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

In the Matter of

Diamond Lake Improvement Company
Diamond Lake Gas Station Public
Water System

BILATERAL COMPLIANCE AGREEMENT

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) and Diamond Lake Improvement Company agree to the following:

1. Diamond Lake Improvement Company 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 # OR4195243, and serving the gas station located at 501 Diamond Lake Loop at Diamond Lake Resort, north of Crater Lake National Park in Douglas County, Oregon. The Water System is a transient non-community water system serving approximately 50 people and subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0272. Water Supplier owns the buildings and other infrastructure for the Water System, and leases the land upon which the system is located.

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 the springs supplying the Water System are contaminated with *E. coli* bacteria, that the springs are not constructed according to the applicable standards, and that Water Supplier has not taken sufficient action to ensure the springs are repaired to prevent the intrusion of surface water or to mitigate the presence of *E. coli*. Water with surface water pathogens or *E. coli* bacteria present that is not adequately treated represents a potential public health hazard.

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

E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. OAR 333-061-0097

4. This Bilateral Compliance Agreement (“Agreement”) is entered into between DWS and Water Supplier to address the inadequate construction of the springs supplying the Water System and contamination of the drinking water provided by the 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 MCL. 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. The Water System is supplied by five springs located to the northeast of the gas station.
3. 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 combined effluent from the springs supplying the Water System in samples collected on May 18, 2022.

4. The springs were inspected by Reggie Eggen of Douglas County Environmental Public Health on June 27, 2022 and determined not to meet the construction standards identified in OAR 333-061-0050(2)(b).
5. OAR 333-061-0050(2)(b) requires, in part, that springs be constructed of concrete or another impervious, durable material, with a screened overflow, surrounded by a fence and provided with an intercepting ditch to effectively divert surface water. The inspection on June 27, 2022 identified that the spring facilities supplying the Water System do not meet these construction standards.
6. OAR 333-061-0078(4) requires, in part, water suppliers to correct sanitary defects discovered during coliform investigations as soon as practical or in compliance with a timetable approved by DWS. Reggie Eggen of Douglas County Environmental Public Health, acting on behalf of DWS, identified a date of September 21, 2022 for correction of the defects related to construction of the Water System's springs following the coliform investigation completed on June 27, 2022.
7. Water Supplier did not correct the defects related to construction of the Water System's springs by the September 21, 2022 deadline. Water Supplier is not in compliance OAR 333-061-0032(6) or OAR 333-061-0078(4).

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 no later than May 31, 2023, identifying when it will begin reconstructing the springs supplying the Water System. The action plan shall:
 - Identify all repairs and modifications Water Supplier intends to perform to prevent intrusion of surface water into the springs supplying the Water System, and include sufficient detail to clearly identify the work to be completed such that DWS can approve the repairs or modifications;

- Include a construction schedule identifying dates for distinct repairs or modifications to be completed by Water Supplier; and
 - Include complete construction or installation plans that meet the requirements in OAR 333-061-0060 for the modification of the spring facilities at the Water System. Construction plans must be approved by DWS prior to any construction or installation taking place.
 - Modification of the spring sources must be completed according to plans created by a registered engineer and that meet all applicable construction standards in OAR 333-061-0050(2).
2. Water Supplier shall perform and complete all tasks in the action plan described in Corrective Action No. 1 no later than September 30, 2023 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 collect water samples according to OAR 333-061-0036(6)(k) and submit testing results to DWS within sixty (60) calendar days of notifying DWS that all the tasks of the action plan have been completed.

DWS RESPONSIBILITIES

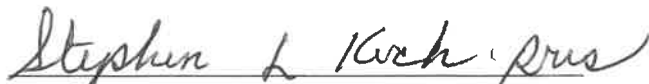
- DWS shall review and approve any corrective action plan or construction plans submitted by Water Supplier within thirty (30) days of receipt. DWS shall approve or require changes to the submitted plans immediately upon completing the review.

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.

Date 12/21/22



Stephen Koch

President

Diamond Lake Improvement Company

Date January 3, 2023



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

cc: Shawn Priddle, Douglas County Environmental Public Health
Shawn Stevenson, Oregon Health Authority, Drinking Water Services
Rebecca Templin, Oregon Health Authority, Drinking Water Services