

800 NE Oregon St.
Portland, Oregon 97232-2162
Voice (971) 673-0405
FAX (971) 673-0694
TTY (971) 673-0372

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

In the Matter of

Henrietta Knott
Bolder City Water System, PWS
OR4101154

Respondent

NOTICE OF INTENT TO IMPOSE
CIVIL PENALTY

To: Henrietta Knott
Bolder City Water System
PO Box 430
Jacksonville, OR 97530

Pursuant to Oregon Revised Statutes (ORS) 448.280, 448.285, and Oregon Administrative Rules (OAR) 333-061-0090, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (Authority) intends to impose a civil penalty of \$3,000 against you for violations of OAR 333-061-0076(6).

You have at all times mentioned herein owned and operated, and continue to own and operate, the Bolder City water system, 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 333-061-0272.

The Authority mailed a Notice of Non-Compliance (Notice) to you on March 17, 2015 citing your violation of the rules specified above but you have not demonstrated that the situation leading to the rule violation has been corrected. The Notice is incorporated by reference.

The proposed civil penalty is based on the following violations:

1. OAR 333–061–0076(6) requires the correction of significant deficiencies that are identified during sanitary surveys of public water systems. During a sanitary survey and inspection of the Bolder City water system on November 13, 2013 it was determined that the finished water storage facility does not have a watertight roof, which is a significant deficiency and also considered a direct pathway for contamination to enter the water system. This deficiency was required to be corrected within 120 days of November 25, 2013, the date of notification to the operator of the Bolder City water system, but was not corrected within that timeframe as required.

CIVIL PENALTY

Pursuant to OAR 333-061-0090, you will be assessed a civil penalty in the amount of \$3,000 based upon the population served by the public water system, for each distinct violation and for every day the violation occurred. The total civil penalty of \$3,000 is based on the period of time from August 11, 2015 through October 9, 2015, inclusive. Each day within this 60 day period has one associated violation in the amount of \$50 per violation, for a total penalty of \$3,000.

If the violations identified in this notice, or other violations incorporated by reference, continue, you may be subject to additional civil penalties of \$50 per day per violation.

CIVIL PENALTY FACTORS CONSIDERED

In assessing the civil penalty, the Authority considered the factors set out in ORS 448.285(2).

- (a) The past history of the person incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct the violation:
- You have been formally notified of the violations specified in this notice on at least four separate occasions, as described below, but have taken little or no action to correct the violations.

1. Jackson County Environmental Health Services conducted a sanitary survey at the Bolder City water system on November 13, 2013. The survey identified the lack of watertight roof for the water system's storage tank as a significant deficiency. Charlotte Knott was notified of the survey findings in a November 25, 2013 letter which specified that this and other significant deficiencies were required to be corrected by March 31, 2014.
2. Jackson County Environmental Health Services mailed a follow-up letter on April 11, 2014 requiring a plan for correction of all the deficiencies identified in the November 13, 2013 sanitary survey but a plan was not provided to the county nor was correction of the deficiencies demonstrated in lieu of a plan by the May 12, 2014 deadline specified in the letter.
3. The Authority mailed you a Notice of Non-Compliance on March 17, 2015 requiring correction of all the deficiencies identified in the November 13, 2013 sanitary survey. To date, there has been no response to this letter.
4. The Authority mailed a letter on August 10, 2015 warning of possible civil penalties due to your failure to comply with the deadlines specified in the March 17, 2015 letter. In response to this letter Charlotte Knott contacted the Authority on August 26, 2015 and requested information about the actions necessary to correct the significant deficiencies in question. Ms. Knott was directed to submit a plan of action identifying a reasonable timeframe for repairing or replacing the water storage tank at the Bolder City water system. As of the date of this notice, there has been further contact with Ms. Knott and no plan has been submitted to the Authority for correcting this significant deficiency.
 - (b)Prior violations:
 - OAR 333-061-0030(4) was violated one time since January 1, 2014 by exceeding the maximum contaminant level for coliform bacteria at the Bolder City water system.
 - OAR 333-061-0036(2) was violated one time since January 1, 2010 by failing to monitor for nitrate as required by the rule.
 - OAR 333-061-0036(6) was violated more than 45 times since January 1, 2010 by failing to monitor for coliform bacteria as required by the rule.

- OAR 333-061-0036(9) was violated more than 7 times since January 1, 2014 by failing to measure and record the disinfectant residual at the Bolder City water system as required by the rule.
- OAR 333-061-0043 was violated five times since January 1, 2010 by failing to deliver an annual consumer confidence report to water users at the Bolder City water system as required by the rule.
- OAR 333-061-0064 was violated one time since January 1, 2014 by failing to maintain a current emergency response plan for the Bolder City water system as required by the rule.
- OAR 333-061-0065(4) was violated one time since January 1, 2014 by failing to maintain a current operations manual for the Bolder City water system as required by the rule.
 - (c)Economic and financial conditions of the person incurring the penalty:
- The Authority has no information about your economic or financial details, or the economic or financial conditions at the Bolder City water system.

NOTICE OF RIGHT TO REQUEST A HEARING

You are entitled to a hearing as provided by the Administrative Procedure Act (Oregon Revised Statutes, Chapter 183). If you want a hearing, you must file a written request for hearing with the Authority within 20 days from the date this Notice was mailed. **The request for hearing must be sent to: David E. Leland, Manager; OHA - Drinking Water Services; PO Box 14450; Portland, OR 97293-0450. If a request for hearing is not received with the 20-day period, you will have waived your right to a hearing.**

Notice to Active Duty Service members. Active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar at 1 (800) 452-8260 or the Oregon Military Department at 1 (800) 452-7500 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil/content/locator.php>.

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. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings (ORS 183.635).

If you do not request a hearing within 20 days, or if you withdraw a request for hearing, notify the Authority or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Authority may issue a final order by default ordering you to pay a civil penalty. If the Authority issues a final order by default, the Authority designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purposes of proving a prima facie case upon default.

For purposes of ORS 293.229 through 293.233 and ORS 293.250, the civil penalty specified herein will become a liquidated debt if a final order is issued. Pursuant to ORS 293.231 the Authority is required to assign liquidated and delinquent civil penalties to the Department of Revenue, as provided in ORS 293.250, not later than 90 days after the final order is issued. Reasonable administrative costs, collection costs, attorney's fees, and all other costs and charges necessary for the collection of any amount not paid when due, including but not limited to collection charges assessed by the Department of Revenue may be added to the amount due of \$3,000.

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 notice, please contact Brad K. Daniels at (971) 673-0405.

Dated this 14th day of October, 2015.



Jere High, ND
Interim Administrator, Center for Health Protection
Oregon Health Authority

cc: Scott Curry, Oregon Health Authority, Drinking Water Services
Casey Lyon, Oregon Health Authority, Drinking Water Services
Mike Obereigner, Jackson County Environmental Health Services

DATE of Service: October 15, 2015



Brad K Daniels

By certified and first class mail