

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

In the Matter of

Debbie L. Thomason/Galice Resort,
PWS OR4190808

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Debbie L. Thomason
PO Box 99
Merlin, OR 97532

You are 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 have specific responsibilities that are identified in OAR 333-061-0025.

You have at all times mentioned herein owned and operated, and continue to own and operate the Galice Resort water system, a transient non-community public water system serving between 301 and 1,500 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 Health Authority, Public Health Division, Office of Environmental Public Health, Drinking Water Program (Program) has investigated the operation of the Galice Resort water system.

The Program found, during its investigation, that water provided by the Galice Resort water system exceeded the maximum contaminant level (MCL) for turbidity and that the filtration system being utilized at the Galice Resort water system was not being operated and maintained in accordance with acceptable practices.

You have also failed to correct significant deficiencies identified during a sanitary survey and water treatment plant inspection and did not publish public notice as required. You are therefore unable to assure water users at the Galice Resort water system 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 you for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during the Program's investigation as described below.

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 and that water system facilities are free of public health hazards. You have failed to adequately maintain or operate the treatment equipment installed at the Galice Resort water system which presents a public health hazard and could result in an exceedance of one or more maximum contaminant levels as prescribed by OAR 333-061-0030. This constitutes a violation of OAR 333-061-0025.

Inadequately treated surface water has the significant potential to have serious adverse effects on human health as a result of short term exposure (OAR 333-061-0042(2)(a)). Inadequately treated water may contain disease causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches (OAR 333-061-0097(5)(c)).

- Violation No. 2: OAR 333-061-0025(4) requires water suppliers to notify all customers of the water system, as well as the general public in the service area, when maximum contaminant levels have been exceeded. OAR 333-061-0042 requires water suppliers to provide public notice to persons served by public water systems for violations of the rules and other situations as specified in the rule. Surface water treatment reports submitted for the Galice Resort water system indicate that filtered water turbidity exceeded the MCL as specified in OAR 333-061-0030(3) in every month between May and September 2011. This is a situation that requires public notice be published, and even though you published a public notice on June 3, 2011,

an inspection on September 8, 2011 found that public notices were not present at the Galice Resort water system, nor has the Program received a copy of the notice published as required. The failure to provide public notice as required constitutes a violation of both OAR 333-061-0025(4) and OAR 333-061-0042. If public notice was published but not submitted to the Program, it would constitute a violation of OAR 333-061-0040(1)(j).

- Violation No. 3: OAR 333-061-0032(1) requires all water systems supplied by a surface water source to install and properly operate water treatment that reliably achieves at least 99.9 percent removal and/or inactivation of *Giardia lamblia*, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal and/or inactivation of *Cryptosporidium*. Program records indicate that the Galice Resort water system utilizes a direct filtration system for surface water treatment, but Program staff identified, on March 24, 2011, that the filtration process at the Galice Resort water system did not add a coagulant. The failure to utilize chemical coagulation as part of a direct filtration process indicates that the surface water treatment process at the Galice Resort water system is not capable of providing the level of treatment required by OAR 333-061-0032(1), which constitutes a violation of the rule.
- Violation No. 4: OAR 333-061-0050(4)(c)(A) requires water systems that use a surface water source and that fail to meet the criteria for avoiding filtration to install filtration treatment. OAR 333-061-0050(4)(c)(B) identifies four standard methods of filtration, and one of these methods is direct filtration as defined in OAR 333-061-0020(79)(c). Direct filtration is defined, in part, as "a series of processes including coagulation and filtration." The failure to utilize chemical coagulation as part of the direct filtration process at the Galice Resort water system results in an unrecognized or ineffective filtration process, which constitutes a violation of OAR 333-061-0050(4)(c).
- Violation No. 5: OAR 333-061-0076(6)(a) requires water systems utilizing surface water sources to, within 45 days of receiving a sanitary survey report, respond to the Program or the agency that conducted the survey with a corrective action plan. Josephine County Environmental Health Services and the Program conducted a sanitary survey and water treatment plant inspection on March 24, 2011 at the Galice Resort water system, and a letter was mailed to you on April 15, 2011 identifying several significant deficiencies found during the survey. Specifically, the deficiencies identified were:

- Failure to possess an operations and maintenance manual;
- Failure to possess a current emergency response plan;
- Failure to possess a coliform sampling plan; and
- The lack of a flap valve or screen covering the overflow from the water storage tank.

Additionally, the following significant deficiencies were found during the water treatment plant inspection and identified in a letter dated April 13, 2011:

- Finished water turbidity was not being measured in the correct location;
- Failure to conduct a turbidity profile at least every quarter;
- Failure to calibrate turbidimeters according to manufacturer's specifications;
- Failure to base disinfection contact time on a tracer study or adequate alternative;
- No means to adequately determine flow rate on contact chamber effluent line;
- Failure to possess an alarm or automatic water treatment plant shut-off for high turbidity when an operator is not present; and
- Standard plant operating procedures are not written and followed.

You have not indicated to the Program or Josephine County Environmental Health Services that each of the deficiencies identified above has been corrected, nor have you responded with a corrective action plan. Furthermore, an inspection of the Galice Resort water treatment facilities on September 19, 2011 found that the majority of the deficiencies identified above remained uncorrected from the March sanitary survey and inspection. As of the date of this order, you have not corrected all of the deficiencies identified in the April 13 or April 15, 2011 letters, nor have you submitted an action plan to correct the deficiencies. This constitutes a violation of OAR 333-061-0076(6).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

You are 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) violated (ORS 448.255(3)).

- Compliance Action No. 1: You must ensure that one of the actions specified below as Options 1.1 or 1.2 is completed no later than April 30, 2012.
 - Option 1.1: The surface water treatment system utilized at the Galice Resort water system must be inspected by the Program and determined to be capable of meeting all the applicable treatment requirements specified in OAR 333-061-0032 and the

treatment system must meet all of the applicable construction standards specified in OAR 333-061-0050(4)(c); or

- Option 1.2: You must provide an alternate water source for the Galice Resort water system that meets all of the applicable construction, water quality, and other requirements specified in OAR 333-061-0005 through OAR 333-061-0097.
- Compliance Action No. 2: You must ensure that each significant deficiency identified in the letters dated April 13 and April 15, 2011, and specified in Violation No. 5 above, is corrected and the corrections verified by the Program no later than April 30, 2012.
- Compliance Action No. 3: You must demonstrate no later than April 30, 2012, to the satisfaction of the Program, that finished water turbidity, measured as prescribed by OAR 333-061-0036(5)(b), is below the MCL as specified in OAR 333-061-0030(3). You must also demonstrate that the turbidimeter present at the Galice Resort water system is calibrated according to the manufacturer's specifications and capable of accurately and consistently measuring finished water turbidity at the Galice Resort water system.

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 448.290 and administrative rules OAR 333-061-0005 to 333-061-0290, which remain in full force and effect.

This Order does not relieve you 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 date may result in additional enforcement action, which could include assessment of civil penalties in the amount of \$250 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; OHA - 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, the Notice of Violation and Administrative 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 Program subsequently issues a Notice Imposing a Civil Penalty, you will have waived any right to contest the violations.

If you withdraw a request for hearing, or 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 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 60 days from the day this Order was mailed. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

The Program has designated the Program's complete file on the Galice Resort 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 14th day of March, 2012.



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

cc: Scott Curry, OHA-DWP
Daniel Hough, OHA-DWP
Brad Carlson, Josephine County Environmental Health Services

DATE of Service: March 14, 2012



Brad K. Daniels

By certified mail and first class mail