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

In the Matter of

Wolf Creek General Store,
PWS OR4194657

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Rajesh Kumar
Wolf Creek General Store
107 Sether Avenue #108
Glendale, OR 97442

Carousel Cleaners, Inc. has at all times mentioned herein owned, and Rajesh Kumar has at all times mentioned herein operated, the Wolf Creek General Store water system (hereinafter "Water System") located at 397 Old Highway 99 South in Wolf Creek, Oregon. The Water System is a transient non-community public water system serving approximately 80 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.

Carousel Cleaners, Inc. and Rajesh Kumar (hereinafter "Water Supplier") are therefore water suppliers as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020, and as water suppliers, have 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 the groundwater well supplying the water system is contaminated with *E. coli* bacteria and that water supplier has not taken action to ensure the well is repaired to meet construction standards or replaced. 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 333-061-0032(6), in part, requires that water suppliers complete corrective action when a groundwater source is determined to have significant deficiencies or when sample results indicate the presence of *E. coli* bacteria in a groundwater source. Corrective action must be completed within 120 days or according to a schedule approved by DWS. The presence of *E. coli* bacteria was confirmed in the well supplying the Water System with a sample collected on November 4, 2021 but Water Supplier failed to complete corrective action following the confirmation of *E. coli* in the well. This constitutes a violation of OAR 333-061-0032(6).
2. OAR 333-061-0050(2)(a)(G) requires, in part, that wells be constructed in accordance with the standards for the construction and maintenance of water wells in Oregon as prescribed in OAR chapter 690, divisions 200 through 220 at public water systems. DWS completed an evaluation of the well supplying the Water System on February 24, 2022 and found that this groundwater well does not meet these construction standards. This constitutes a violation of OAR 333-061-0050(2)(a)(G).
3. OAR 333-061-0078(4) requires, in part, water suppliers to correct sanitary defects discovered during coliform investigations as soon as practical or that water suppliers comply with a timetable approved by DWS. Neil Jensen conducted a coliform investigation on December 14, 2021, and during that investigation, he identified several defects related to the construction of the groundwater well supplying the Water System. These defects could allow contaminants to enter the drinking water

supply. Water Supplier did not correct these defects by the January 31, 2022, date specified in the investigation report and, as of the date of this letter, has not notified DWS or Neil Jensen that the defects have been corrected. This constitutes a violation of OAR 333-061-0078(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 a site plan to DWS according to OAR 333-061-0060(1)(d) for a new groundwater well to supply the Water System.
 - The site plan must be submitted within 30 days of the date of service of this Order.

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 October 20, 2022 for failure to submit construction plans according to this Order, the proposed civil penalty could be as much as \$1,500.

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: Kari Salis, Manager; Oregon Health Authority, Drinking Water Services; and may be delivered by mail to PO Box 14450, Portland, OR 97293 or by email to karyl.l.salis@dhsosha.state.or.us.**

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@dhsosha.state.or.us or 503-735-5438.

Date 10/12/22



Kari Salis, PE
Interim Manager
Drinking Water Services
Oregon Health Authority

cc: Zach Golik, Oregon Health Authority, Drinking Water Services
Neil Jensen, Oregon Department of Agriculture
Sarah Schwab, Oregon Department of Agriculture
Shawn Stevenson, Oregon Health Authority, Drinking Water Services

DATE of Service: October 13, 2022



Signature

Brad K. Daniels

Printed Name

By certified mail and first-class mail