

June 9, 2014

Keun Soo and Ok Hyun Lee
Kelly's Corner Market
13443 SE Kisor Ct.
Happy Valley, OR 97086

RE: Notice of Non-Compliance and possible civil penalties regarding the Kelly's Corner Market public water system, PWS OR4194706

Mr. & Mrs. Lee,

Our records indicate that you are the owners of Kelly's Corner Market at 14480 SE Orient Dr. in Boring. You are therefore a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule ([OAR](#)) [333-061-0020\(207\)](#), and have specific responsibilities as defined in [OAR 333-061-0025](#).

The Kelly's Corner Market (KCM) water system is a transient non-community public water system serving between 10 and 100 people and is subject to regulation under ORS 448.115 to 448.290 and OAR 333-061-0005 to 333-061-0272.

The Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) has reviewed the operation of the KCM water system. This review has found that KCM is not in compliance with the following Oregon administrative rules, and is therefore not meeting its responsibilities as a water supplier as prescribed by the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules.

- 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 to assure that water system facilities are free of public health hazards. Water samples collected at the KCM water system indicate that the source water well is contaminated with *E. coli* bacteria, which combined with the lack of an effective disinfection treatment system creates both a public health hazard and the likelihood that the KCM water system will exceed the maximum contaminant level (MCL) for coliform bacteria as specified in [OAR 333-061-0030\(4\)](#) in the future.

You were notified on November 5, 2013 and April 21, 2014 that corrective action is required to address the confirmed *E. coli* contamination of the groundwater well at the KCM water system. However you failed to demonstrate that you have taken all reasonable precautions to ensure that the MCL will not be exceeded and to ensure water system facilities are free of public health hazards. This constitutes a violation of OAR 333-061-0025.

- Violation No. 2: [OAR 333-061-0030\(4\)](#) specifies that the number of total coliform-positive samples shall not exceed one sample during a month at water systems which collect less than forty samples per month for coliform bacteria. Coliform sampling results reported for the KCM water system for the month of September 2013 included at least two samples indicating the presence of coliform bacteria, which exceeds the MCL. This constitutes a violation of OAR 333-061-0030(4).
- Violation No. 3: [OAR 333-061-0032\(6\)](#) requires that water systems using groundwater sources take corrective action when sample results indicate the presence of *E. coli* bacteria in a groundwater source. Six samples collected in September and October 2013 at the KCM water system were analyzed and shown to have the presence of *E. coli* bacteria. However you have failed to complete corrective action or to comply with a corrective action plan since being notified of the presence of *E. coli* in the source water samples at the KCM water system.

The Oregon Department of Agriculture specifically requested the submission of a corrective action plan by May 7, 2014 in the letter dated April 21, 2014. However a corrective action plan was not submitted as requested and has not been submitted as of the date of this notice. This constitutes a violation of OAR 333-061-0032(6).

ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Due to the rule violations identified above, you are required to complete the following actions relating to the KCM water system:

- Compliance Action No. 1: You must submit an action plan, including complete construction plans if applicable, identifying the corrective action you will implement at the KCM water system to ensure that drinking water does not exceed maximum contaminant levels and that water system facilities are free of public health hazards.
 - The action plan must be submitted to DWS **no later than July 15, 2014**.

- Any construction plans submitted to DWS must meet all the applicable requirements of [OAR 333-061-0060](#) and have sufficient detail to completely and clearly illustrate what will be constructed.
- Compliance Action No. 2: KCM must complete corrective action in accordance with Compliance Action No. 1, **no later than September 30, 2014.**
 - Any related physical or infrastructure changes at the KCM water system must meet the applicable construction standards specified in [OAR 333-061-0050](#) and be approved by DWS prior to construction.

The failure to submit a corrective action plan as requested by the Oregon Department of Agriculture as described above puts you at risk of being assessed civil penalties in the amount of \$50 for every distinct rule violation and for every day the KCM water system is in violation of a rule (OAR 333-061-0090). In the event that DWS assesses a civil penalty against you, you will be notified in writing and provided an opportunity for a hearing pursuant to the Oregon Administrative Procedures Act (ORS chapter 183).

To avoid being assessed civil penalties, you must immediately complete the compliance actions specified in this letter and verify your action with the Oregon Department of Agriculture.

Respectfully,



Brad K. Daniels
Enforcement Coordinator
Oregon Health Authority, Drinking Water Services

cc: Pete Farrelly, Oregon Health Authority, Drinking Water Services
Sarah Schwab, Oregon Department of Agriculture