

BEFORE THE STATE OF OREGON
OREGON HEALTH AUTHORITY
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Glenna & Daniel Thorsland/Sleepy
Hollow RV Park, PWS OR4194283

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Glenna & Daniel Thorsland, Owners
Sleepy Hollow RV Park
19316 Hwy 42
Myrtle Point, OR 97458

You are 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.

You have at all times mentioned herein owned and operated, and continue to own and operate, the transient non-community public water system at Sleepy Hollow RV Park (Sleepy Hollow). Sleepy Hollow is located at 19316 Hwy. 42 in Myrtle Point, Oregon, serves between 25 and 100 people, and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0290.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Program) has investigated the operation of the Sleepy Hollow water system.

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

The Program found that filtered water turbidity exceeds the maximum contaminant level (MCL) at the Sleepy Hollow water system. You are therefore unable to assure 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.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333-061-0025 requires water suppliers to take all reasonable precautions to assure that the water delivered to water users does not exceed maximum contaminant levels. Turbidity measurements recorded at the Sleepy Hollow water system indicate that filtered water turbidity has exceeded the MCL as specified in both OAR 333-061-0030(3)(b)(A)(i) and (ii). Specifically, filtered water turbidity at the Sleepy Hollow water system exceeded the MCL as specified in OAR 333-061-0030(3)(b)(A)(i) from March 2010 through November 2010 and from April through June 2011. Also, filtered water turbidity at the Sleepy Hollow water system exceeded the MCL as specified in OAR 333-061-0030(3)(b)(A)(ii) from March 2010 through May 2010 and in April and May 2011.

Water where turbidity exceeds the MCL has the potential to have serious adverse effects on human health (OAR 333-061-0042(2)(b)). Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches (OAR 333-061-0097(4)(d)).

You were officially notified in a letter dated November 23, 2010 that you needed to take corrective action due to the exceedance of the MCL for turbidity. The letter also required you to demonstrate that turbidity levels did not exceed the MCL as specified in OAR 333-061-0030(3)(b)(A)(i) or (ii) no later than April 30, 2011. However, turbidity measurements at the Sleepy Hollow water system continue to exceed the MCL, and there is no evidence that you have taken any substantive action, or all the reasonable precautions to ensure that water does not exceed the MCL for turbidity. This constitutes a violation of OAR 333-061-0025.

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) allegedly violated (ORS 448.255(3)).

- Compliance Action No. 1: You must submit an action plan to the Program no later than August 31, 2011. The action plan must include the following elements:
 - Identification of the changes or improvements that will be made to the treatment processes and equipment at the Sleepy Hollow water system;
 - How the changes or improvements to the treatment processes and equipment at the Sleepy Hollow water system will reduce filtered water turbidity to below the MCL as specified in OAR 333-061-0030(3)(b)(A)(i) and (ii); and
 - When the changes or improvements to the treatment processes and equipment at the Sleepy Hollow water system will be completed.
- Compliance Action No. 2: You must complete construction or installation of any infrastructure and equipment related to changes or improvements at the Sleepy Hollow water system no later than December 31, 2011. All physical or infrastructure changes are subject to inspection by Program staff to verify that the water system meets the applicable construction standards specified in OAR 333-061-0050.
 - You must submit construction and installation plans to the Program for any additions or alterations to the Sleepy Hollow water system, and the plans must be approved by the Program, prior to beginning construction (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)).

- Compliance Action No. 3: You must demonstrate that filtered water turbidity at the Sleepy Hollow water system is below the MCL as specified in OAR 333-061-0030(3)(b)(A)(i) and (ii) every month for six consecutive months.
 - Demonstrating compliance with the MCL for filtered water turbidity must be completed no later than September 10, 2012,
 - All turbidity reporting must be conducted as prescribed by OAR 333-061-0040(1)(e).

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 333-061-0290, 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 Program 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 Program 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 Program within 10 days from the date this Order was mailed. The request for hearing must be sent to: David E. Leland, Manager; OHA - Drinking Water Program; 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, or if you withdraw a request for hearing, notify the Program or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Program may issue a final order by default. If the Program issues a final order by default, the Program designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purposes of proving a prima facie case upon 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 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 Program subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

The Program has designated the Program's complete file on the Sleepy Hollow 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 Daniels at 971-673-0405.

Dated this 3d day of August, 2011.



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

cc: Roy Bright, Sleepy Hollow R.V., LLC
Rick Hallmark, Coos County Environmental Health
Eric & Tammy Hinman, Sleepy Hollow R.V., LLC
Jay MacPherson, OHA-DWP

DATE of Service: August 3, 2011


Brad K. Daniels

By certified mail and first class mail