

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

In the Matter of

Reggie James Boltz / Twilight View  
Community Water System, PWS  
OR4101479

Respondents

Reggie James Boltz  
420 Brown Road  
O'Brien, OR 97534

CANCELLATION OF BILATERAL  
COMPLIANCE AGREEMENT

NOTICE OF VIOLATION AND  
ADMINISTRATIVE ORDER

Reggie James Boltz, you have at all times mentioned herein owned and operated, and continue to own and operate, Twilight View Community Water System, LLC (hereinafter "Water System"), which serves homes along Galaxy Way in Grants Pass, Oregon. The Water System is a community public water system serving approximately 50 people and is subject to regulation under Oregon Revised Statutes 448.115 to 448.290 and Oregon Administrative Rules 333-061-0005 to 333-061-0272.

You (hereinafter "Water Supplier") are therefore a water supplier as defined in Oregon Revised Statute (ORS) 448.115(12) and Oregon Administrative Rule (OAR) 333-061-0020, and as a water supplier, have specific responsibilities that are identified in OAR 333-061-0025.

Pursuant to its authority established in ORS 431A.010 and ORS 448.255, the Oregon Health Authority, Public Health Division, Center for Health Protection, Drinking Water Services (DWS) has investigated the operation of the Water System.

DWS found, during its investigation, that water provided by the Water System exceeds the action level (AL) for copper. Also, Water Supplier did not recommend or install optimal corrosion control treatment for lead and copper as required by rule following the sample results that exceeded the AL.

Water Supplier entered into a bilateral compliance agreement (BCA) with DWS on July 31, 2019. In the BCA, Water Supplier agreed, in part, to complete construction and installation of a system for corrosion control treatment. Water Supplier specifically agreed that construction of the treatment would be completed no later than June 30, 2020; however, as of the date of this Notice of Violation and Administrative Order (Order), the agreed upon activity has not been completed.

Water supplier did not request an extension to the agreed upon deadline and has not independently provided information regarding the status of the construction or the monitoring for lead and copper required subsequent to the installation of treatment. Water Supplier 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.

DWS hereby cancels the BCA executed on July 31, 2020 because Water Supplier failed to satisfy the terms agreed upon therein. This Order is being issued to Water Supplier for the specific violations of the Oregon Drinking Water Quality Act (ORS 448.115 to ORS 448.290) and rules found during DWS' investigation as described below.

#### DESCRIPTION OF RULE VIOLATIONS

1. OAR 333-061-0025 requires water suppliers, in part, to take all reasonable actions to assure that water system facilities are free of public health hazards and to assure that water system operation and maintenance are performed as required by the Oregon administrative rules in chapter 333, division 61. Water Supplier did not recommend and install optimal corrosion control treatment as required after samples exceeded the AL for copper and has failed to take independent action to begin operation of the treatment to ensure that concentrations of copper do not exceed the AL. This constitutes a violation of OAR 333-061-0025.

2. OAR 333-061-0030(1) specifies, in part, that the action level (AL) for copper in drinking water is 1.3 mg/L and that the AL is exceeded if the concentration of copper is greater than 1.3 mg/L in more than 10 percent of tap water samples collected during any monitoring period. The concentration of copper exceeded 1.3 mg/L in more than 10 percent of tap water samples collected at the Water System between January 1 and March 14, 2002, on September 21, 2010 and on August 30, 2016. This constitutes a violation of OAR 333-061-0030(1).

Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor. OAR 333-061-0097

3. OAR 333-061-0034 requires, in part, water suppliers to recommend optimal corrosion control treatment within six months after the end of the monitoring period in which samples exceed the AL for lead or copper. Optimal corrosion control treatment must be installed 24 months after it is recommended by water suppliers. Water Supplier did not recommend optimal corrosion control treatment within six months of December 31, 2016 as required by OAR 333-061-0034 or by the December 31, 2018 deadline allowed by DWS. This constitutes a violation of OAR 333-061-0034.

### ACTIONS REQUIRED TO ACHIEVE COMPLIANCE

Water Supplier 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) violated (ORS 448.255(3)).

1. Water Supplier must complete any remaining construction and begin operating the corrosion control treatment at the Water System within 30 days of the date of service of the Order.
  - Water Supplier must notify DWS within five calendar days of beginning operation of the corrosion control treatment as specified identified in this corrective action.
2. Water Supplier must monitor lead and copper at the Water System according to OAR 333-061-0036(10) at a minimum of 5 sample sites approved by DWS and report the results to DWS. A minimum of two rounds of monitoring shall be conducted.

- The first round of monitoring must be conducted immediately after construction of corrosion control treatment and in no case later than February 28, 2021 with the results of the monitoring reported to DWS no later than March 31, 2021.
  - The second round of monitoring must be conducted six months after the first round and in no case later than August 31, 2021 with the results of the monitoring reported to DWS no later than September 30, 2021.
3. Water Supplier must monitor water quality parameters according to OAR 333-061-0036(10)(f) and report the results to DWS.
- Water quality parameter samples must be collected at two sites in the distribution system at the same time as each of the two rounds of lead and copper tap water monitoring specified in Compliance Action No. 2. Two samples shall be collected at each site, the first sample at the same time as lead and copper tap water monitoring and the second sample two weeks later.
  - Water quality parameter samples shall be collected at the entry point to the distribution system, after corrosion control treatment, every two weeks beginning when Water Suppliers begins operating the corrosion control treatment and continuing until optimized water quality control parameters are specified by DWS.

#### 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 Oregon Administrative Rules OAR 333-061-0005 to 333-061-0272, which remain in full force and effect.

This Order does not relieve Water Supplier 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 DWS 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 \$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 DWS issues a Notice of Intent to Impose Civil Penalty. For example, if DWS issues a Notice of Intent to Impose Civil Penalty on February 1, 2021 for failure to begin operating the corrosion control treatment system according to this Order, the proposed civil penalty could be as much as \$9,000.

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 DWS within 10 days from the date this Order was mailed. **The request for hearing must be sent to: David Emme, Manager; Oregon Health Authority, Drinking Water Services; PO Box 14450; Portland, OR 97293.**

If you request a hearing, DWS will notify you of the time and place at which the hearing will be held. You may enlist representation by legal counsel. Per ORS 413.041, a party that is not a natural person may be represented by an attorney or by any officer or authorized agent or employee of the party. Parties are ordinarily represented by counsel. DWS will be represented by an Assistant Attorney General. Prior to the hearing date, DWS will provide you with information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing. An administrative law judge from the Office of Administrative Hearings will be assigned to preside over the hearing, as required by ORS 183.635.

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 DWS 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 DWS or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, DWS 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.

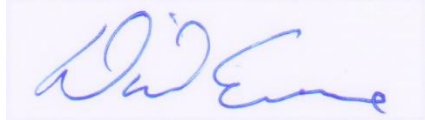
**Notice to Active Duty Servicemembers**

Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information, contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

DWS has designated its complete file on the 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 Order 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 23rd day of December, 2020.



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David Emme, Manager  
Drinking Water Services  
Oregon Health Authority

cc: Justin Fimbres, Josephine County Environmental Health  
Zach Golik, Oregon Health Authority, Drinking Water Services

DATE of Service: December 28, 2020



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Signature

Brad K. Daniels  
Printed Name

By certified mail and first-class mail