

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

In the Matter of

The City of Vale, PWS OR4100917

BILATERAL COMPLIANCE AGREEMENT

The City of Vale (the City) 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.

The City has at all times mentioned herein owned and operated, and continues to own and operate, the public water system serving the City of Vale located in Malheur County, Oregon. The Vale water system is a community water system serving approximately 2,000 people 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, Center for Health Protection, Drinking Water Services (DWS) has reviewed the operation of the Vale water system.

This agreement is entered into between DWS and the City for the purpose of acknowledging that levels of arsenic in drinking water produced by the Vale water system exceed the maximum contaminant level (MCL) as specified in OAR 333-061-0030(1). The further purpose of this agreement is to establish a commitment by the City to reduce levels of arsenic in drinking water produced by the Vale water system to below the MCL.

FINDINGS OF FACT

- The MCL for arsenic is 0.010 mg/L as specified in OAR 333-061-0030(1).
- Sampling results for arsenic in drinking water, submitted to DWS by the City, first exceeded the MCL in a sample collected on July 12, 2006. Since that date, inclusive, the arsenic concentration in drinking water samples reported by the City has averaged 0.0139 mg/L.
- The City has issued public notice for exceeding the MCL for arsenic as required by OAR 333-061-0042.
- The Vale water system currently utilizes an arsenic treatment system, but the treatment isn't effective consistently and sample results continue to exceed the MCL for arsenic.
- The City has employed Anderson Perry & Associates to provide engineering consultation related to the arsenic treatment system at the Vale water system.

AGREEMENT

Upon completion of the activities described below, by the deadlines specified herein, The City 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: The City will submit documents verifying funding for its creation of an updated water system master plan (WSMP) and verifying that it established a contract for completion of the WSMP.
 - The verification documents will be submitted to DWS no later than June 30, 2014.
- Agreement Activity No. 2: The City will submit a copy for review of its updated WSMP to DWS no later than March 31, 2015.
- Agreement Activity No. 3: The City will submit complete construction plans to DWS identifying how the City will ensure compliance with the MCL for arsenic at the Vale water system no later than March 30, 2016.

- The construction plans will meet all the applicable requirements of OAR 333-061-0060 and have sufficient detail to completely and clearly illustrate what will be constructed.
- Agreement Activity No. 4: The City will complete construction and installation of the project at the Vale water system within sixteen months of the construction plans specified in Agreement Activity No. 3 being conditionally approved by DWS.
 - Construction will be completed in accordance with the plans approved by DWS and submitted as specified in Agreement Activity No. 3.
 - Construction of all improvements at the Vale water system will comply with the applicable construction standards specified in OAR 333-061-0050.
- Agreement Activity No. 5: The City will submit sampling results to DWS that demonstrate all users served by the Vale water system receive drinking water with concentrations of arsenic below the MCL as specified in OAR 333-061-0030(1).
 - Sample results will be reported within ninety (90) days of completing construction as specified in Agreement Activity No. 4.
- Agreement Activity No. 6: The City will continue to publish public notice every calendar quarter that water delivered to customers exceeds the MCL for arsenic as specified in OAR 333-061-0030(1), determined as prescribed by OAR 333-061-0036(2)(i). The notice will meet all of the applicable requirements of OAR 333-061-0042(4), and include changes or additional information regarding arsenic in the drinking water produced by the Vale water system. The City will continue to publish the notice until all corrections are made and all system users receive drinking water that meets all applicable state and federal drinking water laws and rules (OAR 333-061-025 and OAR 333-061-0042(3)(b)(C)). The City will submit a copy of the notice and certification of the method of distribution to DWS no later than 10 days after completing the public notification per OAR 333-061-0040(1)(i).
 - Copies of the public notice will be submitted to: Bill Goss, OHA Drinking Water Services, 800 SE Emigrant Ave., Rm. 240, Pendleton, OR 97801.


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 City of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.


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

Dated this 15 day of January, 2014



Mike McLaughlin
Mayor
City of Vale

Dated this 22nd day of Jan, 2014



Kari Salis, P.E.
Interim Section Manager
Oregon Health Authority, Drinking Water Services

cc: Lynn Findley, City of Vale
Craig Geddes, Malheur County Environmental Health
Bill Goss, Oregon Health Authority, Drinking Water Services