

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

In the Matter of

Robert M. Cook
Golf Mobile City, PWS 4100588

Respondent

FINAL ORDER IMPOSING
CIVIL PENALTY

To: Robert M. Cook
Golf Mobile City
155 Caldwell Blvd.
Nampa, ID 83651

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) issued a Notice of Intent to Impose Civil Penalty (Notice) on November 7, 2012 for specific violations of the Oregon Drinking Water Quality Act and rules at the Golf Mobile City water system. The Notice offered you an opportunity for hearing, if requested within 20 days of service of the Notice, and designated the relevant portion of DWS' file on this matter, including all materials submitted by Golf Mobile City as the record for purposes of default.

You submitted a request for hearing on November 30, 2012, which was past the 20 day deadline and was therefore considered late. Under OAR 333-137-0528, an agency may grant a late request only if the requestor has good cause for the failure to timely request the hearing and a final order has not been issued. In your request for hearing, you stated that you did not understand the time frame allowed for requesting a hearing.

DWS findings regarding good cause:

1. Two copies of the Notice were mailed to you on November 7, 2012, one was mailed by first class mail and one was mailed by certified mail.
2. The Notice clearly set forth details regarding a request for hearing and that it must be received within 20 days.
3. The good cause exception means that something outside the requestor's control prevented them from timely requesting a hearing. You have not demonstrated good cause for failing to request a hearing within the 20 day deadline.

THEREFORE, after considering the relevant portions of DWS's file relating to this matter, DWS DENIES your late hearing request and enters the following Order.

FINDINGS OF FACT

1. DWS issued a Notice of Violation and Administrative Order (Order) on May 27, 2011 which, in part, required you to demonstrate that every person served by the Golf Mobile City water system receives drinking water that consistently meets all applicable state and federal drinking water laws and rules no later than September 30, 2012. You did not appeal the Order, and did not comply with the Order by the deadlines specified therein. The Order is incorporated by reference.
2. You failed to demonstrate that every person served by the Golf Mobile City water system receives drinking water that consistently meets all applicable state and federal drinking water laws and rules no later than September 30, 2012.
3. You failed to demonstrate that you have taken all the reasonable actions or precautions to ensure that water does not exceed the maximum contaminant levels for arsenic and nitrate at the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0025.
4. You failed to ensure that sampling for inorganic chemicals has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(2)(a).
5. You failed to ensure that sampling for nitrite has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(2)(e).

6. You failed to ensure that sampling for synthetic organic chemicals has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(3)(a).
7. You failed to ensure that sampling for volatile organic chemicals has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(3)(b).
8. You failed to ensure that sampling for radionuclides has been conducted for the Golf Mobile City water system, which constitutes a violation of OAR 333-061-0036(7).
9. You failed to comply with an order issued by the Administrator, which constitutes an act for which civil penalties can be assessed as prescribed by OAR 333-061-0090(4)(i).
10. Pursuant to OAR 333-061-0090, civil penalties are calculated based upon the population served by the public water system, the number of distinct rule violations, and the number of days the violations occurred. The Notice assessed a civil penalty of \$3,500 based on:
 - \$50 per violation based on the population served of 32 people;
 - Seven (7) distinct rule violations; and
 - Ten days of violations for the period of time from October 1, 2012 through October 10, 2012, inclusive.

The total civil penalty therefore equals \$3,500. The Notice is incorporated by reference.

11. In assessing the civil penalty, DWS considered the factors set out in ORS 448.285(2). The Notice includes DWS' consideration of these factors.

CONCLUSIONS OF LAW

On October 1, 2012, you violated the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) by failing to comply with an order issued by the Administrator.

ORDER

Based on the foregoing, YOU ARE HEREBY ORDERED to pay a civil penalty in the amount of \$3,500.

GENERAL PROVISIONS

Civil penalty amounts are established in Oregon Administrative Rule 333-061-0090. If unpaid, civil penalties may be recorded and filed with county clerks as liens against property 10 days after the expiration of the statutory appeals period. The Program may assign liquidated and delinquent civil penalties to the Department of Revenue, as provided in ORS 293.250, not later than 90 days after the Notice becomes final.

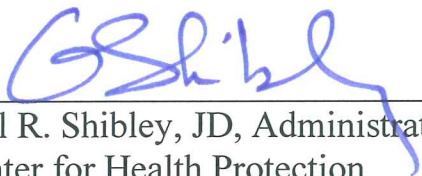
If you have any questions about payment, or wish to make payment arrangements, please call Drinking Water Services at 971-673-0405. Make Checks payable to OHA-Drinking Water Services. Mail checks to OHA-Drinking Water Services, PO Box 14450, Portland, Oregon 97293-0450.

Reasonable administrative costs, collection costs, attorney's fees, and all other costs and charges necessary for the collection of any amount not paid when due, including but not limited to collection charges assessed by the Department of Revenue, may be added to the amount due.

You are entitled to a judicial review of this Order in accordance with ORS 183.482. To appeal, you must file a petition for judicial review with the Court of Appeals within 60 days from the date of service of this Order.

If you need to receive the information in this letter in an alternate format, or if you have any questions regarding this Notice, please contact Brad K. Daniels, OHA-Drinking Water Services, (971) 673-0405.

Dated this 6th day of December, 2012.



Gail R. Shibley, JD, Administrator
Center for Health Protection

cc: Bill Goss, OHA-DWS
Shannon O'Fallon, Oregon Department of Justice
Amy Word, OHA-DWS

DATE of Service: December 6, 2012



Brad K Daniels

By certified and first class mail