



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Public Health Division

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

In the Matter of

Boulder Creek Water System/Rose
Lodge Water Co., Inc., PWS
OR4100722

SETTLEMENT ORDER

The Oregon Department of Human Services, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Agency) issued a Notice of Intent to Impose Civil Penalty on June 29, 2010 assessing a \$2,700 civil penalty against Rose Lodge Water Co., Inc. (Rose Lodge) for violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.285) and Oregon Administrative Rules. On July 13, 2010, Rose Lodge requested a hearing as provided by the Administrative Procedures Act (Oregon Revised Statutes Chapter 183).

The Agency and Rose Lodge agree to resolve the matter of the \$2,700 civil penalty by stipulating as follows:

- Agreement Article No. 1: Rose Lodge will pay a civil penalty of \$270 at the time this agreement is signed.



Rose Lodge Water Co., Inc.

Page 2

- Agreement Article No. 2: Rose Lodge will immediately sample for total trihalomethanes (TTHM) and haloacetic acids (HAA5) as prescribed by Oregon Administrative Rule (OAR) 333-061-0036(4)(c) and submit the sample results to the Agency no later than October 31, 2010. Thereafter, samples will be collected every subsequent calendar quarter and submitted to the Agency **no later than 10 days after the end of the calendar quarter until December 31, 2011**. All samples will be collected at locations specified in the monitoring plan developed in accordance with OAR 333-061-0036(4)(c)(C).
- Agreement Article No. 3: Rose Lodge will issue public notice every calendar quarter for failure to comply with surface water treatment requirements. The notice will direct water users to boil water before using the water for drinking or cooking purposes, and also include the adverse health effects language specified in OAR 333-061-0097(5)(c). The notice will be delivered by hand to each customer served by the Boulder Creek Water System, and will also be posted in a conspicuous location within the area served by the water system (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)). **A copy of the notice will be submitted to the Agency every calendar quarter, within ten days of being delivered to customers**, and will also include certification of when the notice was hand delivered and each location where the notice was posted.
- Agreement Article No. 4: Rose Lodge will notify the Agency immediately, or at least within 24 hours, by calling 541-726-2587 extension 27 any time the distribution system pressure at the Boulder Creek water system falls below 20 pounds per square inch (psi). Rose Lodge will also immediately notify the Agency when normal operating pressure is restored, the cause for the loss of pressure, and what steps have been taken to prevent a future loss of pressure for the same reason.
- Agreement Article No. 5: Rose Lodge will submit to the Agency, every calendar quarter, a report identifying the operator performing each of the following actions: daily water quality monitoring (turbidity, pH, temperature, and disinfectant residual), collection of microbiological samples, and collection of chemical samples. The report will also identify the specific location utilized for each monitoring action specified, the equipment used to complete the monitoring, and how the equipment was calibrated. **These reports will be submitted to the Agency within ten days of the end of every calendar quarter until January 10, 2012.**

- Agreement Article No. 6: Rose Lodge will submit a written contract that meets the requirements of OAR 333-061-0230(2). Rose Lodge will also submit a written operational protocol identifying each of the of the day to day monitoring and water quality related tasks at the Boulder Creek Water System. The protocol must, in accordance with OAR 333-061-0225(5), identify the operational decisions the day to day operator is allowed to make, the conditions under which the day to day operator must consult with the operator in direct responsible charge (DRC), and be signed by both the day to day operator and the DRC operator. The contract and operational protocol will both be submitted no later than **October 31, 2010**.
- Agreement Article No. 7: Rose Lodge will document every complaint from a water user relating to water quality as well as the action taken in response to each specific complaint as prescribed by OAR 333-061-0025(8). Rose Lodge will also compile all of the complaints and subsequent responses each month, and submit the compiled list to the Agency no later than **10 days after the end of the month**.
- Agreement Article No. 8: Rose Lodge will notify the Agency in writing by **October 1, 2010**, of the filtration system option that it has chosen for the Boulder Creek WS.
- Agreement Article No. 9: Rose Lodge will submit complete construction plans to the Agency indicating how the raw water conveyance and surface water filtration system it has chosen for the Boulder Creek WS will be improved to produce water of sufficient quantity and meeting all the requirements of OAR 333-061-0032(4) and (5) by **October 31, 2010**.
- Agreement Article No. 10: Rose Lodge will submit a complete Project Notification Intake Form to the Oregon Business Development Department and provide a copy to the Agency by **October 31, 2010**.
- Agreement Article No. 11: Rose Lodge waives all rights to a contested case hearing or any further judicial review regarding the civil penalty of \$2,700 assessed on June 29, 2010.
- Agreement Article No. 12: Rose Lodge agrees to pay the remaining civil penalty of \$2,430 should it fail to meet any of the agreement articles specified herein. Payment of the civil penalty shall be due and payable within 10 days of the issuance of a Notice of Violation of Settlement Agreement.

GENERAL PROVISIONS

This Agreement 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 Agreement does not relieve the Rose Lodge of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

VIOLATION OF THIS ORDER

Violation of this order may lead to the issuance of further civil penalties or further legal action being taken under ORS 448.250.

If the Agency notifies Rose Lodge that it has violated this Order Rose Lodge will be given the opportunity to contest whether it violated the Order but may not contest the violations cited in the Notice of Intent to Impose Civil Penalties issued on June 29, 2010.

Rose Lodge Water Co., Inc.

Page 5

Dated this 29 day of Sept, 2010.

Bette Carter

Bette Carter
President
Rose Lodge Water Co., Inc.

Subscribed and sworn before me this 29th day of September, 2010

Connie J Grater

Notary Public for Oregon

My commission expires Mar. 23, 2012



Dated this 29th day of September, 2010.

Gail R. Shibley

Gail R. Shibley, JD
Administrator
Oregon Department of Human Services, Office of Environmental Public Health

cc: Fred Kalish, DHS-DWP
Karen Kelley, DHS-DWP
Kathy Miller, Public Utility Commission
Shannon O'Fallon, Oregon Dept. of Justice
Harold Rogers, USEPA

