

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

In the Matter of

Nancy Shaw
Locust Mobile Village,
PWSOR4100524

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Nancy Shaw

You have at all times mentioned herein owned and operated and continue to own and operate the Locust Mobile Village public water system at 1501 N Elizabeth Street in Milton Freewater, Oregon. Locust Mobile Village is a community water system serving approximately 60 people and is subject to regulation according to Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules 333-061-0005 to 333-061-0272.

You are therefore 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, you 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 (Authority) has investigated the operation of the Locust Mobile Village water system.

The Authority found, during its investigation, that the Locust Mobile Village water system obtains its water from a groundwater well determined to be contaminated by *E. coli* bacteria. The Authority made this determination due to water samples collected on January 10, 2011 that confirmed the presence of *E. coli* bacteria in the well. The Authority approved the installation of disinfection treatment at the Locust Mobile Village water system to protect water users against the risk posed by the presence of *E. coli* bacteria in drinking water from the well, however you did not ensure the disinfection treatment was maintained or operated properly. This constitutes a potential public health hazard and resulted in the maximum contaminant level (MCL) for *E. coli* being exceeded.

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

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333-061-0025 requires you to take all reasonable actions to assure that the water delivered to water users does not exceed maximum contaminant levels, that water system facilities are free of public health hazards and that water system operation and maintenance are performed as required by these rules. The failure to maintain an Authority-determined disinfectant residual, use an approved method to measure the chlorine residual and to ensure the facility for disinfection treatment was properly designed and constructed at the Locust Mobile Village water system demonstrates that you not have taken all the reasonable actions to ensure that water system facilities are free of public health hazards and that the MCL for *E. coli* was exceeded. This constitutes a violation of OAR 333-061-0025.
- Violation No. 2: OAR 333-061-0030, in part, states the maximum contaminant level for *E. coli* is exceeded if all the required repeat samples are not collected following an *E. coli*-positive routine sample. You did not report repeat samples following an *E. coli* positive routine sample collected on May 10, 2016 at the Locust Mobile Village water system, which exceeds the MCL for *E. coli* and constitutes a violation of OAR 333-061-0030(4).

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 special health risk for infants, young children, the elderly, and people with severely compromised immune systems (OAR 333-061-0097).

- Violation No. 3: OAR 333–061-0032(7)(b) requires that you maintain an Authority-determined residual disinfectant concentration every day water is served to the public from a groundwater source where 4-log treatment of viruses is provided. You must also monitor and record the residual disinfectant concentration using approved analytical methods each day water is served. You did not ensure the Authority determined residual disinfectant concentration was maintained at the Locust Mobile Village water system nor did you measure the disinfectant residual every day as required, which constitutes a violation of OAR 333–061-0032(7).
- Violation No. 4: OAR 333–061-0036(1) requires that measurements for disinfectant residual be made using an approved analytical method, however equipment approved for measuring the chlorine residual in drinking water was not available during an investigation on May 12, 2016 at the Locust Mobile Village water system, which constitutes a violation of OAR 333–061-0036(1).
- Violation No. 5: OAR 333-061-0225 requires that you employ, contract with, or otherwise utilize a certified operator to be in direct responsible charge of the Locust Mobile Village water system, however you have not designated to the Authority an operator to be in direct responsible charge of the Locust Mobile Village water system, which constitutes a violation of OAR 333-061-0225.
- Violation No. 6: OAR 333–061-0050(5)(i) requires that all facilities for disinfection treatment be designed and constructed to ensure the disinfectant is applied in proportion to water flow through the treatment facility. The Authority determined during an investigation on May 12, 2016 at the Locust Mobile Village water system that disinfectant is not applied in proportion to water flow during all operating conditions, which constitutes a violation of OAR 333–061-0050(5)(i).
- Violation No. 7: OAR 333–061-0065(1)(b) requires leaks and broken or malfunctioning equipment to be promptly repaired at public water systems. The Authority determined during an investigation on May 12, 2016 that the water storage facility used to ensure effective disinfection at the Locust Mobile Village water system is leaking, which constitutes a violation of OAR 333–061-0065(1)(b).

- Violation No. 8: OAR 333-061-0043 requires you to deliver an annual water quality report to the water users at the Locust Mobile Village water system and to submit a copy of the report to the Authority at the same time. You must also certify that the report was delivered to water users but a copy of the report or delivery certification was not submitted to the Authority for the 2011, 2012 and 2014 calendar years, which constitutes three violations of OAR 333-061-0043.

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

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

- Compliance Action No. 1: You must ensure the Authority-determined residual disinfectant concentration is met every day at the Locust Mobile Village water system and complete each of the following actions to demonstrate compliance.
 - You must measure and record the disinfectant concentration at the entry point to the Locust Mobile Village water system every day drinking water is served according to OAR 333-061-0032(7)(b)(A)(ii).
 - You must measure and record the disinfectant concentration in the Locust Mobile Village distribution system at least twice every week according to OAR 333-061-0036(9).
 - All disinfectant concentration measurements must be conducted using an approved analytical method and the appropriate equipment according to OAR 333-061-0036(1).
 - You must report disinfectant concentration measurements to the Authority once every week for one month beginning on June 13, 2016. After the completion of four consecutive weeks of disinfectant concentration reporting, you must report disinfectant concentration measurements once every month according to OAR 333-061-0040(1)(f)(D).
- Compliance Action No. 2: You must designate a water system operator to be in direct responsible charge of the Locust Mobile Village water system according to OAR 333-061-0225. The name of the operator must be reported to the Authority no later than June 30, 2016.

- Compliance Action No. 3: You must ensure the construction and configuration of disinfectant treatment at the Locust Mobile Village water system only allows for the disinfectant to be applied in proportion to water flow according to OAR 333-061-0050(5)(i) and OAR 333-061-0065(6)(b)(A).
 - You must allow an inspection to verify the necessary changes or repairs have been made to ensure appropriate construction and configuration of disinfectant treatment no later than July 31, 2016.
- Compliance Action No. 4: You must ensure the water storage facility used as a disinfectant contact chamber at the Locust Mobile Village water system is repaired or replaced to prevent any leaks no later than July 31, 2016.

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 administrative rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve you 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 the Authority 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 the Authority issues a Notice of Intent to Impose Civil Penalty.

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 the Authority within 10 days from the date this Order was mailed. **The**

request for hearing must be sent to: David E. Leland, Manager; Oregon Health Authority, Drinking Water Services; PO Box 14450; Portland, OR 97293.

If you request a hearing, you will be notified of the time and place of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing.

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 time period, you will lose your right to appeal.

If you do not request a hearing and the Authority 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 the Authority or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Authority 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 time period, you will lose your right to appeal.

Notice to Active Duty Service members. 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 1 (800) 452-7500 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil/content/locator.php>.

The Authority has designated the Authority's complete file on the Locust Mobile Village 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 letter in an alternate format, or if you have any questions about the requirements in this Order, please contact Brad K. Daniels at 971-673-0405.

Dated this 6th day of JUNE, 2016.



Jere High, ND
Administrator, Center for Health Protection
Oregon Health Authority, Public Health Division

cc: Bill Goss, Oregon Health Authority, Drinking Water Services

DATE of Service: June 7, 2016



Brad K. Daniels

By certified mail and first class mail to:

Nancy Shaw
PO Box 504
Milton Freewater, OR 97862-0504