

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

In the Matter of

Breitenbush Hot Springs Retreat and  
Conference Center, PWS# OR4193461

BILATERAL COMPLIANCE AGREEMENT

Breitenbush Hot Springs Retreat and Conference Center (BHS) is 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, has specific responsibilities that are identified in OAR 333-061-0025.

BHS has at all times mentioned herein owned and operated, and continues to own and operate, the Breitenbush Hot Springs public water system located at 53000 Breitenbush Rd., Detroit, Oregon. Breitenbush Hot Springs is a community public water system serving between 101 and 300 people and subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0290.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) has reviewed the operation of the Breitenbush Hot Springs water system.

This agreement is entered into between DWS and BHS, for the purpose of acknowledging that the filtration treatment currently installed at the Breitenbush Hot Springs water system does not meet the current requirements for filtration of surface water. Specifically, the cartridge filters currently installed do not meet DWS requirements for use at public water systems. The further purpose of this agreement is to establish a commitment by BHS to install and operate approved filtration treatment at the Breitenbush Hot Springs water system.

## FINDINGS OF FACT

- OAR 333-061-0032(1)(a)(C) requires at least 99 percent (2-log) removal of *Cryptosporidium*, and OAR 333-061-0050(4)(c)(B) requires that bag, cartridge, and membrane filtration demonstrate removal through a challenge study. The Breitenbush Hot Springs water system is not in compliance with OAR 333-061-0032(1)(a)(C) because it is not using filters where a challenge study demonstrated achievement of at least 2-log removal of *Cryptosporidium*.
- Gregg Baird of DWS completed a sanitary survey at the Breitenbush Hot Springs water system on June 17, 2009. This survey identified, in part, that the existing filtration system does not meet DWS requirements for filtration treatment.
- BHS was required to respond to the survey, in writing, by September 15, 2009, but BHS did not respond until January 20, 2010 when it submitted a corrective action plan (CAP). DWS approved the CAP with a deadline to install adequate filtration by December 31, 2010.
- BHS submitted construction plans to DWS on December 14, 2010 for new filtration treatment, but the plans were designed for the water system as originally constructed in 1928.
- BHS subsequently received permits in June 2011 to proceed with construction to replace and modernize much of the Breitenbush Hot Springs water system, including a new water storage facility, distribution piping, and filtration building. The modernization has rendered the filtration system, for which plans were submitted in 2010, inadequate for the current Breitenbush Hot Springs water system.
- BHS is currently selecting and designing a new filtration system to complete the water system upgrades.
- As of October 1, 2012, the filtration treatment project has not been completed and DWS has not been provided with a projected date for completion of the project.

## AGREEMENT

Upon completion of the activities described below, by the deadlines specified herein, BHS will have satisfied the terms of this agreement and will be considered to be in compliance with the rule(s) mentioned hereto.

Agreement Activity No. 1: BHS will submit complete construction plans to DWS identifying the filtration treatment to be installed at the Breitenbush Hot Springs water system no later than March 31, 2014.

- The construction plans will meet all the applicable requirements of OAR 333-061-0060 and have sufficient detail to completely and clearly illustrate what will be constructed.

Agreement Activity No. 2: BHS will complete construction and installation of filtration treatment at the Breitenbush Hot Springs water system within six months of conditional approval being granted by DWS.

- Construction will be completed in accordance with the plans approved by DWS and submitted as specified in Agreement Activity No. 1.
- Construction of filtration treatment, including any other necessary improvements, will proceed in accordance with the construction standards specified in OAR 333-061-0050.

Agreement Activity No. 3: BHS will submit to DWS a statement by a professional engineer registered in Oregon certifying that the project has been constructed in accordance with the approved plans and specifications as required by OAR 333-061-0060(2)(b) within ten (10) days of completing construction.

Agreement Activity No. 4: BHS will allow for an inspection of the filtration treatment at the Breitenbush Hot Springs water system within thirty (30) days of completing construction.

Agreement Activity No. 5: BHS will publish public notice for failing to meet minimum surface water treatment requirements. The notice will meet all of the applicable requirements of OAR 333-061-0042(4) and be distributed so that every person served by the Breitenbush Hot Springs water system receives the notice. The notice will be reissued every three months, 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 of the notice and certification of the method of distribution must be submitted to DWS no later than 10 days after completing the public notification per OAR 333-061-0040(1)(j).

- Submit copies of the public notice to: Brad Daniels, OHA Drinking Water Services, PO Box 14450, Portland, OR 97293-0450.

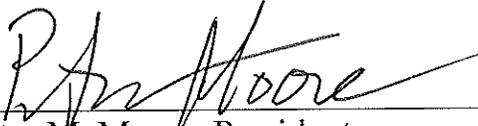
#### GENERAL PROVISIONS

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 333-061-0005 to 333-061-0290, which remain in full force and effect.

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

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

Dated this 26<sup>th</sup> day of JANUARY, 2013.



Peter M. Moore, President  
Breitenbush Hot Springs Retreat and Conference Center

Dated this 29 day of January, 2013.



Dave Leland, PE  
Section Manager  
Oregon Health Authority, Drinking Water Services

cc: Gregg Baird, OHA-DWP  
Gwen Healy, BHS