



PUBLIC HEALTH DIVISION
Center for Health Protection, Drinking Water Services

Tina Kotek, Governor

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Authority

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

In the Matter of

Silver Valley Water Improvement
District, PWS OR4194513

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: April Ashmon
54655 Cascade Trace Road
Neskowin, OR 97149

Silver Valley Water Improvement District has at all times mentioned herein owned and operated, and continues to own and operate, the public water system (hereinafter “Water System”) serving residences along Cascade Trace Road, Neskowin Trace Road, Tillicum Loop and Silver Creek Lane southeast of Neskowin, Oregon. The Water System is an Oregon Very Small public water system serving approximately 20 people and is subject to regulation under Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules 333-061-0005 to 333-061-0272.

Silver Valley Water Improvement District (hereinafter “Water Supplier”) is therefore a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020, and as a water supplier, has specific responsibilities that are identified in OAR 333-061-0025.

Pursuant to its authority established in ORS 431A.010 and ORS 448.255, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) has investigated the operation of the Water System.

DWS found, during its investigation, that drinking water provided by the Water System does not meet the minimum standards for surface water treatment. Also, Water Supplier has not reported sample results for arsenic, coliform bacteria or nitrate. Water Supplier is therefore unable to assure its water users that the water is sufficiently free from contaminants such that individuals will not be exposed to disease or harmful physiological effects (ORS 448.115(8)). This represents a potential public health hazard.

This Notice of Violation and Administrative Order (Order) is being issued to Water Supplier for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during DWS' investigation as described below.

DESCRIPTION OF RULE VIOLATIONS

1. OAR 333-061-0100(3)(c) requires water systems supplied by a surface water source to provide at least the minimum disinfection or filtration treatment prescribed by the rule. Water Supplier has not demonstrated the required treatment is provided at the Water system and did not respond to a letter directing Water Supplier to submit a corrective action plan identifying when treatment will be installed. This constitutes a violation of OAR 333-061-0100.

Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. OAR 333-061-0097

2. OAR 333-061-0100(2)(c) requires, in part, water suppliers to monitor for coliform bacteria at least once every month and report monitoring results to DWS within 10 days of the end of the required monitoring period. Water Supplier has not reported coliform bacteria monitoring for the Water System since reporting a sample collected on March 16, 2022, which constitutes a violation of OAR 333-061-0100(2).
3. OAR 333-061-0100(2)(d) requires, in part, water suppliers to monitor for arsenic at least one time before drinking water is provided for human consumption and to report the monitoring results to DWS. Water Supplier has never reported arsenic monitoring for the Water System, which constitutes a violation of OAR 333-061-0100(2).

4. OAR 333-061-0100(2)(d) requires, in part, water suppliers to monitor for nitrate at least once every year and report the monitoring results to DWS within 10 days of the end of the required monitoring period. Water Supplier has not reported nitrate monitoring for the Water System since reporting a sample collected on October 19, 2022, which constitutes a violation of OAR 333-061-0100(2).
5. OAR 333-061-0100(4) requires, in part, water suppliers to notify people served by public water systems when adequate or effective treatment of a surface water source is not provided. Water suppliers must distribute the public notice as soon as practical but no later than 24 hours after becoming aware of the situation. Water Supplier has not demonstrated notifying water users about the lack of treatment for a surface water source as required by the rule, which constitutes a violation of OAR 333-061-0100(4).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Water Supplier is required to conduct the remedial actions described below which, if taken within the time specified in this Order, will constitute compliance with the rule(s) violated (ORS 448.255(3)).

1. Water Supplier must submit an action plan and schedule to DWS identifying how it will provide surface water treatment that meets the applicable requirements prescribed by OAR 333-061-0100(3)(c). The plan must:
 - Identify reasonable deadlines or time frames for completing the identified tasks Water Supplier intends to perform to ensure continuous distribution of safe drinking water at the Water System. At a minimum, the action plan must include deadlines or time frames for the following tasks:
 1. Submitting plans, drawings or specifications to DWS for review and approval;
 2. Beginning construction; and
 3. Completing construction.
 - The plan must be submitted to Compliance Specialist Brad Daniels at bradley.k.daniels@oha.oregon.gov no later than 60 days after the date of this Order.
2. Water Supplier must perform and complete all tasks in the action plan described in Corrective Action No. 1 by the deadlines or according to the time frames in the action plan and must 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 be approved by DWS.

3. Water Supplier must monitor for coliform bacteria at the Water System, according to all the applicable provisions of OAR 333-061-0100(2)(c).
 - Monitoring for coliform bacteria must be conducted for the month of June 2024 and every month thereafter. The monitoring results must be reported to DWS no later than 10 days after the end of every month, beginning no later than July 10, 2024.
 - Water Supplier will have complied with this corrective action after coliform bacteria monitoring is reported to DWS for six consecutive months according to all the applicable provisions of OAR 333-061-0100.
4. Water Supplier must monitor for both arsenic and nitrate at the Water System according to the applicable provisions of OAR 333-061-0100(2)(d) and must report the monitoring results to DWS no later than 30 days after the date of service of this Order.
5. Water Supplier must immediately publish a public notice that informs water users drinking water provided by the Water System is not adequately treated to prevent illness caused by surface water organisms. The notice must be reviewed and approved by DWS before distribution to comply with this corrective action.
 - Water Supplier must submit a copy of the notice to Brad Daniels at bradley.k.daniels@oha.oregon.gov within 11 calendar days after the date of service of this Order. Water Supplier must also submit a written statement certifying the public notice was distributed to all users served by the Water System, and identifying both the date the notice was delivered to users and the method of delivery.

GENERAL PROVISIONS AND CIVIL PENALTIES

This Order 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 Oregon Administrative Rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve Water Supplier of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

Issuance of this Order is not an election by DWS to forgo any civil actions authorized under the Oregon Drinking Water Quality Act.

Failure to comply with any of the requirements in this Order by the specified due date may result in additional enforcement action, which could include assessment of civil penalties in the amount of \$50 per day per violation (OAR 333-061-0090). Civil penalties may be assessed beginning the day following the date of service of this Order and accruing through the date when DWS issues a Notice of Intent to Impose Civil Penalty. For example, if DWS issues a Notice of Intent to Impose Civil Penalty on July 10, 2024 for failure to report coliform bacteria, arsenic and nitrate monitoring according to this Order, the proposed civil penalty could be as much as \$4,500.

Pursuant to ORS 448.990(2), violations of a rule of the Oregon Health Authority may be a crime in Oregon and punishable as a Class A misdemeanor.

NOTICE OF RIGHT TO REQUEST A HEARING

You are entitled to a hearing as provided by the Administrative Procedure Act (Oregon Revised Statutes, Chapter 183). If you want a hearing you must file a written request for hearing with DWS within 10 days from the date this Order was mailed. **The request for hearing must be sent to: Samina Panwhar, Manager; Oregon Health Authority, Drinking Water Services; and may be delivered by mail to PO Box 14450, Portland, OR 97293 or by email to samina.t.panwhar@oha.oregon.gov.**

If you request a hearing, DWS will notify you of the time and place at which the hearing will be held. You may enlist representation by legal counsel. Per ORS 413.041, a party that is not a natural person may be represented by an attorney or by any officer or authorized agent or employee of the party. Parties are ordinarily represented by counsel. DWS will be represented by an Assistant Attorney General. Prior to the hearing date, DWS will provide you with information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing. An administrative law judge from the Office of Administrative Hearings will be assigned to preside over the hearing, as required by ORS 183.635.

If you do not make a timely request for a hearing, the Notice of Violation and Administrative Order will become final and effective 11 days after the date this Order was mailed. If the Order becomes final in this manner, you will have the right to appeal the order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 71 days from the day

this order was mailed. If you do not file a petition for judicial review within the 71-day period, you will lose your right to appeal.

If you do not request a hearing and DWS subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

If you withdraw a request for hearing, or notify DWS or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, DWS may issue a final order by default. If the Order becomes final in this manner, you will have the right to appeal the Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day this Order was mailed. If you do not file a petition for judicial review within the 60-day period, you will lose your right to appeal.

Notice to Active Duty Servicemembers

Active-duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar at 1 (800) 452-8260 or the Oregon Military Department at 503-584-3571 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil>.

DWS has designated its complete file on the Water System as the record in this case for purposes of proving a prima facie case upon default.

If you need to receive the information in this Order in an alternate format, or if you have any questions about the requirements in this Order, please contact Brad K. Daniels at bradley.k.daniels@oha.oregon.gov or 503-735-5438.

Date 5/24/2024



Samina Panwhar, Manager
Drinking Water Services
Oregon Health Authority

Silver Valley Water Improvement District

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cc: Nicole Alfafara, Oregon Health Authority, Drinking Water Services
Daniel Hough, Oregon Health Authority, Drinking Water Services
Rebecca Thatcher, Silver Valley Water Improvement District
Kari Salis, Oregon Health Authority, Drinking Water

DATE of Service: May 24, 2024



Signature

Brad K. Daniels

Printed Name

By certified mail and first-class mail