



Oregon

Theodore R. Kulongoski, Governor

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

1-27-09

In the Matter of

Santiam Meadows Community Water
System, PWS OR4105392

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Janis Guenther
Santiam Meadows Community Water System
6327 78th Ave SE
Salem, OR 97317

Santiam Meadows Community Water System is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(175).

Santiam Meadows Community Water System, as a water supplier, has specific responsibilities that are specified in OAR 333-061-0025.

Santiam Meadows Community Water System has at all times mentioned herein operated, and continues to operate, a community public water system, which serves between 25 and 100 people, and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0295.

"Assisting People to Become Independent, Healthy and Safe"
An Equal Opportunity Employer



Pursuant to its authority under ORS 448.150, the Oregon Department of Human Services, Office of Environmental Public Health, Drinking Water Program (Agency) has conducted an investigation into the operation of the water system operated by Santiam Meadows Community Water System.

The Agency found, during its investigation, that Santiam Meadows Community Water System violated the microbiological maximum contaminant level (MCL) for total coliform bacteria. Also, Santiam Meadows Community Water System did not consistently report sample results for microbiological contaminants, inorganic chemicals, lead and copper, nitrate, nitrite, synthetic organic chemicals and volatile organic chemicals. Santiam Meadows Community Water System 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 Santiam Meadows Community Water System for specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.285) and rules found during the Agency's investigation.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: Santiam Meadows Community Water System is required to conduct monthly sampling to determine the presence or absence of microbiological contaminants in its water system. In each of the following monitoring periods, two or more sample results for the system were positive for total coliform bacteria:
 - February 2008
 - April 2008
 - May 2008
 - November 2008
- This constitutes four violations of the microbiological MCL for total coliform (OAR 333-061-0030(4)).
- Furthermore, one or more samples collected in both April and November 2008 indicated the presence of fecal coliforms or *E. coli*. This is defined by OAR 333-061-0042(2)(a) as a situation with significant potential to have serious adverse health effects on human health as a result of short term exposure.

The adverse health effects language for a violation of the microbiological (total coliform) MCL from OAR 333-061-0097 when fecal coliforms or *E. coli* are present is: "Fecal coliforms and *E. Coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes 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, some of the elderly, and people with severely compromised immune systems."

- Violation No. 2: Santiam Meadows Community Water System failed to report sample results for the presence or absence of microbiological contaminants in its water system in each of the following sampling periods:
 - December 2007
 - January 2008
 - March 2008
 - July 2008
 - August 2008
 - September 2008
 - October 2008

This constitutes seven violations of OAR 333-061-0036(5)(b).

- Violation No. 3: Santiam Meadows Community Water System is required by OAR 333-061-0036(5)(i) to collect five routine samples during the month following a total coliform-positive sample result. Santiam Meadows Community Water System failed to report the required number of routine samples for the following monthly monitoring periods:
 - June 2008
 - December 2008

This constitutes two violations of OAR 333-061-0036(5)(i).

- Violation No. 4: Santiam Meadows Community Water System is required to conduct sampling of its water system for inorganic chemicals, including arsenic, at the entry points for both Well #1 and Well #2, but failed to report any inorganic chemical sample results for the 2005 to 2007 sampling period.

This constitutes two violations of OAR 333-061-0036(2)(a).

- Violation No. 5: Santiam Meadows Community Water System is required to conduct sampling of its water system for lead and copper, but failed to report any lead and copper sample results for the following six-month sampling periods:
 - July to December 2007
 - January to June 2008
 - July to December 2008

This constitutes three violations of OAR 333-061-0036(2)(d).

- Violation No. 6: Santiam Meadows Community Water System is required to conduct annual sampling of its water system for nitrate at the entry points for both Well #1 and Well #2, but failed to report any nitrate sample results for the 2007 and 2008 annual sampling periods.

This constitutes four violations of OAR 333-061-0036(2)(e).

- Violation No. 7: Santiam Meadows Community Water System is required to conduct sampling of its water system for nitrite at the entry points for both Well #1 and Well #2, but failed to report any nitrite sample results for the 2005 to 2007 sampling period.

This constitutes two violations of OAR 333-061-0036(2)(f).

- Violation No. 8: Santiam Meadows Community Water System is required to conduct quarterly sampling of its water system for synthetic organic chemicals at the entry points for both Well #1 and Well #2, but failed to report any synthetic organic chemical sample results for the following quarterly sampling periods:
 - Fourth Quarter 2007
 - First Quarter 2008
 - Second Quarter 2008
 - Third Quarter 2008
 - Fourth Quarter 2008

This constitutes ten violations of OAR 333-061-0036(3)(a).

- Violation No. 9: Santiam Meadows Community Water System is required to conduct quarterly sampling of its water system for volatile organic chemicals at the entry points for both Well #1 and Well #2, but failed to report any volatile organic chemical sample results for the following quarterly sampling periods:
 - Fourth Quarter 2007
 - First Quarter 2008
 - Second Quarter 2008
 - Third Quarter 2008
 - Fourth Quarter 2008

This constitutes ten violations of OAR 333-061-0036(3)(c).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Santiam Meadows Community Water System is 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) allegedly violated (ORS 448.255(3)).

- Compliance Action No. 1: Due to the presence of coliform bacteria in samples collected at the source water well for Santiam Meadows Community Water System, the water system must comply with the MCL for microbiological contaminants using one of the following options:
 - Option No. 1: Rehabilitate the existing source water wells so that they meet all applicable requirements specified in OAR 333-061-0050.
 - Option No. 2: Develop a new water source that meets all applicable requirements specified in OAR 333-061-0050.
 - Option No. 3: Connect to, and receive water from, another public water system.

Santiam Meadows Community Water System must comply with the following requirements for plan review and construction. All plans for additions and/or alterations to the system must be approved in advance, before installation, by the Agency (OAR 333-061-0060(1)(a)).

- Plans shall have sufficient detail to completely and clearly illustrate what will be constructed and how the water system will meet construction standards (OAR 333-0061-0060(1)).

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- Construction plans must be submitted no later than May 31, 2009.
- Construction must be completed no later than August 31, 2009.
- Santiam Meadows Community Water System shall demonstrate that all system users receive drinking water that consistently meets all applicable state and federal drinking water laws and rules no later than September 30, 2009.

Please submit any plans and the plan review fee to: Marsha Fox, DHS – Drinking Water Program, PO Box 14450, Portland, OR 97293-0450. Contact the Agency for the plan review fee amount, and make the check out to DHS Health Services.

- Compliance Action No. 2: Santiam Meadows Community Water System is required to immediately sample for nitrate at the entry points for both Well #1 and Well #2 in accordance with OAR 333-061-0036(2)(e). These sample results must be submitted to the Agency no later than March 10, 2009.
- Compliance Action No. 3: Santiam Meadows Community Water System is required to sample for Lead and Copper in accordance with OAR 333-061-0036(2)(d) and the following sampling schedule:
 - The first round of sample results must be submitted to the Agency no later than July 10, 2009.
 - The second round of sample results must be submitted to the Agency no later than October 10, 2009.
- Compliance Action No. 4: Santiam Meadows Community Water System is required to sample for inorganic chemicals in accordance with OAR 333-061-0036(2)(a) and submit sample results to the Agency no later than June 10, 2009.

The Agency is authorized pursuant to ORS 480.280, 448.285, 448.290, and OAR 333-061-0090 to impose civil penalties. Should Santiam Meadows Community Water System fail to meet any of the deadlines specified in Compliance Action No. 1 through Compliance Action No. 4, beginning the day after the compliance deadline the Agency may impose civil penalties in the amount of \$50 per violation per day.

- Compliance Action No. 5: Santiam Meadows Community Water System is required to sample for synthetic and volatile organic chemicals in accordance with OAR 333-061-0036(3)(a) and OAR 333-061-0036(3)(c), and according to the following sampling schedule.
 - The first round of samples must be collected in the third calendar quarter of 2009, and the results submitted to the Agency no later than October 10, 2009.
 - The second round of samples must be collected in the fourth calendar quarter of 2009, and the results submitted to the Agency no later than January 10, 2010.
 - The third round of samples must be collected in the first calendar quarter of 2010, and the results submitted to the Agency no later than April 10, 2010.
 - The fourth round of samples must be collected in the second calendar quarter of 2010, and the results submitted to the Agency no later than June 10, 2010.
- Compliance Action No. 6: Santiam Meadows Community Water System, as prescribed by OAR 333-061-0042(2)(b), must issue public notice for exceeding the microbiological MCL for total coliform, and failure to sample for coliform bacteria, inorganic chemicals, lead and copper, nitrate, nitrite, synthetic organic chemicals, and volatile organic chemicals. Santiam Meadows Community Water System must issue the public notice quarterly, 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)). A copy must be submitted to the Agency no later than 10 days after completing the public notification in accordance with OAR 333-061-0040(1)(i). The notice must be delivered by mail or direct delivery to each customer to which water is delivered by the public water system. The notice must also be posted in a conspicuous location within the area served by the water system.

Submit the public notice to: DHS – Drinking Water Program, PO Box 14350, Portland, OR 97293-0350. Please submit a copy of the public notice to Greg DeBlase, Marion County Health Department, 3180 Center Street NE #2274, Salem, OR 97303-6621.

INTERIM OPERATING REQUIREMENTS

- Santiam Meadows Community Water System must maintain a detectable disinfection residual throughout its complete distribution system. The disinfectant must be applied downstream of a raw water sample tap. The disinfection treatment system must be installed and working no later than February 28, 2009, and must be inspected by Greg DeBlase of the Marion County Health Department to verify that it is working properly. Santiam Meadows Community Water System must measure and record the residual disinfectant level daily, and report the results of this sampling monthly to: DHS – Drinking Water Program, PO Box 14350, Portland, OR 97293-0350.

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 448.285 and administrative rules OAR 333-061-0005 to 333-061-0295, which remain in full force and effect.

This Order does not relieve the Santiam Meadows Community Water System 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 Agency to forgo any civil actions authorized under the Oregon Drinking Water Quality Act.

Failure to comply with all requirements in this Order by the specified due dates may result in additional enforcement action, which may include assessment of civil penalties in the amount of \$50 per day per violation (OAR 333-061-0090).

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 Agency within 10 days from the date this notice was mailed. 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. The request for hearing must be sent to: David E. Leland, Manager; DHS - Drinking Water Program; PO Box 14450; Portland, OR 97293.

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

The Agency has designated the Agency's complete file on Santiam Meadows Community Water System as the record in this case for purposes of proving a prima facie case upon default.


If you need to receive this Order in an alternate format, or if you have any questions about the requirements of this Order, please contact Brad Daniels, DHS-DWP at (971) 673-0407.

Dated this 27th day of January, 2009.


Gail R. Shibley, Administrator
Office of Environmental Public Health

cc: Gregg Baird, DHS-DWP
Greg DeBlase, Marion County Health Department
Chris Hughes, DHS-DWP
Edgar Luther, Santiam Meadows Community Water System
Harold Rogers, USEPA

DATE of Service: January 28, 2009


Brad K Daniels

By certified mail