

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

In the Matter of

Mary Ann Seger/Sweetbrier RV and  
Train Park, LLC, PWS OR4194988

Respondent

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

To: Mary Ann Seger  
Sweetbrier RV and Train Park, LLC  
3435 NE Cadet Ave.  
Portland, OR 97220

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, 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 Sweetbrier RV and Train Park, LLC (Sweetbrier Park) water system at 43431 Highway 226 in Scio, Oregon, which is a transient non-community public water system serving between 25 and 100 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, Office of Environmental Public Health, Drinking Water Program (Program) has investigated the operation of the Sweetbrier Park water system.

The Program found, during its investigation, that the groundwater well serving as the primary water source for the Sweetbrier Park water system has a history of microbiological contamination including the presence of *E. coli* bacteria. However, the disinfection treatment applied to water at the Sweetbrier Park water system is not sufficient to effectively ensure the inactivation of *E. coli* or other pathogens due to inadequate contact time at the first user. Sweetbrier Park 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 Sweetbrier Park for specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during the Program's investigation.

#### DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333-061-0025 requires water suppliers to take all reasonable precautions to ensure that water system facilities are free of public health hazards. Water samples collected on August 24, 2010 indicate the presence of *E. coli* in the primary source water well, identified as Well #3 with well tag L52346, serving the Sweetbrier Park water system. You were provided information in a letter dated September 16, 2010 which identified some methods by which the disinfection treatment utilized at the Sweetbrier Park water system could be improved. However you have failed to demonstrate since September 16, 2010 that the disinfection treatment system at the Sweetbrier Park water system has been improved to effectively eliminate *E. coli*, or that you have taken all reasonable precautions to prevent water users from being exposed to *E. coli* at the Sweetbrier Park water system. This constitutes a violation of OAR 333-061-0025.

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 (OAR 333-061-0097).

- Violation No. 2: OAR 333-061-0032(6)(h) requires corrective action at groundwater systems within 120 days of receiving notification of an *E. coli*-positive source water sample. An *E. coli* positive source water sample was collected at the Sweetbrier Park water system on August 24, 2010, and on September 10, 2010 you acknowledged that well #3 at the Sweetbrier Park water system is contaminated with *E. coli* bacteria. You did not complete corrective action as required by the rule, and are not currently in compliance with an approved corrective action plan. This constitutes a violation of OAR 333-061-0032(6)(h).

### 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) violated (ORS 448.255(3)).

- Compliance Action No. 1: Well #3 has been determined to meet the construction standards specified in OAR 333-061-0050 but is contaminated with *E. coli*, and therefore you must either:

Install disinfection treatment that achieves 4-log inactivation of viruses before at the first customer served by the Sweetbrier Park water system; or

Develop a new water source for the Sweetbrier Park water system.

- Installation of the disinfection treatment or development of the new water source at the Sweetbrier Park water system must be completed no later than August 31, 2011.
- You must submit certification from a licensed contractor that the construction was completed according to all applicable Program requirements and construction standards specified in OAR 333-061-0050. You must also submit photographs from four separate and distinct viewpoints that clearly depict any water system infrastructure constructed in accordance with this compliance action that is designed to be buried underground.
- All plans for additions and/or alterations to the Sweetbrier Park water system must be approved in advance, before installation, by the Program (OAR 333-061-0060(1)(a)).

- Compliance Action No. 2: You must submit to an inspection by staff from Linn County Environmental Health or the Program no later than August 31, 2011 to verify the installation of disinfection treatment at the Sweetbrier Park water system, measure chlorine residual, and to evaluate disinfection effectiveness.
- Compliance Action No. 3: You must ensure that one Microscopic Particulate Analysis (MPA) as prescribed by OAR 333-061-0032(8)(o) is conducted for Well #3 with well tag L52346 at the Sweetbrier Park water system between December 1, 2011 and March 31, 2012. Results from the MPA must be reported to the Program no later than April 30, 2012.

### 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.

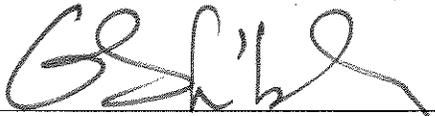
If you do not make a timely request for a hearing, or if you withdraw a request for hearing, notify the Program or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Program may issue a final order by default. If the Program issues a final order by default, 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 Sweetbrier Park 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 12<sup>th</sup> day of July, 2011.



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

cc: Jay MacPherson, OHA-DWP  
Alyson Reynolds, Linn County Environmental Health

DATE of Service: July 13, 2011



Brad K. Daniels

By certified mail and first class mail