

**To:** Board of Health

**Through:** Jennifer Ludwig, Public Health Director, Arapahoe County Public Health

**Prepared By:**

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prepared
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Steven Chevalier, Environmental Health Manager (Early Childhood, Schools and Environmental Protection), Public Health

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end
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presenter
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**Presenters:** Steven Chevalier, Environmental Health Manager (Early Childhood, Schools and Environmental Protection), Public Health

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end
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**Subject:**

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title
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23900 E. Ohio Ave., Aurora, CO; OWTS Cease and Desist Hearing

**Purpose and Request:**

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recommended action
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The purpose of this item is to inform the Board of Health (BOH) about continued noncompliance with the Public Health Order and Civil Penalty Assessment issued for the On-Site Wastewater Treatment System (OWTS) at 23900 E. Ohio Ave., Aurora, CO.

On July 7, 2026, the BOH issued a Public Health Order and Civil Penalty Assessment to Fernando Avina Garcia, property owner of 23900 E. Ohio Ave., after finding that the OWTS at the property was failing and/or failed and constituted a nuisance. The Order assessed civil penalties of \$50 per day beginning July 6, 2026, and required the property owner to take corrective actions to remove, prevent, and remediate the nuisance.

Despite issuance and service of the Order, the property owner has not demonstrated compliance. Arapahoe County Public Health (ACPH) is requesting that the BOH issue a Cease and Desist Order requiring the property owner to cease and desist from use of the OWTS unless and until the property owner complies with the July 7, 2026 Public Health Order and Civil Penalty Assessment, completes all required corrective actions, and obtains ACPH approval for use of the OWTS

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**Background and Discussion:** The property located at 23900 E. Ohio Ave. is served by an OWTS. ACPH first became involved with the current enforcement matter during the Transfer of Title/Use Permit process for a real estate transaction. The third-party inspection and subsequent follow-up identified significant concerns with the OWTS, including a severely deteriorated secondary tank, tanks that reportedly had not been pumped since installation, overfull tanks, an inaccessible diverter valve, and a soil treatment area/fields that could not be fully evaluated due

to depth. ACPH also received information that the damaged tank area presented a physical safety concern and needed to be secured.

The property closed without issuance of a Transfer of Title/Use Permit or conditional use permit, and required repairs were not completed. ACPH issued a Notice of Violation on April 17, 2026, citing Section 18.1.D of the Arapahoe County OWTS Regulations for maintaining a dwelling that is not equipped with adequate facilities for the sanitary disposal of sewage. ACPH later issued a Second Notice of Violation and Intent to Proceed with Enforcement on June 15, 2026, after the property owner failed to complete required corrective actions.

On July 7, 2026, the BOH issued a Public Health Order and Civil Penalty Assessment. The Order found that the OWTS at 23900 E. Ohio Ave. was failing and/or failed and constituted a nuisance in violation of the Colorado Public Health Act, the Colorado On-Site Wastewater Treatment Act, and the Arapahoe County OWTS Regulations. The Order assessed a civil penalty of \$50 per day beginning July 6, 2026, continuing until the Board finds that the property owner has achieved compliance. The Order also stated that the Board was amenable to waiving civil penalties if the property owner took affirmative steps toward compliance by August 6, 2026, including, at a minimum, evidence of a contract with a licensed OWTS installer, a contract with a third-party inspector, a repair permit for the septic system, and installation of appropriate fencing, with photographs submitted to ACPH.

The Order required the property owner to immediately apply for and obtain an ACPH OWTS repair permit, submit all required repair documentation, and complete corrective actions by August 6, 2026. Required corrective actions included pumping and evaluating the OWTS tanks, adding risers and a secure lid or cover to the primary tank, replacing or otherwise resolving the secondary tank as approved by ACPH, excavating and evaluating the diverter valve, completing a full evaluation of the soil treatment area/fields, submitting an updated Use Permit Inspection Report, submitting repair verification documentation for non-permitted corrective work, completing all required OWTS repairs approved by ACPH, and obtaining ACPH approval and a certificate of use.

The Order also required the property owner to maintain the OWTS, damaged tank area, and surrounding work area in a nuisance-free and secure condition until all required repairs are completed and approved by ACPH. This includes preventing sewage from surfacing or otherwise being discharged to the ground surface, pumping the septic tanks as often as necessary to prevent surfacing sewage, sewage backup, or other nuisance conditions, securely covering any tank opening or damaged tank area, installing and maintaining fencing or barricading, posting the area as restricted, and providing ACPH documentation of interim protective measures.

The Order was served by email, certified mail, and first-class mail. ACPH staff also attempted to contact the property owner after issuance of the Order to answer questions and encourage compliance. On July 13, 2026, ACPH attempted to call the property owner to answer any questions regarding the Public Health Order. A voicemail was left. On July 14, 2026, ACPH again attempted to call the property owner. The property owner returned the call and stated that he had not seen anything regarding the Public Health Order. ACPH advised that the Order had been emailed by Steven Chevalier on July 7, 2026, and mailed the prior week to 23900 E. Ohio

Ave. The property owner attempted to locate the email while on the phone. The property owner then hung up the phone, and when ACPH attempted to call back, there was no answer. On July 16, 2026, ACPH again attempted to call the property owner to answer any questions regarding the Public Health Order. A voicemail was left.

As of August 6, 2026, ACPH has not received documentation demonstrating compliance with the July 7 Order. Specifically, ACPH has not received documentation showing that the property owner has obtained an ACPH OWTS repair permit, contracted with an ACPH licensed OWTS installer, contracted with a qualified third-party inspector, completed the required tank pumping and system evaluation, completed required repairs, submitted photographs of appropriate fencing or barricading, or obtained ACPH approval for use of the OWTS.

ACPH has attempted to gain compliance through education, written communication, phone calls, site follow-up, Notices of Violation, a Board-issued Public Health Order, and civil penalty assessment. The property owner has not demonstrated compliance. The OWTS remains unresolved, and the damaged tank area and lack of completed repair/evaluation continue to present public health and safety concerns.

A cease and desist action is warranted because the property owner has failed to comply with the Board's Order, has not demonstrated that the OWTS is functioning as intended, and has not completed the required corrective actions necessary to remove, prevent, or remediate the nuisance.

**Fiscal Impact:** N/A

**Staff Recommendation:** Find that the property owner remains out of compliance with the July 7, 2026 Public Health Order and Civil Penalty Assessment.

Issue a Cease and Desist Order requiring the property owner to cease and desist from use of the OWTS at 23900 E. Ohio Ave. unless and until the property owner complies with the July 7, 2026 Public Health Order and Civil Penalty Assessment, completes all required corrective actions, and obtains ACPH approval for use of the OWTS. Require the property owner to immediately comply with all requirements of the July 7, 2026 Public Health Order and Civil Penalty Assessment.

Continue civil penalties of \$50 per day until the Board finds that the property owner has achieved compliance with the Colorado Public Health Act, the Colorado On-Site Wastewater Treatment Act, the Arapahoe County OWTS Regulations, and the July 7, 2026 Public Health Order and Civil Penalty Assessment.