



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Health Services

800 NE Oregon Street

Portland, OR 97232-2162

(503) 731-4030 - Emergency

(971) 673-0405

(971) 673-0475 - FAX

(971) 673-0372 - TTY-Nonvoice

5/18/06

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

In the Matter of

Brewster Community Homeowners
Association PWS OR4100762

Respondent

AMMENDED NOTICE OF VIOLATION
AND REMEDIAL ORDER

To:

Brewster Community Homeowners Association
PO Box 18162
Salem OR 97305

Brewster Community Homeowners Association under the Oregon Drinking Water Quality Act of 1981, Oregon Revised Statute (ORS), 448.115 (15) and Oregon Administrative Rule (OAR) 331-061-0020 (175) is considered the *Water Supplier*.

Brewster Community Homeowners Association as a water supplier has specific responsibilities. These responsibilities are listed in OAR 331-061-0025.

The Brewster Community Homeowners Association has at all times mentioned herein operated a community public water system, which serves between 10 and 100 people, and is subject to regulation under Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules (OAR) 333-061-0005 to 333-061-0295. The Oregon Department of Human Services, State Public Health, Drinking Water Program (Agency) under ORS 448.150 has conducted an investigation into the operation of the water system.

"Assisting People to Become Independent, Healthy and Safe"
An Equal Opportunity Employer



Brewster Community Homeowners Association

Page 2

The Agency has issued a Notice of Violation and Remedial Order to Brewster Community Homeowners Association on March 28, 2006 for specific violations of the Oregon Drinking Water Quality Act and rules. This Amended Notice of Violation and Remedial Order supercedes and replaces the previous Order.

DESCRIPTION OF RULE VIOLATIONS

Brewster Community Homeowners Association is required to employ, contract with, or otherwise utilize an operator designated to supervise the water system and to be in direct responsible charge of the water system. The operator must be certified at a grade equal to or higher than the classification of that water system. Brewster Community Homeowners Association is in violation of OAR 333-061-0225(2) because it does not have an operator certified at the proper level of certification, and is in violation of OAR 333-061-0225(1) because it has not designated an operator of the proper certification to be in direct responsible charge of the system.

Brewster Community Homeowners Association is required to complete a materials evaluation of the distribution system and conduct two initial rounds of routine tap sampling of its water system for lead and copper. To date, Brewster Community Homeowners Association has not conducted the sampling rounds as required. This is two violations of OAR 333-061-0036(2)(d).

Brewster Community Homeowners Association is required to conduct one sampling of its water system for arsenic in the three-year compliance period from January 1, 2002 to December 31, 2004. No arsenic sample results were reported to the Agency for this compliance period. This is a violation of OAR 333-061-0036(2).

Brewster Community Homeowners Association is required to conduct one sampling of its water system for inorganic chemicals in the three-year compliance period from January 1, 2002 to December 31, 2004. No inorganic chemical sample results were reported to the Agency for this compliance period. This is a violation of OAR 333-061-0036(2).

Brewster Community Homeowners Association is required to conduct one sampling of its water system for synthetic organic chemicals in the three-year compliance period from January 1, 2002 to December 31, 2004. No synthetic

Brewster Community Homeowners Association

Page 3

organic chemical sample results were reported to the Agency for this compliance period. This is a violation of OAR 333-061-0036(3)(a).

Brewster Community Homeowners Association is required to conduct one sampling of its water system for volatile organic chemicals in the three-year compliance period from January 1, 2002 to December 31, 2004. No volatile organic chemical sample results were reported to the Agency for this compliance period. This is a violation of OAR 333-061-0036(3)(c).

Brewster Community Homeowners Association failed to conduct sampling of its water system as required during the compliance period from January 1, 2002 to December 31, 2004. Public water systems that fail to sample are required to issue public notices to all system users. Brewster Community Homeowners Association failed to provide public notice. This is a violation of OAR 333-061-0042(1).

Brewster Community Homeowners Association is required by OAR 333-061-0043 to prepare and distribute an annual Consumer Confidence Report to all its users by July 1. In addition, by October 1 each year Brewster Community Homeowners Association must submit a copy of the report and certify to the Agency that the report was sent to customers and that the information it contained was correct and consistent with the compliance monitoring data previously submitted to the Agency. Brewster Community Homeowners Association has not submitted reports or certification to the Agency for 2002, 2003, and 2004. This is three violations of OAR 333-061-0043.

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

The Agency is authorized under ORS 448.255(3) to require Brewster Community Homeowners Association to conduct remedial action to comply with this order. In order to assure that the water system consistently delivers water that meets state drinking water requirements, Brewster Community Homeowners Association must complete the following actions by the specified due dates:

Brewster Community Homeowners Association is required to immediately conduct routine sampling as required by OAR 333-061-0036(2) through (6) for inorganic chemicals, synthetic organic chemicals, volatile organic chemicals, and arsenic, and submit sample results to the Agency no later than September 1, 2006.

Brewster Community Homeowners Association

Page 4

Brewster Community Homeowners Association is required to conduct a materials evaluation of the distribution system and two rounds of lead and copper tap sampling six months apart and submit the sample results to the Agency. The first round of sampling must be conducted as soon as the five sample sites are identified, but no later than December 31, 2006, and sample results must be submitted to the Agency no later than January 10, 2007. The second round of tap sampling must be conducted six months after the first round, but no later than June 30, 2007, and sample results must be submitted to the Agency no later than July 10, 2007.

Brewster Community Homeowners Association must immediately issue a public notice, distribute the notice to all system users and submit a copy of the notice to the Agency no later than September 1, 2006. The notice must be delivered in the manner most appropriate to reach all persons served by the system. Send a copy of the public notice to: DHS – Drinking Water Program, PO Box 14350, Portland, OR 97293-0350.

Brewster Community Homeowners Association must prepare a Consumer Confidence Report for 2004, distribute it to its customers, and submit copies of the report and certification form no later than July 1, 2006. The USEPA has prepared a guidance document to help water suppliers prepare their reports. The document is available on our website at:

<http://www.dhs.state.or.us/publichealth/dwp/ccr.cfm>. A copy of the certification form is available at: <http://oregon.gov/DHS/ph/dwp/ccr.shtml>. If you are not able to access these websites, please call our office and request copies of the documents.

Brewster Community Homeowners Association is required to submit a letter to the Agency identifying the name of a certified operator for the water system and designating the operator in direct responsible charge of the water system no later than September 1, 2006. You can comply with this requirement by having an employee attend the appropriate training and submitting a certification application, or by contracting with a certified operator.

Submit all required plans, sample results, and other materials to: Greg DeBlase, Marion County Environmental Health, 2111 Front Street NE #3-109, Salem, OR 97303.

CIVIL PENALTIES

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 and OAR 333-061-290).

YOUR RIGHT TO REQUEST A HEARING

Brewster Community Homeowners Association is entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183). Brewster Community Homeowners Association may be represented by an attorney at the hearing. A corporation or unincorporated association must be represented by an attorney. The Agency will be represented by an Assistant Attorney General. If you want a hearing, you must file a written request for hearing within 10 days from the date of service of this notice. The request for hearing must be sent to: David E. Leland, Manager; DHS - Drinking Water Program; PO Box 14450; Portland, OR 97293.

If a request for hearing is not received within this 10-day period, Brewster Community Homeowner's right to a hearing under ORS Chapter 183 shall be considered waived except as provided in OAR 137-003-0075(4).

Upon receipt of a timely request for hearing, you will be notified of the time and place of the hearing. If you request a hearing, you will be given information on the procedures, rights of representation and other rights of parties relating to the conduct of the hearing, as required under ORS 183.413(2) before commencement of the hearing.

If you do not request a hearing within 10 days, if you withdraw your request for hearing, if you fail to appear for the hearing, or if a hearing is scheduled and you later notify the hearing officer that you will not appear at the specified time and place, the Agency may issue a final order by default.

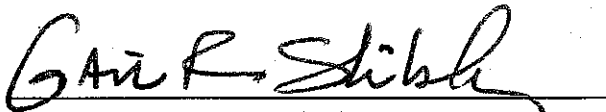
The Agency designates as the record Brewster Community Homeowner's complete file with the Agency, which automatically becomes part of the contested case record upon default for the purpose of proving a prima facie case.

Brewster Community Homeowners Association

Page 6

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 Tom Charbonneau in Portland Oregon at (971) 673-0406.

Dated this 18th day of May, 2006.


Gail R. Shibley, Administrator
Office of Public Health Systems

jrc

By certified mail

c Brewster Community Homeowner Members

- Angles Torres
- Ozz Properties
- Henry Ray Green and Laura Green
- Mark Riddle and Kathy Riddle
- Earl Harper
- Jack Conwell and Kathy Conwell
- Ramon Estrada
- Larry Buren
- Salvador Aguilar
- Guillermina Case
- Arturo Anguiano
- Richard Jonesburg
- Daniel Harrison and Regina Harrison
- Houck and Associates LLC
- Juan H. Anguiano
- David Holmquist
- Narciso Avila

Tom Charbonneau DHS-DWP
Greg DeBlase Marion County Health Department
Harold Rogers, USEPA