



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services
Public Health Division
800 NE Oregon Street
Portland, OR 97232-2162

(971) 673-1111 - Emergency
(971) 673-0405
(971) 673-0457- FAX
(971) 673-0372 - TTY-Nonvoice

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 INTENT TO IMPOSE CIVIL
PENALTY

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

Pursuant to Oregon Revised Statutes (ORS) 448.280, 448.285, and Oregon Administrative Rule (OAR) 333-061-0090, the Department of Human Services, Office of Environmental Public Health, Drinking Water Program (Agency) intends to impose a civil penalty of \$500 against Myrtle Tree RV Park for violations of OAR 333-061-0090(4)(i).

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.

"Assisting People to Become Independent, Healthy and Safe"
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On January 22, 2009, the Agency issued a Notice of Violation and Administrative Order (Order), which included alleged violations of OAR 333-061-0030(4), OAR 333-061-0036(4)(b), OAR 333-061-0036(5)(b), OAR 333-061-0036(5)(c), OAR 333-061-0036(5)(i), and OAR 333-061-0060(1). The Order identified actions to be completed by Myrtle Tree RV Park in order to comply with the rules allegedly violated. Myrtle Tree RV Park did not appeal the Order, nor has Myrtle Tree RV Park complied with the requirement that a responsible person demonstrate that the water system is able to adequately determine that it meets surface water treatment requirements. The Order is incorporated by reference.

CIVIL PENALTY

Pursuant to OAR 333-061-0090, Myrtle Tree RV Park will be assessed a civil penalty for the time period for March 30, 2009 through April 3, 2009, inclusive. Each day within this five day period has two associated violations in the amount of \$50 per violation, for a total penalty of \$500. The proposed civil penalty is based on the following violations:

1. Myrtle Tree RV Park failed to demonstrate, as a water system using a surface water source and providing filtration treatment, that it meets the monitoring requirements specified in OAR 333-061-0036(4)(b), which is a violation of that rule.
2. Myrtle Tree RV Park failed to comply with the January 22, 2009 Order, which is a violation of OAR 333-061-0090(4)(i).

The civil penalty shall become due and payable 10 days after the Notice of Intent to Impose Civil Penalty (Notice) becomes final (ORS 183.745).

If the violations incorporated by reference in this Notice continue, Myrtle Tree RV Park may be subject to subsequent civil penalties of \$50 per day per violation.

CIVIL PENALTY FACTORS CONSIDERED

In assessing the civil penalty, the Agency considered the factors set out in ORS 448.285(2).

- The past history of the person incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct the violation:

- Myrtle Tree RV Park has failed to take the necessary actions to monitor surface water conditions and disinfectant concentration in order to properly operate its surface water treatment system. Specific information regarding this matter follows.
 - The Coos County Health Department mailed a letter to Myrtle Tree RV Park on May 19, 2008 identifying deficiencies at the water system and what was required to correct those deficiencies. The letter scheduled a follow-up inspection to occur on June 2, 2008. The inspection took place on June 6, 2008, but Myrtle Tree RV Park did not correct the deficiencies identified in the May 19 letter.
 - The Coos County Health Department mailed a letter to Myrtle Tree RV Park on December 2, 2008 that clearly informed the water system that its license to operate a RV park had been revoked and couldn't be renewed until the deficiencies in the Park's water system had been resolved. Myrtle Tree RV Park did not respond to this letter.
 - The Agency issued an Administrative Order on January 22, 2009 requiring Myrtle Tree RV Park to demonstrate that a person responsible for the water system be able to demonstrate that they can accurately collect the data required by OAR 333-061-0036(4)(b) and calculate disinfection effectiveness as required. This requirement was to be completed no later than February 28, 2009.
 - Rick Hallmark of the Coos County Health Department scheduled a visit to Myrtle Tree RV Park on March 4, 2009 to verify that a responsible person could conduct the demonstration specified in the January 22, 2009 Order. When Rick Hallmark arrived at the water system he was notified that the owner, Klaas Den Heyer, was ill and unable to conduct the demonstration.
 - Rick Hallmark traveled to Myrtle Tree RV Park on March 6, 2009 to verify that a responsible person could conduct the demonstration specified in the January 22, 2009 Administrative Order. When Rick Hallmark arrived at the water system he found that the owner, Klaas Den Heyer, was using test strips not-approved for use in a drinking water facility for measuring the chlorine residual. Rick Hallmark notified the owner that the test strips were not approved for drinking water use, and that different equipment was necessary.

- Rick Hallmark spoke on the telephone with Klaas Den Heyer on March 13, 2009 and was notified that appropriate testing equipment should arrive within one week.
- Rick Hallmark traveled to Myrtle Tree RV Park on March 19, 2009 and was told by Klaas Den Heyer that the appropriate testing equipment could arrive any time. Rick informed Mr. Den Heyer that he would need to contact the Coos County Health Department when the equipment arrived. There has been no subsequent contact about this equipment.
 - Prior violations:
 - Myrtle Tree RV Park incurred twelve violations of coliform sampling requirements from August 2007 through November 2008.
 - Myrtle Tree RV Park incurred one violation of the MCL for coliform bacteria in June 2008.
 - Economic and financial conditions of the person incurring the penalty:
 - The Agency has no information about the economic or financial conditions of Myrtle Tree RV Park.

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 20 days from the date this Order 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 21 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 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 Notice, please contact Brad K. Daniels, DHS-DWP at (971) 673-0407.

Dated this 21st day of April, 2009.



Gail R. Shibley, Administrator
Office of Environmental Public Health

cc: Rick Hallmark, Coos County Environmental Health Program
Jay MacPherson, DHS-DWP
Harold Rogers, USEPA

DATE of Service: April 22, 2009



Brad K Daniels

By certified mail

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PS Form 3800, June 2002 See Reverse for Instructions

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DW557

APR 22 2009
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- 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

2. Article Number (Transfer from service label) 7003 2260 0001 3347 6222

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
Barbara den Heyer

B. Received by (Printed Name) C. Date of Delivery
Barbara den Heyer 4-30-09

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4. Restricted Delivery? (Extra Fee) Yes

102595-02-M-1540