supplier, has specific responsibilities that are identified in OAR 333-061-0025.

CSD has at all times mentioned herein owned and operated and continues to own and operate the non-transient non-community public water system at Ninety-One School, which serves between 301 and 1,500 people, and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0290.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Program) has conducted an investigation into the operation of the water system at Ninety-One School.

This agreement is entered into between the Program and CSD for the purpose of acknowledging that water provided at the Ninety-One School water system exceeds the maximum contaminant level (MCL) for arsenic of 0.010 mg/L as specified in OAR 333-061-0030(1). The further purpose of this agreement is to establish a commitment by CSD to take action so that Ninety-One School produces water that has levels of arsenic below the MCL.

FINDINGS OF FACT

- The arsenic concentration throughout the sampling history for Ninety-One Elementary has remained consistent, with an average arsenic concentration for the school of 0.0156 mg/L.
- The running annual average for arsenic at Ninety-One Elementary, including samples collected on March 17, 2011, is 0.0165 mg/L.
- Canby School District published public notice in the first quarter of 2011 for the fact that water provided by the Ninety-One Elementary water system exceeds the MCL for arsenic.

AGREEMENT

Upon completion of the activities described below, if taken within the time specified in this Agreement, CSD will be considered to be in compliance with the rule(s) mentioned herein.

- Agreement Activity No. 1: Canby School District will continue to collect arsenic samples at Ninety-One School in accordance with OAR 333-061-0036(2), and report the sample results to the Program within 10 days of the end of the monitoring period.
- Agreement Activity No. 2: Canby School District will submit construction plans that clearly indicate how Ninety-One School will provide water that is below the MCL for arsenic. The plans will be submitted to the Program no later than September 30, 2011.
  - All plans for additions or alterations to the water system at Ninety-One School must be approved by the Program in advance, and must meet all of the applicable requirements of OAR 333-061-0060. Plans must have sufficient detail to completely and clearly illustrate what will be constructed and must show that the changes to the water system will meet all the applicable construction standards specified in OAR 333-061-0050 (OAR 333-0061-0060(1)).
- Agreement Activity No. 3: Canby School District will complete construction of the project approved in accordance Agreement Activity No. 2 no later than December 31, 2011.

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- Agreement Activity No. 4: Canby School District will ensure that Ninety-One School provides drinking water that has concentrations of arsenic below the MCL no later than March 31, 2012.
- Agreement Activity No. 5: Canby School District will publish public notice for exceeding the MCL for arsenic every three months, until all corrections are made, and all system users receive drinking water that meets all applicable state and federal drinking water laws and rules (OAR 333-061-0025 and OAR 333-061-0042(3)(b)(C)). The notice will meet all of the applicable requirements of OAR 333-061-0042(4), and will be distributed to every person served by the Ninety-One School water system in accordance with OAR 333-061-0042(3)(b)(E). A copy of the notice and certification that the notice was distributed according to OAR 333-061-0042(3)(b)(E) will be submitted to the Program no later than 10 days after completing each public notification per OAR 333-061-0040(1)(j).
  - The copy of the notice and certification shall be submitted to: Brad Daniels, OHA – Drinking Water Program, PO Box 14450, Portland, OR 97293-0450.

### GENERAL PROVISIONS

This Agreement does not constitute a waiver, suspension or modification of the requirements of the Oregon Drinking Water Quality Act; ORS 448.115 to 448.290 and administrative rules OAR 333-061-0005 to 333-061-0290, which remain in full force and effect.

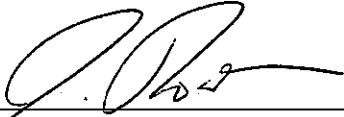
This Agreement does not relieve the CSD of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

The Program has determined that additional enforcement action is not warranted at this time, and so long as CSD meets all of the requirements and deadlines specified in this Agreement, the Program will forgo additional enforcement action which could include the assessment of civil penalties as prescribed by OAR 333-061-0090.

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Dated this 22<sup>nd</sup> day of May, 2011.



\_\_\_\_\_  
Jeff Rose  
Superintendent  
Canby School District

Dated this 26<sup>th</sup> day of May, 2011.



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Dave Leland, PE  
Program Manager  
Oregon Health Authority, Drinking Water Program

cc: Pete Farrelly, OHA-DWP  
Joel Ferguson, Clackamas County Environmental Health