



**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION**

COMPLIANCE ORDER ON CONSENT

NUMBER: MC-080121-1

**IN THE MATTER OF: CITY OF DURANGO
 PUBLIC WORKS DEPARTMENT
 CDPS PERMIT NUMBER CO-0024082
 LA PLATA COUNTY**

The Colorado Department of Public Health and Environment (“Department”), through the Water Quality Control Division (“Division”), issues this Compliance Order on Consent (“Consent Order”), pursuant to the Division’s authority under §25-8-605, C.R.S. of the Colorado Water Quality Control Act (“the Act”) §§ 25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of the City of Durango. The Division and the City of Durango may be referred to collectively as “the Parties.”

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are:
 - i. To resolve all alleged violations of the Act, the permit regulations (5 CCR 1002-61) and the City of Durango’s Colorado Discharge Permit System permit (Number: CO-0024082) based on the City of Durango’s sanitary sewer overflows (“SSOs”), listed in paragraph 11 below, that have occurred between July 24, 2000 and June 2, 2007.
 - ii. To establish compliance requirements and criteria to prevent or minimize future SSOs from the City of Durango’s sanitary sewer collection system.

DIVISION’S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division’s investigation into and review of the compliance issues identified herein, and in accordance with §25-8-602 and 605, C.R.S., the Division has made the following determinations regarding the City of Durango and the City of Durango’s compliance with the Act, its implementing permit regulations and its permits.
3. The City of Durango is, and was during all time relevant to the alleged violations identified herein, a municipal corporation and home rule city organized pursuant to the Colorado Constitution.

4. The City of Durango is a “person” as defined by §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
5. The City of Durango owns and operates a wastewater treatment facility, known as the Durango Wastewater Treatment Plant, which is located at or near 105 South Camino del Rio in the City of Durango, La Plata County, [SW ¼, Section 29, T35N, R9W] (the “Facility”).
6. The Facility is authorized to receive and treat up to 3 millions gallons per day of domestic sewage and industrial wastewater generated from the City of Durango. The City of Durango’s wastewater collection system covers 18 square miles and is comprised of approximately 67 miles of pipeline, including 18 lift stations.

Unauthorized Discharge and Land Application

7. Pursuant to §25-8-501(1), C.R.S., no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article.
8. The City of Durango is the subject of a Colorado Discharge Permit System (“CDPS”) permit; permit number CO-0024082 (the “Permit”). The Permit authorizes the City of Durango to discharge treated wastewater from the Facility through one outfall (outfall 001A) to the Animas River in accordance with effluent limitations, monitoring requirements, and other conditions set forth in the Permit.
9. Pursuant to 5 CCR 1002-61, §61.14(1)(a), the City of Durango is required to obtain a permit for all land application discharges unless:
 - a. The discharge is exempted under 5 CCR 1002-61, §61.14(1)(b);
 - b. The discharge is subject to regulation by one of the implementing agencies described in 61.14(2); or
 - c. The owner of a land application system can demonstrate that: (i) the design and operation of the system will result in complete evapotranspiration of the effluent; (ii) there is adequate storage provided for the effluent during periods of inclement weather or where the ground has been frozen unless the provisions of (i) above can be met during the entire year; and; (iii) any augmentation plan or substitute supply plan for the land application site does not provide a credit for return of the effluent to ground water.
10. Part II, section A(6) of the Permit states, “Any discharge to the waters of the State from a point source other than specifically authorized herein is prohibited.”
11. Division records establish that the City of Durango has reported the following sixty one (61) SSOs from its sanitary sewer collection system to the Division from July 24, 2000 through June 2, 2007:

Release Date	Location	Quantity Discharged/Released (Gallons)	Receiving Water
24-Jul-00	Bodo #1 Lift Station	3000	Animas River
9-Aug-00	North of the 100 block of South Camino Del Rio (US Hwy 550/160)	2000	Land Application
11-Aug-00	West 3rd and 31st Street	100	Animas River
22-Mar-01	Between 28th Street & 29th Street	25,000	Animas River
14-Nov-01	Westside Lift Station	5	Land Application
18-Nov-01	Boda #2 Lift Station	200	Land Application
3-Jan-02	902 Oak - due to a blockage in sewer between 31st Street and Florida on Holly	130	Land Application
15-Jan-02	2807 North College	50	Land Application
18-Jan-02	North College	100	Animas River
21-Jan-02	2807 North College	50	Land Application
11-Feb-02	Florida Road 1200 block	50	Land Application
25-Jun-02	Lizardhead and Jenkins Ranch Roads	200	Land Application
15-Jul-02	740 East 7th Avenue	25	Land Application
16-Jul-02	205 Jenkins Ranch Road	100	Land Application
22-Aug-02	3049 West 2nd Avenue	100	Land Application
1-Sep-02	Between 29th Street & 30th Street	600	Animas River
10-Sep-02	1820 Forrest	100	Land Application
27-Nov-02	Riverview and Florida Road	50	Land Application
10-Feb-03	2413 West 2nd Avenue	20	Land Application
15-Feb-03	200 Jenkins Ranch Road	75	Land Application
9-Mar-03	18 Carol Drive	75	Land Application
19-Mar-03	239 Kenkins Ranch Road	75	Land Application
27-Mar-03	2424 Columbine	25	<i>Land Application</i>

Release Date	Location	Quantity Discharged/Released (Gallons)	Receiving Water
5-May-03	West 2nd Avenue between 31st and 32nd Streets	15	<i>Land Application</i>
6-May-03	3049 West 2nd Avenue	10	<i>Land Application</i>
12-May-03	Florida Drive and Riverview Drive	15	<i>Land Application</i>
19-May-03	Florida Road and Riverview Drive	15	<i>Land Application</i>
24-May-03	Jenkins Ranch Road and Gogelin Gulch Road	60	<i>Land Application</i>
29-Jan-04	Island Cove Lift Station	25	<i>Land Application</i>
20-Feb-04	7th Ave and 8th Street	50	<i>Land Application</i>
20-Feb-04	UBC lower yard	200	<i>Land Application</i>
16-Mar-04	10th and 6th Ave	150	<i>Land Application</i>
17-Apr-04	12th block of Roosa North of Westside Lift Station	50	Animas River
20-Apr-04	Behind VFW - Lift station	300	<i>Land Application</i>
1-May-04	2860 E 2nd Ave	25	Animas River
30-May-04	Narrow Gauge and College Drive	100	<i>Land Application</i>
7-Jul-04	2955 West 3rd Ave	50	<i>Land Application</i>
18-Sep-04	Avenida Del Sol and Roosa Street	10	<i>Land Application</i>
20-Sep-04	Schneider Park, (main line plug)	75	Animas River
22-Sep-04	Schneider Park, Westside Lift Station	75	Animas River
23-Sep-04	21760 US Highway 160, West Durango in the parking lot	20	<i>Land Application</i>
8-Dec-04	VFW on 15th Street and Main Ave	75	<i>Land Application</i>
8-Dec-04	Hwy 550 N, Lower Animas Valley Lift Station	1000	<i>Land Application</i>
14-Dec-04	30th street and West 3rd Ave	25	<i>Land Application</i>
12-Jan-05	1200 block (Roosa Street)	1000	<i>Land Application</i>
31-Jan-05	1200 block of Roosa Ave	200	<i>Land Application</i>
8-Apr-05	1100 Block of South Camino Del Rio – Santarita Park	100	Animas River

Release Date	Location	Quantity Discharged/Released (Gallons)	Receiving Water
9-Jun-05	Clovis Drive / Between Bacus Ave and Columbine Drive	10	Junction Creek/ Animas River
1-Jul-05	105 South Camino Del Rio	100	<i>Land Application</i>
4-Aug-05	College Drive & 7 th / Between Main and E 2 nd Ave	500	<i>Land Application</i>
22-Sep-05	139 West 18 th Street	200	<i>Land Application</i>
26-Sep-05	1300 block of Roosa Ave	200	<i>Land Application</i>
9-Dec-05	381 South Camino Del Rio	25	Storm Drain/ Animas River
26-Dec-05	310 E. 37th Street	300	<i>Land Application</i>
5-Jan-06	381 S. Camino Del Rio	50	Animas River
17-Jan-06	2700 Block Along Narrow Gauge	2000	Animas River
9-Jun-06	105 South Camino Del Rio (RV Dump Site)	250	<i>Land Application</i>
19-Dec-06	500 Camino Del Rio Street (Lightener Creek Lift Station)	100	Storm Drain/ Animas River
22-Mar-07	East 200 Block of 5th Street	50	Storm Drain/ Animas River
4-Apr-07	479 Main Avenue (Silverton Railroad Yard)	250	<i>Land Application</i>
2-Jun-07	100 Camino Del Rio	7500	<i>Land Application</i>

12. Part I, section A(4) of CDPS permit number CO-0024082 provides in part: “The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee as necessary to achieve compliance with the conditions of this permit. This provision requires the operation of back-up or auxiliary facilities or similar systems when installed by the Permittee only when necessary to achieve compliance with the conditions of the permit.”
13. Wastewater contains, among other substances, biochemical oxygen demand (“BOD”), total suspended solids (“TSS”), and fecal coliform bacteria, which are “pollutants” within the meaning of section 25-8-102(15), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(76).
14. The Animas River is “state waters” as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(101).
15. The City of Durango’s sanitary sewer collection system and its ancillary equipment, as they relate to each discharge event identified above in paragraph 11, are a “point source” as defined by §25-8-103(14), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(75).

16. Each of the City of Durango's wastewater discharges identified above in paragraph 11 that reached state waters constitutes a "Discharge of Pollutants" as defined by section 25-8-103(3), C.R.S.
17. Division records establish that the City of Durango's CDPS permit does not authorize the wastewater discharges identified above in paragraph 11 and the City of Durango does not have any other permits authorizing the wastewater discharges identified above in paragraph 11 into state waters.
18. Each of the City of Durango's surface water discharges identified in paragraph 11 above constitutes an unauthorized discharge of pollutants from a point source into state waters in violation of section 25-8-501(1), C.R.S. and in violation of CDPS permit number CO-0024082 Part I, section A(4).
19. The City of Durango's release of wastewater from its sanitary sewer collection system to the land, as identified in paragraph 11 above, constitutes "Land Application" as defined by 5 CCR 1002-61, §61.2(48).
20. The City of Durango's land application discharges, as identified in paragraph 11 above, do not meet any of the exemption criteria of 5 CCR 1002-61, §61.14(1)(a), and therefore are subject to the land application discharge permit requirements.
21. Division records establish that the City of Durango does not have any permits authorizing the land application of wastewater from its sanitary sewer collection system.
22. The City of Durango's discharge of wastewater from its sanitary sewer collection system to the land, as identified in paragraph 11 above, constitutes unauthorized land application in violation of 5 CCR 1002-61, §61.14(1)(a) and violations of CDPS permit number CO-0031232, Part I, §A(4).

ORDER AND AGREEMENT

23. Based on the foregoing factual and legal determinations, pursuant to its authority under §25-8-602 and 605 C.R.S., and in satisfaction of the violations cited herein, the Division orders the City of Durango to comply with all provisions of this Consent Order, including all requirements set forth below.
24. The City of Durango agrees to the terms and conditions of this Consent Order. The City of Durango agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§ 25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. The City of Durango also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by the City of Durango against the Division:
 - a. The issuance of this Consent Order;
 - b. The factual and legal determinations made by the Division herein; and
 - c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.

25. Notwithstanding the above, the City of Durango does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by the City of Durango pursuant to this Consent Order shall not constitute evidence of fault by the City of Durango with respect to the conditions of the Facility.

Compliance Requirements

26. In order to minimize the potential for future sanitary sewer overflows from the City of Durango's wastewater collection system the City of Durango shall undertake the following activities:
- a. By no later than March 31, 2008, the City of Durango shall rewire existing lift stations to accept emergency power.
 - b. By no later than September 30, 2008, the City of Durango shall install a SCADA system for the lift stations that provides monitoring and control functions for each lift station and which provides automatic alarming for a variety of faults with each lift station.
27. The City of Durango shall submit quarterly (every three months) progress reports to the Division outlining efforts taken to achieve compliance with this Consent Order. The first report shall be submitted to the Division on or before January 1, 2008. At a minimum, each report shall outline activities undertaken in the current reporting period and planned activities for the next quarter to remain in compliance with this Consent Order.
28. All documents submitted under this Consent Order shall use the same titles as stated in this Consent Order, and shall reference both the number of this Consent Order and the number of the paragraph pursuant to which the document is required.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

29. In addition to all other funds necessary to comply with the requirements of this Consent Order, the City of Durango shall spend approximately Four Hundred Thousand Dollars (\$400,000.00) in the form of expenditures on a Supplemental Environmental Project ("SEP") in order to achieve settlement of this matter.
30. The City of Durango shall undertake the following SEP, which the Parties agree is intended to secure significant environmental or public health protection and improvements:

The project includes the installation of co-generation equipment at the Facility to utilize digester gas to provide energy to help power plant operations. Implementation of the project will result in reduction of greenhouse gas emissions associated with the energy required to operate the Facility. *(see detailed description in Attachment A)*

31. The City of Durango shall not deduct the expenses associated with the implementation of the above-described SEP for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project.

32. The City of Durango hereby certifies that, as of the date of this Consent Order, it is not under any existing legal obligation to perform or develop the SEP. The City of Durango further certifies that it has not received, and will not receive, credit in any other enforcement action for the SEP. In the event that the City of Durango has, or will receive credit under any other legal obligation for the SEP, the City of Durango shall pay One Hundred Thirty One Thousand Nine Hundred Sixty One Dollars (\$ 131,961.00) to the Division as a civil penalty within thirty (30) calendar days of receipt of a demand for payment by the Division. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Mr. Scott Klarich
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CADM-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

33. The City of Durango shall submit a SEP Completion Report to the Division by March 1, 2009. The SEP Completion Report shall contain the following information:

- a. A detailed description of the SEP as implemented;
- b. A description of any operating problems encountered and the solutions thereto;
- c. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and
- e. A description of the environmental and public health benefits resulting from implementation of the SEP (with quantification of the benefits and pollutant reductions, if feasible).

34. Failure to submit the SEP Completion Report with the required information, or any periodic report, shall be deemed a violation of this Consent Order.

35. All SEPs must be completed to the satisfaction of the Division, within 16 calendar months of the effective date of this Consent Order, and must be operated for the useful life of the SEP. In the event that the City of Durango fails to comply with any of the terms or provisions of this Consent Order relating to the performance of the SEP, the City of Durango shall be liable for penalties as follows:

- a. Payment of a penalty in the amount of One Hundred Thirty One Thousand Nine Hundred Sixty One Dollars (\$131,961.00). The Division, in its sole discretion, may elect to reduce this penalty for environmental benefits created by the partial performance of the SEP.
- b. The City of Durango shall pay this penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be as specified in paragraph 32 above.

36. The City of Durango shall include the following language in any public statement, oral or written, making reference to the SEP: "This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of the Colorado Water Quality Control Act."

SCOPE AND EFFECT OF CONSENT ORDER

37. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the violations cited herein and in the November 28, 2005 Notice of Violation / Cease and Desist Order (Number: MO-051128-4).
38. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy", which includes a thirty-day public comment period. The Division and the City of Durango each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.
39. This Consent Order constitutes a final agency order or action upon a determination by the Division following the public comment period. Any violation of the provisions of this Consent Order by the City of Durango, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.
40. The Parties' obligations under this Consent Order are limited to the matters expressly stated herein or in approved submissions required hereunder. All submissions made pursuant to this Consent Order are incorporated into this Consent Order and become enforceable under the terms of this Consent Order as of the date of approval by the Division.
41. The Division's approval of any submission, standard, or action under this Consent Order shall not constitute a defense to, or an excuse for, any prior violation of the Act, or any subsequent violation of any requirement of this Consent Order or the Act.
42. Notwithstanding paragraph 25 above, the violations described in this Consent Order will constitute part of the City of Durango's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against the City of Durango. The City of Durango agrees not to challenge the use of the cited violations for any such purpose.
43. The City of Durango shall comply with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and shall obtain all necessary approvals and/or permits to conduct the activities required by this Consent Order. The Division makes no representation with respect to approvals and/or permits required by Federal, State, or local laws other than those specifically referred to herein.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

44. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to the specific instances of violations cited herein. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties and/or injunctive relief.
45. This Consent Order does not grant any release of liability for any violations not specifically cited herein.

46. Nothing in this Consent Order shall preclude the Division from imposing additional requirements necessary to protect human health or the environment pursuant to the terms of this Consent Order. Nor shall anything in this Consent Order preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.
47. Upon the effective date of this Consent Order, the City of Durango releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.
48. The City of Durango shall not seek to hold the State of Colorado or its employees, agents or representatives liable for any injuries or damages to persons or property resulting from acts or omissions of the City of Durango, or those acting for or on behalf of the City of Durango, including its elected or appointed officials, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. The City of Durango shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by the City of Durango in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

SITE ACCESS

49. The Division shall be permitted to oversee any and all work being performed under this Consent Order. The Division shall be permitted access to the City of Durango's property at any time work is being conducted pursuant to this Consent Order, and during reasonable business hours during any period work is not being conducted, for the purposes of determining the City of Durango's compliance with the Act and this Consent Order. The Division shall be permitted to inspect work sites, operating and field logs, contracts, purchasing/shipping records, and other relevant records and documents relating to this Consent Order or any requirement under this Consent Order and to interview the City of Durango's personnel and contractors performing work required by this Consent Order. Nothing in this paragraph limits or impairs the Division's statutory authorities to enter and inspect the Facility.

FORCE MAJEURE

50. The City of Durango shall perform the requirements of this Consent Order within the schedules and time limits set forth herein and in any approved plan unless the performance is prevented or delayed by events that constitute a force majeure. A force majeure is defined as any event arising from causes which are not reasonably foreseeable, which are beyond the control of the City of Durango, and which cannot be overcome by due diligence.

51. Within seventy-two (72) hours of the time that the City of Durango knows or has reason to know of the occurrence of any event which the City of Durango has reason to believe may prevent the City of Durango from timely compliance with any requirement under this Consent Order, the City of Durango shall provide verbal notification to the Division. Within seven (7) calendar days of the time that the City of Durango knows or has reason to know of the occurrence of such event, the City of Durango shall submit to the Division a written description of the event causing the delay, the reasons for and the expected duration of the delay, and actions which will be taken to mitigate the duration of the delay.
52. The burden of proving that any delay was caused by a force majeure shall at all times rest with the City of Durango. If the Division agrees that a force majeure has occurred, the Division will so notify the City of Durango. The Division will also approve or disapprove of the City of Durango's proposed actions for mitigating the delay. If the Division does not agree that a force majeure has occurred, or if the Division disapproves of the City of Durango's proposed actions for mitigating the delay, it shall provide a written explanation of its determination to the City of Durango. Within fifteen (15) calendar days of receipt of the explanation, the City of Durango may file an objection.
53. Delay in the achievement of one requirement shall not necessarily justify or excuse delay in the achievement of subsequent requirements. In the event any performance under this Consent Order is found to have been delayed by a force majeure, the City of Durango shall perform the requirements of this Consent Order that were delayed by the force majeure with all due diligence.

NOTICES

54. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CADM-B2
Attention: Scott Klarich
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3564
E-mail: scott.klarich@state.co.us

For the City of Durango:

City Manager
City of Durango
949 E 2nd Ave.
Durango, CO 81301
Telephone: 970.375.5009

OBLIGATIONS UNAFFECTED BY BANKRUPTCY

55. The obligations set forth herein are based on the Division's police and regulatory authority. These obligations require specific performance by the City of Durango of corrective actions carefully designed to prevent on-going or future harm to public health or the environment, or both. Enforcement of these obligations is not stayed by a petition in bankruptcy. Further, the obligations imposed by this Consent Order are necessary for the City of Durango to achieve and maintain compliance with State law.

MODIFICATIONS

56. This Consent Order may be modified only upon mutual written agreement of the Parties.

COMPLETION OF REQUIRED ACTIONS

57. The City of Durango shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Consent Order. The Division shall either accept or reject the City of Durango's Notice of Completion in writing within thirty (30) calendar days of receipt. If the Division rejects the City of Durango's Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. The City of Durango shall, within fifteen (15) calendar days of receipt of the Division's rejection, either:
- a. Submit a notice of acceptance of the determination; or
 - b. Submit a notice of dispute.

If the City of Durango fails to submit either of the above notices within the specified time, it will be deemed to have accepted the Division's determination.

58. If the City of Durango files any notice of dispute pursuant to paragraph 57 the notice shall specify the particular matters in the Division's determination that the City of Durango seeks to dispute, and the basis for the dispute. Matters not identified in the notice of dispute shall be deemed accepted by the City of Durango. The Division and the City of Durango shall have thirty (30) calendar days from the receipt by the Division of the notification of dispute to reach an agreement. If agreement cannot be reached on all issues within this thirty (30) calendar day period, the Division shall confirm or modify its decision within an additional fourteen (14) calendar days, and the confirmed or modified decision shall be deemed effective and subject to appeal in accordance with the Act and the Colorado State Administrative Procedures Act, §§ 24-4-101 through 108, C.R.S.

NOTICE OF EFFECTIVE DATE

59. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon notice from the Division following the closure of the public comment period referenced in paragraph 38.

BINDING EFFECT AND AUTHORIZATION TO SIGN

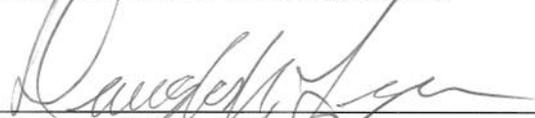
60. This Consent Order is binding upon the City of Durango and its elected officials, employees, agents, representatives, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. The City of Durango agrees to provide a copy of this Consent Order to any contractors and other agents performing work pursuant to this Consent Order and require such agents to comply with the requirements of this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WATER QUALITY CONTROL DIVISION:



Date: 1/21/08
Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

FOR THE CITY OF DURANGO:



Date: 12/26/07
Douglas W. Lyon, Mayor



Date: 12/26/07
Otha J. Rogers, City Manager (Interim)