



# Oregon

Theodore R. Kulongoski, Governor

**Department of Human Services**

**Public Health Division**

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BEFORE THE STATE OF OREGON  
DEPARTMENT OF HUMAN SERVICES  
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Dikeside Moorage, PWS OR4101411

BILATERAL COMPLIANCE  
AGREEMENT

Dikeside Moorage is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(194).

Dikeside Moorage, as a water supplier, has specific responsibilities that are specified in OAR 333-061-0025.

Dikeside Moorage has at all times mentioned herein operated and continues to operate a community public water system, and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0295.

Pursuant to its authority under ORS 448.150, the Oregon Department of Human Services, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Agency) has conducted a review of the operation of the water system operated by Dikeside Moorage.

This agreement is entered into between the Agency and Dikeside Moorage for the purpose of acknowledging that sample results for water provided by Dikeside Moorage exceed the maximum contaminant level (MCL) for arsenic as specified in OAR 333-061-0030(1). The purpose of this agreement is also to establish a commitment to reduce the arsenic concentration in drinking water provided by Dikeside Moorage so that it is in compliance with the MCL for arsenic.

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### FINDINGS OF FACT

- In 2006 the MCL for arsenic was reduced from 0.050 to 0.010 mg/L. Arsenic sampling results for Dikeside Moorage from the year 2001 and 2004 averaged 0.0135 mg/L, which was below the MCL at the time, but above the new MCL adopted in 2006. Some of the arsenic samples collected by Dikeside Moorage since the year 2006 have met the new MCL of 0.010 mg/L, but the average arsenic concentration currently remains at 0.011 mg/L.
- Arsenic sampling results for Dikeside Moorage, since 2006, have remained consistent, and the system has conducted quarterly sampling for arsenic while investigating corrective action during 2009.

### AGREEMENT

Upon completion of the activities described below, if taken within the time specified in this Agreement, Dikeside Moorage will be considered to be in compliance with the MCL for arsenic, and will have fully satisfied the terms of this agreement.

- Agreement Activity No. 1: Dikeside Moorage will continue to collect arsenic samples every calendar quarter, and report the sample results within 10 days of the end of the monitoring period.
- Agreement Activity No. 2: Dikeside Moorage will submit plans that clearly indicate which of the following three options will be selected to meet the MCL for arsenic. The construction plans will be submitted no later than September 30, 2010. These three options are:
  - Option No. 1: Install an approved treatment system that meets the construction standards listed in OAR 333-061-0050(4), or modify the existing treatment system for iron removal to achieve compliance with the MCL for arsenic;
  - Option No. 2: Develop a new water source that meets all applicable requirements in OAR 333-061-0050; or
  - Option No. 3: Connect to, and receive water from, another public water system to replace the existing water source for Dikeside Moorage, or to blend with water from Dikeside Moorage's existing source water well.

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- Agreement Activity No. 3: Dikeside Moorage will complete construction of the project approved pursuant to Agreement Activity No. 2 within nine months of the date of the plan review conditional approval letter issued by the Agency.
- Agreement Activity No. 4: Dikeside Moorage will submit sample results demonstrating that the arsenic concentration in water provided by the system is below the MCL within twelve months of the date of the plan review conditional approval letter issued by the Agency.
- Agreement Activity No. 5: Dikeside Moorage, per OAR 333-061-0042(2)(b), will continue to issue a public notice every calendar quarter for exceeding the MCL for arsenic 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 333-061-025 and OAR 333-061-0042(3)(b)(C)).
  - Please submit the quarterly public notice to: DHS – Drinking Water Program, PO Box 14350, Portland, OR 97293-0350.

If, for reasons beyond the control of Dikeside Moorage, the deadlines listed above cannot be met, those deadlines may be extended by a reasonable amount of time. Dikeside Moorage must submit a request for an extension to the Agency, with an explanation for why the deadline cannot be met, and proposing a new deadline. The Agency shall review the request for extension, and if appropriate, adjust the deadlines as necessary.

### 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 448.285 and administrative rules OAR 333-061-0050 to 333-061-0295, which remain in full force and effect.

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

Signing of this Agreement is not an election by the Agency to forgo any civil actions authorized under the Oregon Drinking Water Quality Act.

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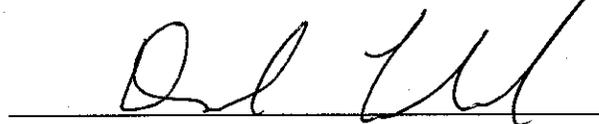
The Agency has determined that additional enforcement action is not warranted at this time, and so long as Dikeside Moorage meets all of the requirements and deadlines specified in this Agreement, the Agency will forgo additional enforcement action which could include the assessment of civil penalties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

Dated this 26 day of APRIL, 2010.



Kent Moulton  
Board President  
Dikeside Moorage

Dated this 11 day of MAY, 2010.



David Leland  
Program Manager  
Oregon Department of Human Services, Drinking Water Program

cc: Mark Edington, Columbia County Environmental Health  
Evan Hofeld, DHS-DWP