

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

In the Matter of

Klaas and Barbara Den Heyer, Myrtle
Tree RV Park, PWS OR4195332

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Klaas and Barbara Den Heyer
Myrtle Tree RV Park
12143 Road 37
Madera, CA 93636-7719

You have at all times mentioned herein owned and continue to own the Myrtle Tree RV Park water system, a transient non-community public water system located at 50983 Dement Creek Rd. in Broadbent, Oregon which serves approximately 30 people, and that is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0272.

You are therefore a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(207), and as a water supplier, have specific responsibilities that are identified in OAR 333-061-0025.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (Authority) has investigated the operation of the Myrtle Tree water system.

The Authority found, during its investigation, that the water treatment system at the Myrtle Tree water system is not constructed or operated as required. Also, you did not consistently report monthly operating reports for the water treatment system at the Myrtle Tree water system. You are therefore unable to assure the water users at the Myrtle Tree water system 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 you for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during the Authority's investigation as described below.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333-061-0036(5)(b)(B) requires water suppliers to measure water quality parameters relating to the calculation of disinfection effectiveness at public water systems utilizing a surface water source. Operating reports submitted to the Authority were not completed and therefore it is impossible to determine whether disinfection processes at the Myrtle Tree water system are effective. The failure to measure and record water quality parameters for the Myrtle Tree water system, as required by OAR 333-061-0036(5)(b)(B) constitutes a violation of the rule.
- Violation No. 2: OAR 333-061-0050(4)(c)(E) requires filtration treatment at water systems utilizing a surface water source to be designed and operated to meet specific treatment and water quality requirements. OAR 333-061-0036(5)(b) requires turbidity measurements used to demonstrate treatment effectiveness be collected prior to any water storage. The treatment system at the Myrtle Tree water system however does not allow for the routine monitoring of turbidity prior to any water storage. This results in the inability to demonstrate the effectiveness of filtration at the Myrtle Tree water system and constitutes a violation of OAR 333-061-0050(4)(c)(E).
- Violation No. 3: OAR 333-061-0065 requires, in part, personnel responsible for maintenance and operation of public water systems be competent, knowledgeable of all the functions of that particular facility and have the training and experience necessary to assure continuous delivery of water which does not exceed the maximum contaminant levels. An inspector for the Authority found that Cory Bignell, the operator for the Myrtle Tree water system, was not provided the necessary

information and therefore unable to correctly calculate disinfection effectiveness, which constitutes a violation of this rule.

- Violation No. 4: OAR 333-061-0036(2)(d) requires water suppliers to conduct monitoring for nitrate at public water systems, but you did not report nitrate monitoring results for the Myrtle Tree water system to the Authority. This constitutes a violation of OAR 333-061-0036(2)(d) if samples were in fact not collected.
- Violation No. 5: OAR 333-061-0042 requires water suppliers to provide public notice to persons served by public water systems when specific violations or situations exist. OAR 333-061-0042(2)(a) required public notice to be issued to water users at the Myrtle Tree water system due to the failure to demonstrate effective surface water treatment. However you failed to provide public notice as required, which constitutes a violation of OAR 333-061-0042.

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: You must immediately make the necessary repairs to drinking water infrastructure and obtain the necessary equipment at the Myrtle Tree water system to consistently demonstrate that water treatment is effective at every point of the treatment process and that finished drinking water meets all applicable water quality standards.
 - Effective surface water treatment must be demonstrated to an Authority inspector within 30 days of the date of service of this administrative order.
 - Personnel responsible for operating the Myrtle Tree water system must be able to demonstrate competency and adequate knowledge of water treatment operations to ensure the provision of safe drinking water at all times.
- Compliance Action No. 2: You must immediately monitor for nitrate according to OAR 333-061-0036(2)(d) at the Myrtle Tree water system and report the sample results to the Authority within 30 days of the date of service of this administrative order.

- Compliance Action No. 3: You must publish and distribute public notice according to OAR 333-061-0042 due to the inability to demonstrate effective surface water treatment at the Myrtle Tree water system. The notice must direct water users to boil the water before drinking or using it for cooking, food preparation, or any other activity that might result in consumption of the water. The notice must also meet all of the applicable requirements of OAR 333-061-0042(4) and language in the notice must be approved by the Authority prior to distribution.
 - The public notice must be re-published every three months as necessary to include changes or additional information regarding drinking water at the Myrtle Tree water system, until all corrections are made and all system users receive drinking water that meets all applicable water quality standards (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)).
 - The Company must submit a copy of each notice and certification of the method of distribution to the Authority no later than 10 days after completing the public notification per OAR 333-061-0040(1)(i).

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 333-061-0272, 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 Authority 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 date 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 Authority 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 Authority within 10 days from the date this Order was mailed. **The request for hearing must be sent to: David E. Leland, Manager; Oregon Health Authority, Drinking Water Services; PO Box 14450; Portland, OR 97293.**

Notice to Active Duty Service members. Active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar at 1 (800) 452-8260 or the Oregon Military Department at 1 (800) 452-7500 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil/content/locator.php>.

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, the Notice of Violation and Administrative 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.

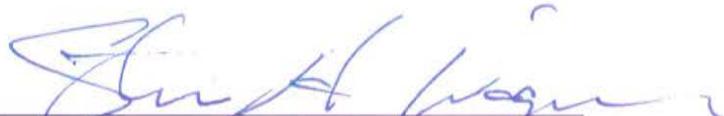
If you do not request a hearing and the Authority subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

If you withdraw a request for hearing, or notify the Authority or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Authority may issue a final order by 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 60 days from the day this Order was mailed. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

The Authority has designated its complete file on the Myrtle Tree 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 K. Daniels at 971-673-0405.

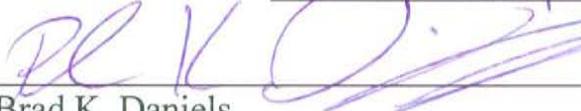
Dated this 21 day of JULY, 2015.



Steven A. Wagner, MPH, Administrator
Oregon Health Authority, Center for Health Protection

cc: Bryan Galt, Myrtle Tree RV Park
Jay MacPherson, Oregon Health Authority, Drinking Water Services

DATE of Service: July 22, 2015



Brad K. Daniels

By certified mail and first class mail