

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
PUBLIC HEALTH DIVISION
CENTER FOR HEALTH PROTECTION

In the Matter of

Reggie Boltz/Augustino Estate, PWS
OR4195652

Respondent

NOTICE OF VIOLATION AND
ADMINISTRATIVE ORDER

To: Reggie James Boltz
Augustino Estate
PO Box 420
O'Brien, OR 97534

Reggie James Boltz, you have at all times mentioned herein owned and operated, and continue to own and operate, the Augustino Estate water system (hereinafter "Water System") located at 400 Brown Road, west of O'Brien, Oregon. The Water System is a transient non-community public water system serving approximately 30 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.

Reggie James Boltz, (hereinafter "Water Supplier") you 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 Supplier did not install treatment for maintaining a disinfectant residual or take equivalent corrective action after multiple coliform investigations were triggered within the period specified in OAR 333-061-0032(6)(g). Water Supplier is therefore not operating the Water System in compliance with the Oregon Administrative Rules.

This Notice of Violation and Administrative Order (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 333-061-0032(6)(g) requires, in part, water suppliers to install treatment for disinfectant residual maintenance when three or more coliform investigations as described in OAR 333-061-0078 are triggered within a twelve-month period. Treatment must be installed within six months unless an alternate schedule is approved. The presence of coliform bacteria in drinking water at the Water System triggered a third coliform investigation on December 20, 2021 and as of June 25, 2022, the required water treatment was not installed nor was an alternate schedule approved. This constitutes a violation of OAR 333-061-0032(6)(g).

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 submit to DWS:
 - Plans and information according to all the applicable provisions of OAR 333-061-0060(1)(c) and (d), for the groundwater well supplying the Water System; and
 - Complete construction plans for treatment to produce and maintain a disinfectant residual throughout the Water System, or an equivalent corrective action.

- The construction plans must meet all the applicable requirements of OAR 333-061-0060 and have sufficient detail to completely and clearly illustrate what will be constructed.
 - The plans and any additional information required by this compliance action must be submitted to DWS no later than 60 days after the date of service of this Order.
2. Water Supplier must complete construction of any modifications to the groundwater well required by DWS, and construction and installation of treatment for disinfectant residual maintenance or its equivalent as specified in Compliance Action No. 1, no later than six months after condition plan approval granted by DWS.
- Construction must be completed according to plans approved by DWS.
 - Construction of all improvements or modifications at the Water System must meet the applicable construction standards specified in OAR 333-061-0050.

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, 2023 for failure to submit construction plans to DWS according to this Order, the proposed civil penalty could be as much as \$1,500.

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: Kari Salis, Manager; Oregon Health Authority, Drinking Water Services; and may be delivered by mail to PO Box 14450, Portland, OR 97293 or by email to karyl.l.salis@dhsosha.state.or.us.**

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 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 503-584-3571 for more information. The internet address for the United States Armed Forces Legal Assistance Locator website is <http://legalassistance.law.af.mil>.

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 K. Daniels at bradley.k.daniels@dhsosha.state.or.us or 503-735-5438.

Date 12/8/2022



André Ourso, JD, MPH

Administrator

Oregon Health Authority, Center for Health Protection

cc: Zach Golik, Oregon Health Authority, Drinking Water Services
Russ Kazmierczak, Oregon Health Authority, Drinking Water Services
Shane Kinney, Oregon Department of Agriculture

DATE of Service: December 9, 2022



Signature

Brad K. Daniels

Printed Name

By certified mail and first-class mail