

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

In the Matter of

Santiam Meadows Community Water
System, PWS OR4105392

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: John Hainer, President
8008 Mosier St. SE
Salem, OR 97317

Janis J. Guenther, Secretary
6327 78th Ave. SE
Salem, OR 97317

Santiam Meadows Community Water System (Santiam Meadows) 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.

Santiam Meadows has at all times mentioned herein owned and operated, and continues to own and operate a community public water system located near 78th Avenue and Mosier Street southeast of Salem, Oregon, which serves between 25 and 100 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, Office of Environmental Public Health, Drinking Water Program (Program) has investigated the operation of the Santiam Meadows water system.

The Program found, during its investigation, that Santiam Meadows has failed to ensure that the source water well, identified by well tag MARI 10821, meets construction standards, and therefore has failed to take all reasonable precautions to assure that water delivered to water users does not exceed maximum contaminant levels. Also, Santiam Meadows has not consistently sampled for lead and copper, radionuclides, or synthetic organic chemicals. Santiam Meadows is therefore unable to assure its water users 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 Santiam Meadows for specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.285) and rules found during the Program's investigation.

DESCRIPTION OF RULE VIOLATIONS

- Violation No. 1: OAR 333-061-0025 requires water suppliers to take all reasonable precautions to assure that the water delivered to water users does not exceed maximum contaminant levels. In this case, Santiam Meadows exceeded the maximum contaminant level (MCL) for coliform bacteria four times between February and November 2008. The presence of coliform bacteria, including *E. coli*, led the Program to review the construction of Santiam Meadows' source water well with well tag MARI 10821. The Program determined that well MARI 10821 is not constructed in accordance with OAR 333-061-0050(2)(a)(H), and due to the history of contamination by coliform bacteria and inadequate construction of the well, issued an administrative order on January 28, 2009. Santiam Meadows has utilized disinfection to temporarily protect human health, but has otherwise failed to permanently eliminate the coliform contamination by ensuring that well MARI 10821 is constructed properly. The failure to reconstruct well MARI 10821 or to develop a new water source following the determination of inadequate well construction and the January 2009 administrative order constitutes a violation of OAR 333-061-0025.

Fecal coliforms and *E. Coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems. OAR 333-061-0097

- Violation No. 2: OAR 333-061-0025(1) requires water suppliers to routinely collect and submit water samples for laboratory analyses at the frequencies prescribed by OAR 333-061-0036. Santiam Meadows has failed however to collect water samples at the frequencies prescribed by OAR 333-061-0036(2)(c), OAR 333-061-0036(3), or OAR 333-061-0036(7) as described below, which constitutes a violation of OAR 333-061-0025(1).
- Violation No. 3: OAR 333-061-0036(2)(c) requires sampling for lead and copper in tap water, but Santiam Meadows failed to collect samples for lead and copper during the 2010 annual sampling period as required by the rule, which constitutes one violation of OAR 333-061-0036(2)(c).
- Violation No. 4: OAR 333-061-0036(3)(a) requires sampling for synthetic organic chemicals, but Santiam Meadows failed to collect samples for synthetic organic chemicals during the 2010 annual sampling period as required by the rule, which constitutes one violation of OAR 333-061-0036(3)(a).
- Violation No. 5: OAR 333-061-0036(7) requires sampling for radionuclides, but Santiam Meadows failed to collect any initial quarterly samples as required by the rule, which constitutes thirteen violations of OAR 333-061-0036(7).
- Violation No. 6: OAR 333-061-0050(2)(a)(H) requires that wells be constructed in accordance with the standards as prescribed in OAR Chapter 690, Divisions 200 through 220. The Program evaluated well MARI 10821 and found that it is not adequately constructed and does not meet the construction standards specified in OAR Chapter 690, Divisions 200 through 220, which constitutes a violation of OAR 333-061-0050(2)(a)(H).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Santiam Meadows is required to conduct the remedial 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: Santiam Meadows must either reconstruct well #1 with well tag MARI 10821 or replace the well with a new water source to serve as the water source for the Santiam Meadows water system. Reconstruction of well #1 or construction of a new water source must be completed no later than July 1, 2011.

- Compliance Action No. 1.1: If a new water source is developed to replace Well #1, construction plans for the new source must be submitted to the Program no later than May 30, 2011. The plans must also meet all of the applicable requirements of OAR 333-061-0060, and must clearly show that the changes to the water system will meet all the applicable construction standards specified in OAR 333-061-0050.
- Compliance Action No. 2: Santiam Meadows must collect samples for lead and copper in accordance with OAR 333-061-0036(2)(c) between June 1, 2011 and September 30, 2011, and submit the sampling results to the Program no later than October 10, 2011.
- Compliance Action No. 3: Santiam Meadows must collect samples for synthetic organic chemicals in accordance with OAR 333-061-0036(3)(a) and submit the sampling results to the Program no later than January 10, 2012.
- Compliance Action No. 4: Santiam Meadows must collect samples for radionuclides every calendar quarter in accordance with OAR 333-061-0036(7)(a)(A) beginning on April 1, 2011. Sampling results must be submitted to the Program within ten days of the end of every calendar quarter in which a sample is collected, and the first and second rounds of sampling results must be submitted no later than July 10, 2011 and October 10, 2011 respectively.

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

This Order does not relieve the Santiam Meadows 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 Program to forgo any civil actions authorized under the Oregon Drinking Water Quality Act.

Failure to comply with any of the requirements in this Order by the specified due dates may result in additional enforcement action, which could include assessment of civil penalties in the amount of \$50 per day per violation (OAR 333-061-0090). Civil

penalties may be assessed beginning the day following the date of service of this Order and accruing through the date when the Program issues a Notice of Intent to Impose Civil Penalty.

Pursuant to ORS 448.990(2), violations of a rule of the Oregon Health Authority may be a crime in Oregon and punishable as a Class A misdemeanor.

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 Program within 10 days from the date this Order was mailed. The request for hearing must be sent to: David E. Leland, Manager; DHS - Drinking Water Program; PO Box 14450; Portland, OR 97293.

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.


If you do not make a timely request for a hearing, or if you withdraw a request for hearing, notify the Program or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Program may issue a final order by default. If the Program issues a final order by default, the Program 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. 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 Program subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

The Program has designated the Program's complete file on the Santiam Meadows water system 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 971-673-0405.

Dated this 19th day of April, 2011.



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

cc: Gregg Baird, OHA-DWP
Greg DeBlase, Marion County Environmental Health

DATE of Service: April 19, 2011



Brad K. Daniels

By certified mail and first class mail