



Oregon

Theodore R. Kulongoski, Governor

**Department of Human Services
Public Health Division**

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Portland, OR 97232-2162

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(971) 673-0405

(971) 673-0457 - FAX

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

In the Matter of

Myrtle Tree RV Park, PWS
OR4195332

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Klaas Den Heyer
Myrtle Tree RV Park
PO Box 971
Oakhurst, CA 93644

Myrtle Tree RV Park is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(175).

Myrtle Tree RV Park, as a water supplier, has specific responsibilities that are specified in OAR 333-061-0025.

Myrtle Tree RV Park has at all times mentioned herein operated, and continues to operate, a transient non-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.



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 Myrtle Tree RV Park.

The Agency found, during its investigation, that Myrtle Tree RV Park is not meeting the necessary surface water treatment requirements, has violated the microbiological maximum contaminant level (MCL) for total coliform bacteria, and did not consistently report sample results for microbiological contaminants. Myrtle Tree RV Park is therefore unable to assure its water users that drinking water it provides 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 is being issued to Myrtle Tree RV Park 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: Myrtle Tree RV Park did not submit the required construction and installation plans after making significant changes to the design of its water system. Myrtle Tree RV Park initiated the plan review process on November 27, 2006, but has not submitted the required plans or documents to the Agency.
 - This constitutes one violation of OAR 333-061-0060(1).
- Violation No. 2: Myrtle Tree RV Park is required by OAR 333-061-0036(4)(b) to monitor turbidity, calculate "CT," and monitor the residual disinfectant concentration entering and within the distribution system. A visit to Myrtle Tree RV Park by Rick Hallmark of the Coos County Environmental Health Program verified that personnel responsible for operating the water system do not possess the appropriate equipment to conduct these analyses.
 - This constitutes one violation of OAR 333-061-0036(4)(b).

- Violation No. 3: Myrtle Tree RV Park is required to conduct sampling to determine the presence or absence of microbiological contaminants in its water system. In the October 2008 monitoring period, two or more sample results for the system were positive for total coliform bacteria.
 - This constitutes one violation of the microbiological MCL for total coliform (OAR 333-061-0030(4)).
 - Furthermore, one or more of the repeat samples collected for the October 2008 monitoring period 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. 4: Myrtle Tree RV Park failed to report sample results for the presence or absence of microbiological contaminants in its water system for each of the following monthly monitoring periods:
 - July 2008
 - May 2008
 - April 2008
 - March 2008
 - February 2008
 - January 2008
 - December 2007
 - November 2007
 - October 2007
 - September 2007
- This constitutes ten violations of OAR 333-061-0036(5)(b).

- Violation No. 5: Myrtle Tree RV Park is required by OAR 333–061–0036(5)(c) to conduct repeat sampling for the purpose of determining compliance with the MCL for total coliform bacteria when a total coliform-positive sample result occurs. Myrtle Tree RV Park failed to report repeat samples for the August 2007 monitoring period.
 - This constitutes one violation of OAR 333–061–0036(5)(c).

- Violation No. 6: Myrtle Tree RV Park is required by OAR 333–061–0036(5)(i) to collect five routine samples during the month following a total coliform-positive sample result. Myrtle Tree RV Park failed to report the required number of routine samples for the November 2008 monthly monitoring periods.
 - This constitutes one violation of OAR 333–061–0036(5)(i).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Myrtle Tree RV Park is required to conduct the remedial actions described below which, if taken within the time specified in this Order, will effect compliance with the rules allegedly violated (ORS 448.255(3)).

- Compliance Action No. 1: Myrtle Tree RV Park must submit engineering plans for the water system improvements specified in plan review #264-2006. Plan review, construction and installation of all components of the water system at Myrtle Tree RV Park must be completed according to OAR 333-0061-0060 and the following specifications:
 - 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));
 - Construction plans must be submitted no later than February 28, 2009;
 - All construction and modifications must be completed no later than June 30, 2009; and
 - Myrtle Tree RV Park 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 July 31, 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: Myrtle Tree RV Park, in accordance with OAR 333-061-0025, is responsible for taking all reasonable precautions to ensure that water system facilities are free of public health hazards. To accomplish this, Myrtle Tree RV Park must have a person who will be responsible for the daily operation and maintenance of the water system at Myrtle Tree RV Park, and who has received training as specified in OAR 333-061-0065(2)(c).
 - The person responsible for the daily operation and maintenance at Myrtle Tree RV Park must be capable of ensuring and demonstrating that the water system complies with the surface water treatment and operations requirements specified in OAR 333-061-0032(4) and (5), OAR 333-061-0036(4), and OAR 333-061-0065(5). They must also be able to accurately complete all the forms and documents required for surface water treatment monitoring and reporting.
 - Rick Hallmark of the Coos County Environmental Health Program will conduct an on-site visit no later than February 28, 2009, to determine whether this action has been met.

The Agency is authorized pursuant to ORS 480.280, 448.285, 448.290, and OAR 333-061-0090 to impose civil penalties. Should Myrtle Tree RV Park fail to meet any of the deadlines specified in Compliance Action No. 1 or Compliance Action No. 2, the Agency may impose civil penalties beginning the day after the compliance deadline in the amount of \$50 per violation per day.

- Compliance Action No. 3: Myrtle Tree RV Park must comply with a monthly sampling schedule for determining compliance with the MCL for coliform bacteria (OAR 333-061-0036(5)(b)). Per OAR 333-061-0040(1)(b), the sample results must be reported by the water supplier within 10 days of the end of the monitoring period. Myrtle Tree RV Park must observe the following monthly monitoring schedule:

- January sample results must be reported no later than February 10, 2009.
- February sample results must be reported no later than March 10, 2009.
- March sample results must be reported no later than April 10, 2009.
- April sample results must be reported no later than May 10, 2009.
- May sample results must be reported no later than June 10, 2009.
- June sample results must be reported no later than July 10, 2009.

- Myrtle Tree RV Park, upon completion of 6 months of timely monitoring and reporting, will be considered to have achieved compliance with OAR 333-061-0036(5)(b). Late reporting or non-reporting of a required monthly sample, repeat coliform samples and/or temporary routine samples will cause the above compliance schedule to be extended or may result in civil penalties being issued.

- Late reporting or non-reporting of the required number of repeat coliform samples and routine samples due to a positive coliform sample result, while not subject to the above compliance schedule, is considered a violation. Such violations will cause the above compliance schedule to be extended and may result in civil penalties being issued.

- Compliance Action No. 4: Myrtle Tree RV Park must issue public notice for failure to provide adequate treatment of surface water and for exceeding the microbiological MCL for total coliform. The public notice must include the adverse health effects language specified in OAR 333-061-0097(4)(b) and (5)(c), and must be posted in a conspicuous location within the area served by the water system 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)). Myrtle Tree RV Park must verify monthly that the public notice is in place and includes the required information. A copy of the notice must be submitted to the Agency no later than 10 days after completing the public notification per OAR 333-061-0040(1)(i).
 - 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 Rick Hallmark, Coos County Environmental Health Program, North Bend Annex, 1975 McPherson, #1 North Bend, OR 97459.

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 333-061-0050 to 333-061-0295, which remain in full force and effect.

This Order does not relieve the Myrtle Tree RV Park 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.

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.

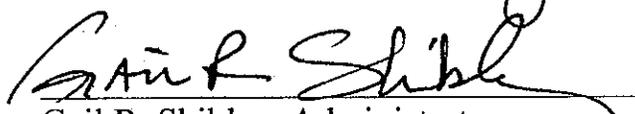
If you do not request a hearing and the Agency subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

Myrtle Tree RV Park
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The Agency has designated the Agency's complete file on Myrtle Tree RV Park as the record in this case for purposes of proving a prima facie case upon default.

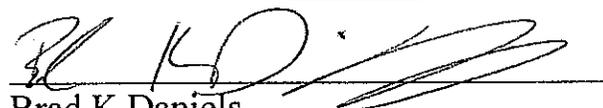
If you need to receive the information in this letter in an alternate format, or if you have any questions about the requirements in this Order, please contact Brad Daniels, DHS-DWP at (971) 673-0407.

Dated this 22^d day of January, 2009.


Gail R. Shibley, Administrator
Office of Environmental Public Health

cc: Steve Anderson, Myrtle Tree RV Park
Klaas den Heyer, Myrtle Tree RV Park
Rick Hallmark, Coos County Environmental Health Program
Fred Kalish, DHS-DWP
Karen Kelley, DHS-DWP
Harold Rogers, USEPA

DATE of Service: January 23, 2009


Brad K Daniels

By certified mail

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL RECEIPT

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.32

Sent To Myrtle Tree RV Park
 Street, Apt. No., or PO Box No.
 City, State, ZIP+4

2988 1422 1000 0411 9002

PS Form 3800, August 2006 See Reverse for Instructions

RECEIVED
 JAN 23 2004
 DHS-MAIL CENTER

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Klaas Den-Heyer
 Myrtle Tree RV Park
 PO Box 971
 Oakhurst, CA 93644

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressed
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
 (Transfer from service label)
 PS Form 3811, February 2004

7008 1140 0001 2241 3387
 Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Klaas Den-Heyer
 Myrtle Tree RV Park
 PO Box 971
 Oakhurst, CA 93644

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressed
- B. Received by (Printed Name) C. Date of Delivery
Klaas Den-Heyer 1-23-04
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
 (Transfer from service label)
 PS Form 3811, February 2004

7008 1140 0001 2241 3387
 Domestic Return Receipt

102595-02-M-1540

PLACE STICKER AT TOP OF ENVELOPE OR THE RIGHT SIDE OF MAIL PIECE. ADDRESS SHOULD BE PRINTED.