

BEFORE THE STATE OF OREGON
OREGON HEALTH AUTHORITY
OFFICE OF ENVIRONMENTAL PUBLIC HEALTH

In the Matter of

Robert M. Jones/Evergreen Acres
Water System, PWS OR4100805

BILATERAL COMPLIANCE AGREEMENT

Robert M. Jones is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(211), and as a water supplier, has specific responsibilities that are identified in OAR 333-061-0025.

Robert M. Jones has at all times mentioned herein owned and operated, and continues to own and operate, the Evergreen Acres public water system. The Evergreen Acres water system serves between 25 and 100 people in homes along Maple Rd., Maple Dr., and Evergreen Ln. near Jewell, Oregon and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0290.

Pursuant to its authority under ORS 448.150, the Oregon Health Authority, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Program) has reviewed the operation of the Evergreen Acres water system.

This agreement is entered into between the Program and Robert M. Jones for the purpose of acknowledging that water at the Evergreen Acres water system exceeds the action level (AL) for lead, and specifically that the lead concentration in tap water samples was reported as 0.0285 mg/L on September 23, 2010, which exceeds the AL of 0.015 mg/L. Robert M. Jones has also failed to report sampling results as required.

The further purpose of this agreement is to establish a commitment by Robert M. Jones to ensure that water produced by the Evergreen Acres water system contains a concentration of lead below the AL, and to report sampling results for chemical contaminants.

FINDINGS OF FACT

- Five water samples collected from sites within the Evergreen Acres water system on September 23, 2010 indicated a lead concentration of 0.0285 mg/L when calculated as prescribed by OAR 333-061-0030(1)(c). This concentration of lead exceeds the AL of 0.015 mg/L.
- Emily Cavaliere of the Clatsop County Environmental Health Program mailed a letter to Robert M. Jones on November 15, 2010 notifying Mr. Jones that the AL for lead had been exceeded and specifying follow-up actions to be completed.
- OAR 333-061-0025 requires, in part, that water suppliers take all reasonable precautions to assure that water system facilities are free of public health hazards. Drinking water with a concentration of lead in excess of the AL represents a public health hazard as defined by OAR 333-061-0020(156), but Robert M. Jones has not taken all the possible precautions at the Evergreen Acres water system to assure that the AL for lead is not exceeded, which constitutes a violation of OAR 333-061-0025.
- OAR 333-061-0034(2) requires small water systems, serving 3,300 people or less, to complete corrosion control treatment steps within twelve months of the end of the monitoring period during which the water system's sample results exceed the AL for lead or copper. The Program has not received any information indicating that corrosion control treatment steps have been completed at the Evergreen Acres water system since the September 23, 2010 sample results indicated the AL for lead was exceeded. This constitutes a violation of OAR 333-061-0034(2).
- OAR 333-061-0034(5) requires water systems to deliver public education materials within sixty (60) days of when a water system's sample results exceed the AL for lead or copper. The Program has not received a copy of the required public education materials since the September 23, 2010 sample results indicated the AL for lead was exceeded. This constitutes a violation of OAR 333-061-0034(5).
- OAR 333-061-0036(2)(a) requires water systems to conduct sampling for inorganic chemicals, but inorganic chemical sample results have not been reported to the Program for the 2002 to 2010 compliance cycle, which constitutes a violation of OAR

333-061-0036(2)(a), or a violation of OAR 333-061-0040(1)(b) if the sample was collected but not reported.

- OAR 333–061-0036(2)(c) requires water systems to conduct sampling for lead and copper, but lead and copper sample results have not been reported to the Program for any of the six-month monitoring periods since the September 23, 2010 sample results indicated the AL for lead was exceeded. This constitutes two violations of OAR 333-061-0036(2)(c), or two violations of OAR 333-061-0040(1)(b) if the samples were collected but not reported.
- OAR 333–061-0036(2)(e) requires water systems to conduct sampling for nitrite, but nitrite sample results have not been reported to the Program for the 2002 to 2010 compliance cycle, which constitutes a violation of OAR 333-061-0036(2)(e), or a violation of OAR 333-061-0040(1)(b) if the sample was collected but not reported.
- OAR 333–061-0036(3)(a) requires water systems to conduct sampling for synthetic organic chemicals, but synthetic organic chemical sample results have not been reported to the Program for the 2008 to 2010 compliance period, which constitutes a violation of OAR 333-061-0036(3)(a), or a violation of OAR 333-061-0040(1)(b) if the sample was collected but not reported.
- OAR 333–061-0036(3)(b) requires water systems to conduct sampling for volatile organic chemicals, but volatile organic chemical sample results have not been reported to the Program for the 2008 to 2010 compliance period, which constitutes a violation of OAR 333-061-0036(3)(b), or a violation of OAR 333-061-0040(1)(b) if the sample was collected but not reported.
- Clatsop County conducted a sanitary survey at the Evergreen Acres water system on October 5, 2011, and twelve significant deficiencies were identified during the survey. These deficiencies were listed in a letter dated November 30, 2011. OAR 333-061-0076(6)(b) requires water systems utilizing only groundwater sources to, within 120 days of written notification, correct any significant deficiencies identified during a sanitary survey, or to be in compliance with a corrective action plan. To date, Robert M. Jones has reported that five of the deficiencies have been corrected, however seven of the deficiencies have not been corrected, and Mr. Jones is not in compliance with a corrective action plan, which constitutes a violation of 333-061-0076(6).

AGREEMENT

Upon completion of the activities described below, by the deadlines specified herein, Robert M. Jones will have satisfied the terms of this agreement and will be considered to be in compliance with the rule(s) mentioned hereto.

- Agreement Activity No. 1: Robert M. Jones will immediately sample for lead and copper in tap water at the Evergreen Acres water system in accordance with OAR 333-061-0036(2)(c), and will report the sampling results to the Program no later than August 31, 2012.
 - Robert M. Jones will thereafter sample for lead and copper in tap water at the Evergreen Acres water system every six months, in accordance with OAR 333-061-0036(2)(c), and will report the sampling results to the Program within ten days of the end of the six-month monitoring period in which the samples were collected in accordance with OAR 333-061-0040(1)(a).
- Agreement Activity No. 2: Robert M. Jones will immediately publish public education materials in accordance with OAR 333-061-0034(5) and submit a copy of the public education materials to the Program prior to delivery the materials. Robert M. Jones will thereafter continue to deliver public education materials every six months in accordance with OAR 333-061-0034(5) until the completion of all other activities specified in this agreement.
- Agreement Activity No. 3: Robert M. Jones will immediately sample for water quality parameters at the Evergreen Acres water system in accordance with OAR 333-061-0036(2)(c)(F), and will report the results to the Program no later than August 31, 2012,
- Agreement Activity No. 4: Robert M. Jones will correct the remaining significant deficiencies identified in the letter dated November 30, 2011 regarding the water system survey conducted on October 5, 2011 at the Evergreen Acres water system. Every significant deficiency will be corrected to the satisfaction of staff from the Clatsop County Environmental Health Program no later than October 31, 2012, except for the sampling requirements specified later in this agreement, for which results can be submitted according to the deadlines agreed upon herein.

- Agreement Activity No. 5: Robert M. Jones will collect samples for inorganic chemicals at the Evergreen Acres water system in accordance with OAR 333-061-0036(2)(a) no later than July 31, 2012, and submit the sampling results to the Program no later than August 10, 2012.
- Agreement Activity No. 6: Robert M. Jones will collect samples for nitrite at the Evergreen Acres water system in accordance with OAR 333-061-0036(2)(e) no later than July 31, 2012, and submit the sampling results to the Program no later than August 10, 2012.
- Agreement Activity No. 7: Robert M. Jones will collect samples for synthetic organic chemicals at the Evergreen Acres water system in accordance with OAR 333-061-0036(3)(a) no later than July 31, 2012, and submit the sampling results to the Program no later than September 10, 2012.
- Agreement Activity No. 8: Robert M. Jones will collect samples for volatile organic chemicals at the Evergreen Acres water system, in accordance with OAR 333-061-0036(3)(b) no later than July 31, 2012, and submit the sampling results to the Program no later than September 10, 2012.

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 333-061-0005 to 333-061-0290, which remain in full force and effect.

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

The Program has determined that additional enforcement action is not warranted at this time, and so long as Robert M. Jones meets all of the requirements and deadlines specified in this Agreement, the Program will forgo additional enforcement action which could include the assessment of civil penalties as prescribed by OAR 333-061-0090.

Dated this 20 day of July, 2012.



Robert M. Jones
Operator
Evergreen Acres Water System

Dated this 25th day of JULY, 2012.



Dave Leland, PE
Program Manager
State of Oregon, Drinking Water Program

cc: Evan Hofeld, OHA-DWP
Maureen Sheffield-Taylor, Clatsop County Environmental Health