



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services
Public Health Division
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(971)673-0694 - FAX
(971) 673-0372 - TTY-Nonvoice

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

In the Matter of

Weiss Estates Water System, PWS
OR4105581

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Corinne Clifton, President
Weiss Estates Water System
57259 Dodger Rd.
Bandon, OR 97411

To: Bobbie Bolden, Secretary
Weiss Estates Water System
88567 Weiss Estates Ln.
Bandon, OR 97411

Weiss Estates Water System (Weiss Estates) is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(211).

Weiss Estates, as a water supplier, has specific responsibilities that are identified in OAR 333-061-0025.

Weiss Estates has at all times mentioned herein operated and continues to operate a community public water system, which serves between 10 and 100 people, and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0290.

"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, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Agency) has investigated the operation of the water system owned by Weiss Estates.

The Agency found, during its investigation, that Weiss Estates is not utilizing cartridge filters that are approved for use at public water systems as the sole source of surface water filtration. Weiss Estates has also failed to comply with the requirement to utilize a certified operator to be in direct responsible charge of the water system. Weiss Estates 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 Weiss Estates 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: OAR 333-061-0050(4)(c)(B) requires water systems utilizing a surface water source and providing filtration to demonstrate the effectiveness of their filtration method. Weiss Estates is utilizing cartridge filters that have not been approved for use at public water systems within Oregon and for which filtration effectiveness has not been verified which constitutes a violation of the rule.
- Violation No. 2: OAR 333-061-0225(1) requires that community water systems employ or contract with a certified operator to supervise and to be in direct responsible charge of the water system, and OAR 333-061-0225(2) requires that the certified operator in direct responsible charge of a water system be certified at a level commensurate to the size of complexity of the water system for which they are responsible. Weiss Estates has not designated an operator to be in direct responsible charge of the water system who is certified at a level equal to the classification of the water system, which constitutes a violation of these rules.

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Weiss Estates 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: Weiss Estates must install and operate filtration technology that meets the requirements of OAR 333-061-0050(4)(c) no later than April 30, 2011.
 - Plans and specifications for the filtration technology must be approved by the Agency prior to construction (OAR 333-061-0060(1)(a)).
- Compliance Action No. 2: Weiss Estates must designate a certified operator to be in direct responsible charge of the water system, in accordance with OAR 333-061-0225, no later than April 30, 2011.

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 333-061-0290, which remain in full force and effect.

This Order does not relieve Weiss Estates 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 any of the requirements in this Order by the specified due dates 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 Agency issues a Notice of Intent to Impose Civil Penalty.

NOTICE OF RIGHT TO REQUEST A HEARING

You are entitled to a hearing as provided by the Administrative Procedure Act (chapter 183, Oregon Revised Statutes). 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.

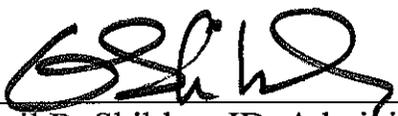
If you do not make a timely request for a hearing, the Order will become final and effective 11 days after the date this Order was mailed. If the Order becomes final in this manner, you will have the right to appeal the Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must 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 Weiss Estates 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 Daniels at 971-673-0407.

Dated this 13th day of December, 2010.



Gail R. Shibley, JD, Administrator
Office of Environmental Public Health

Weiss Estates Water System

Page 5

cc:

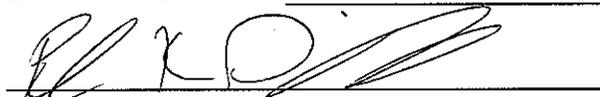
Karen Kelley, DHS-DWP

Jay MacPherson, DHS-DWP

Shannon O'Fallon, Oregon Department of Justice

Harold Rogers, USEPA

DATE of Service: December 14, 2010

A handwritten signature in black ink, appearing to read 'BK Daniels', is written over a horizontal line.

Brad K. Daniels

By certified mail and first class mail

