



# Oregon

Theodore R. Kulongoski, Governor

**Department of Human Services**  
**Public Health Division**  
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Portland, OR 97232-2162  
(971) 673-0405  
(971) 673-0694 - FAX  
(971) 673-0372 - TTY-Nonvoice

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

In the Matter of

Saginaw Park Trust, PWS OR4100996

Respondent

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

To: Michael Brown, Owner  
Saginaw Park Trust  
PO Box 639  
Glendale, OR 97442

Michael Brown is a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020(211).

Michael Brown, as a water supplier, has specific responsibilities that are specified in OAR 333-061-0025.

Michael Brown has at all times mentioned herein operated and continues to operate Saginaw Park Trust, which is a community public water system serving between 25 and 100 people and 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 Department of Human Services, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Agency) has investigated the operation of the Saginaw Park Trust water system.

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The Agency found, during its investigation, that Saginaw Park Trust violated the maximum contaminant level (MCL) for arsenic. Also, Saginaw Park Trust has not consistently reported sample results for lead and copper. Michael Brown is therefore unable to assure the water users at Saginaw Park Trust that the water is sufficiently free from contaminants such that individuals will not be exposed to disease or harmful physiological effects (ORS 448.115(8)). This represents a potential public health hazard.

This Notice of Violation and Administrative Order (Order) is being issued to Michael Brown for specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.285) and rules at Saginaw Park Trust found during the Agency's investigation.

### DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: Saginaw Park Trust is required to conduct sampling of its water system to determine compliance with the MCL for arsenic. Saginaw Park Trust exceeded the MCL for arsenic of 0.010 mg/L based upon the available samples and determined by running annual average (RAA) per OAR 333-061-0036(2)(i) in each of the following monitoring periods:
  - Second quarter 2009
  - Third quarter 2009
  - Fourth quarter 2009
  - First quarter 2010
  - Second quarter 2010

This constitutes five separate violations of OAR 333-061-0030(1).

The RAA for arsenic sampling results, including samples submitted through June 30, 2010, is 0.023 mg/L.

The adverse health effects language for a violation of the MCL for arsenic (from OAR 333-061-0097) is: "Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer."

- Violation No. 2: Saginaw Park Trust is required by OAR 333-061-0036(2)(c) to conduct sampling for lead and copper, but failed to submit lead and copper sampling results for both the 2008 and 2009 annual monitoring periods, which constitutes two separate violations of the rule.

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- Violation No. 3: Saginaw Park Trust is required by OAR 333-061-0042 to provide public notice to people served by the water system due to the violation of the MCL for arsenic. Saginaw Park Trust published public notice on March 25, 2010, but that notice did not meet the requirements of OAR 333-061-0042(4) specifying the required content of the notice, which is a violation of the rule.

### ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Saginaw Park Trust is required to conduct the corrective actions described below which, if taken within the time specified in this Order, will effect compliance with the rule(s) allegedly violated (ORS 448.255(3)).

- Compliance Action No. 1: Saginaw Park Trust, pursuant to OAR 333-061-0042, must immediately publish public notice, for exceeding the MCL for arsenic, which meets all the criteria specified in OAR 333-061-0042(4). The notice must be hand delivered to every customer served by the water system, and also posted in conspicuous locations within the area served by the water system (OAR 333-061-0042(3)(a)(D)). A copy of the notice and certification that the notice was distributed according to this Order must be submitted to the Agency no later than August 10, 2010. The notice must also be re-issued every calendar quarter 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 public notice must be submitted to: Brad Daniels, DHS – Drinking Water Program, PO Box 14450, Portland, OR 97293-0450.
- Compliance Action No. 2: Saginaw Park Trust must continue to sample for arsenic every calendar quarter in accordance with OAR 333-061-0036(2)(a), and submit the sampling results to the Agency in accordance with OAR 333-061-0040(1)(b).
- Compliance Action No. 3: Saginaw Park Trust must submit construction plans no later than August 31, 2010 that clearly indicate which of the following three options will be selected to meet the MCL for arsenic. These three options are:
  - Option No. 1: Install an approved treatment system that meets the construction standards listed in OAR 333-061-0050(4);

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- Option No. 2: Develop a new water source that meets all applicable requirements in OAR 333-061-0050; or
- Option No. 3: Connect to, and receive water from, another public water system.

All plans for additions and/or alterations to the system must be approved in advance, before installation, by the Agency. Plans shall have sufficient detail to completely and clearly illustrate what will be constructed and how the water system will meet construction standards (OAR 333-0061-0060(1))

- Compliance Action No. 4: Saginaw Park Trust must immediately sample for lead and copper in accordance with OAR 333-061-0036(2)(c), and submit the sampling results to the Agency no later than September 10, 2010.
- Compliance Action No. 5: Saginaw Park Trust must complete construction, no later than December 31, 2010, of the project for which plans were submitted in accordance with Compliance Action No. 3.
- Compliance Action No. 6: Saginaw Park Trust must demonstrate, no later than March 30, 2011, that it supplies water to all of its users that is below the MCL for arsenic.

### GENERAL PROVISIONS AND CIVIL PENALTIES

This Order 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 333-061-0295, which remain in full force and effect.

This Order does not relieve the Saginaw Park Trust of any responsibilities or liabilities established pursuant to any applicable federal, state, or local law or regulation.

Issuance of this Order is not an election by the Agency to forgo any civil actions authorized under the Oregon Drinking Water Quality Act.

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).

NOTICE OF RIGHT TO REQUEST A HEARING

You are entitled to a hearing as provided by the Administrative Procedure Act (chapter 183, Oregon Revised Statutes). If you want a hearing you must file a written request for hearing with the Agency within 10 days from the date this notice was mailed. If you request a hearing, you will be notified of the time and place of the hearing. You will also be given information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. The request for hearing must be sent to: David E. Leland, Manager; DHS - Drinking Water Program; PO Box 14450; Portland, OR 97293.

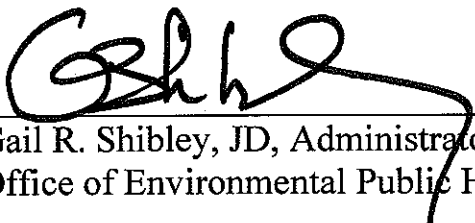
If you do not make a timely request for a hearing, the Order will become final and effective 11 days after the date this Order was mailed. If the Order becomes final in this manner, you will have the right to appeal the Order to the Oregon Court of Appeals pursuant to ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 71 days from the day this Order was mailed. If you do not file a petition for judicial review within the 71-day time period, you will lose your right to appeal.

If you do not request a hearing and the Agency subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

The Agency has designated the Agency's complete file on Saginaw Park Trust as the record in this case for purposes of proving a prima facie case upon default.

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 Brad Daniels at 971-673-0407.

Dated this 12<sup>th</sup> day of July, 2010.

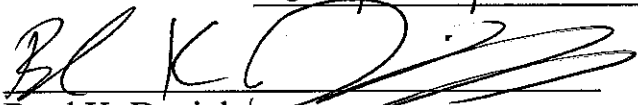
  
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Gail R. Shibley, JD, Administrator  
Office of Environmental Public Health

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cc: Katrinka Danielson, Lane County Environmental Health  
Casey Lyon, DHS-DWP  
Harold Rogers, USEPA

Date of Service: July 15, 2010

  
Brad K. Daniels

By certified mail and 1st class mail