



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

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**COMPLIANCE ORDER ON CONSENT**

**NUMBER: MC-080314-1**

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**IN THE MATTER OF: MT. CRESTED BUTTE WATER & SANITATION DISTRICT  
CDPS PERMIT NO. CO-0027171  
GUNNISON COUNTY, COLORADO**

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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 Mt. Crested Butte Water & Sanitation District (“MCBWSD”). The Division and MCBWSD 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 to resolve, without litigation, outstanding issues and civil penalties associated with the alleged violations identified herein and in the Notice of Violation / Cease and Desist Order / Clean-up Order (Number: MO-060407-1) that the Division issued to MCBWSD on April 7, 2006.

**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 MCBWSD and its compliance with the Act, its implementing regulations and its Colorado Discharge Permit System permit.
3. At all times relevant to the violations cited herein, the MCBWSD was a “Special District” formed in Gunnison County, Colorado pursuant to the Special District Act, §§32-1-101 through 32-1-1702 C.R.S.
4. MCBWSD is a “person” as defined by the Water Quality Control Act, §25-8-103(13), C.R.S.

5. MCBWSD operates a domestic wastewater treatment works, which is located in the vicinity of 100 Gothic Road [NW ¼, SE ¼, Section 26, T13S, R68W, 6TH P.M.], in the Town of Mt. Crested Butte, Gunnison County, Colorado (the “Facility”).
6. The Facility is the subject of Colorado Discharge Permit System Permit, Permit No. CO-0027171 (the “Permit”). The Permit authorizes MCBWSD to discharge treated wastewater from the Facility to Woods Creek in accordance with effluent limitations, monitoring requirements, and other conditions set forth in the Permit.
7. The Facility has a hydraulic flow design capacity of 1.2 million gallons per day. MCBWSD collects and treats between 160,000 and 700,000 gallons of domestic and industrial wastewater on a daily basis, including domestic wastewater from the Meridian Lake Park Subdivision satellite collection system. MCBWSD’s sanitary sewer collection system is comprised of 14.2 miles of pipeline, 5 lift stations and covers 3.05 square miles.

#### Unauthorized Discharge and Land Application

8. 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.
9. Pursuant to 5 CCR 1002-61, §61.14(1)(a), MCBWSD 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, §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. Part I, §A(4) of the Permit 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.”

12. On or about September 12, 2005, MCBWSD employees discovered a complete blockage in the 12-inch sewer trunk line approximately 975 feet upstream of the Facility. Blockage material consisted of a piece of firewood, a large rock, gravel and 2 pieces of 8" PVC pipe. Despite response efforts, approximately 250,000 gallons of untreated sewage flowed out of a manhole over an 18-hour period ending mid day on September 12, 2005 and into nearby Woods Creek, a tributary to Washington Gulch, which is tributary to the Slate River.
13. On September 12, 2005, MCBWSD orally reported the unauthorized discharge to the Division pursuant to Part I, §D(3)(B) of the Permit.
14. In an email transmitted on September 15, 2005, MCBWSD submitted its formal written notification of the unauthorized discharge pursuant to Part I, §D(3)(B)(ii) of the Permit.
15. On December 20, 2005, MCBWSD employees discovered a new blockage in the 12-inch sewer trunk line upstream of the Facility. Despite successful response efforts to restore full flow to the pipe segment, approximately 100,000 gallons of untreated sewage flowed out of a manhole and into nearby Woods Creek.
16. On December 25, 2005, MCBWSD employees discovered that the same manhole that overflowed on December 20, 2005 once again became partially clogged and overflowed most of the day during peak flow hours. The overflow continued on December 26<sup>th</sup> as response efforts were hindered due to winter conditions, the physical location of the blockage and the Christmas holiday. Despite response efforts, approximately 400,000 gallons of untreated sewage flowed out of the manhole and into nearby Woods Creek.
17. On January 11, 2006, the Division became aware of the December 25, 2005 overflow event through a third party and contacted the MCBWSD. Following contact, the MCBWSD reported the overflow event to the Department's environmental release and incident reporting telephone line.
18. On January 19, 2006, the MCBWSD submitted to the Division, via facsimile, a written follow-up report describing the December 20, 2005 and the December 25, 2005 overflow events.
19. On December 10, 2006, MCBWSD reported to the Division a sanitary sewer overflow that had discharged approximately 500 gallons of untreated sewage onto MCBWSD property adjacent to the Facility. MCBWSD properly responded to and mitigated the sanitary sewer overflow.
20. On December 15, 2006, MCBWSD properly submitted to the Division, via facsimile, a written follow-up report describing the December 10, 2006 overflow event.
21. On February 12, 2007, MCBWSD reported to the Division a sanitary sewer overflow that had discharged approximately 500 gallons of untreated sewage onto the ground in the vicinity of 104 Big Sky Road. MCBWSD properly responded to and mitigated the sanitary sewer overflow.
22. On or about February 16, 2007, MCBWSD properly submitted to the Division, via facsimile, a written follow-up report describing the February 12, 2007 overflow event.

23. Untreated sewage contains, among other substances, biochemical oxygen demand (“BOD”), total suspended solids (“TSS”), and fecal coliform bacteria. Untreated sewage is a “pollutant” within the meaning of §25-8-103(15), C.R.S.
24. Woods Creek, Washington Gulch and the Slate River are each “state waters” as defined by §25-8-103(19), C.R.S.
25. MCBWSD’s sanitary sewer collection system, as it relates to the discharge events identified above in paragraphs 12, 15 and 16, is a “point source” as defined by §25-8-103(14), C.R.S.
26. MCBWSD’s untreated sewage discharge identified above in paragraphs 12, 15 and 16 constitutes a “Discharge of Pollutants” as defined by §25-8-103(3), C.R.S.
27. Division records establish that the Permit does not authorize the untreated sewage discharges identified in paragraphs 12, 15, 16, 19 and 21 and MCBWSD does not have any other permits authorizing the untreated sewage discharges identified in paragraphs 12, 15, 16, 19 and 21.
28. MCBWSD’s failure to properly operate and maintain its sanitary sewer collection system in a manner to prevent sewage overflows constitutes a violation(s) of CDPS permit number CO-00227171 Part I, §A(4).
29. MCBWSD’s discharge of untreated sewage to state waters, as identified above in paragraphs 12, 15 and 16, constitutes an unauthorized discharge of pollutants into state waters without a permit in violation of §25-8-501(1), C.R.S.
30. MCBWSD’s land application discharge of untreated sewage, as identified above in paragraphs 19 and 21, constitutes an unauthorized land application without a permit in violation of 5 CCR 1002-61, §61.14(1)(a).

#### Failure to Notify of Discharge/Release

31. Pursuant to §25-8-601(2), C.R.S., any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state contrary to the provisions of this article, as soon as he (she) has knowledge thereof, shall notify the division of such discharge.
32. Part I, §D(3)(b)(ii) of the Permit states “The following instances of noncompliance shall be reported orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. A written report, containing the information requested in Part I.D.4.b)(i), above, shall be mailed to the Division within five (5) working days of the time the permittee becomes aware of the circumstances.
  - a. Any instance of noncompliance which may endanger human health or the environment, regardless of the cause for the incident.
  - b. Any unanticipated bypass, or any upset or spill, which causes any permit limitation to be exceeded.
  - c. Any suspected discharge of toxic pollutants or hazardous substances, which are listed in Part III of this permit, in excess of a daily maximum limit or where there is no limit for the toxic pollutant or hazardous substance in question.”

33. On December 20, 2005 and December 25, 2005 the MCBWSD experienced significant sewage overflows from its sanitary sewer collection system (see paragraphs 15 and 16 above). The resulting sewage overflows may have endangered human health and may have caused pollution of Woods Creek, a tributary to Washington Gulch, which is tributary to the Slate River.
34. Division records establish that MCBWSD did not orally notify the Division of the December 20, 2005 and December 25, 2005 events within twenty-four (24) hours of the time that MCBWSD become aware of the circumstances. Additionally, a written report, containing the information specified by the Permit was not mailed to the Division within five (5) working days of the time the MCBWSD become aware of the circumstances.
35. MCBWSD's failure to timely notify the Division and provide a written follow-up report regarding the December 20, 2005 and the December 25, 2005 sewage overflow events to Woods Creek constitutes violation(s) of §25-8-601(2), C.R.S. and CDPS permit number CO-00227171 Part I, §D(3)(b)(ii).

### **ORDER AND AGREEMENT**

36. 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 and in the April 7, 2006 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: MO-060407-1), the Division orders MCBWSD to comply with all provisions of this Consent Order, including all requirements set forth below.
37. MCBWSD agrees to the terms and conditions of this Consent Order. MCBWSD 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. MCBWSD also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by MCBWSD 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.
38. Notwithstanding the above, MCBWSD does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by MCBWSD pursuant to this Consent Order shall not constitute evidence of fault by MCBWSD with respect to the conditions of the Facility.

### **Compliance Requirements**

39. MCBWSD shall design and implement a sanitary sewer collection system monitoring network, utilizing sewage depth sensors and an alarm notification system, in order to prevent or minimize sanitary sewer overflows from MCBWSD's sanitary sewer collection system in accordance with the following time schedule:

- a. On or before February 29, 2008, MCBWSD shall submit an engineering report, including specifications, and initial proposed locations, to the Division that outlines the specific design, installation, control interface, operation and maintenance requirements for the collection system monitoring network. The Engineering report should also define alarm conditions and explain how the MCWSD will respond to alarms to avoid sanitary sewer overflows.
  - b. On or before July 1, 2008, MCBWSD shall provide written notification to the Division that it has initiated construction/installation of the necessary components of the collection system monitoring network.
  - c. By no later than October 1, 2008, the MCBWSD shall provided a written certification to the Division stating that the collection system monitoring network is in operation and functioning as designed.
40. The MCBWSD shall perform an evaluation of the collection system monitoring network, as it relates to its reliability and effectiveness in preventing and/or minimizing sanitary sewer overflows, after it has been in service for one (1) calendar year. The MCBWSD shall submit a written report to the Division outlining the findings of the evaluation by no later than October 1, 2009.
41. 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.

#### **CIVIL PENALTY AND SUPPLEMENTAL ENVIRONMENTAL PROJECTS**

42. In addition to all other funds necessary to comply with the requirements of this Consent Order, MCBWSD shall pay Sixty Four Thousand One Hundred Forty Four Dollars (\$64, 144.00) in the form of civil penalties and expenditures on a Supplemental Environmental Project (“SEP”) in order to achieve settlement of this matter.
43. Based upon the application of the Division’s Civil Penalty Policy (May 1, 1993), and consistent with Departmental policies for violations of the Act, MCBWSD shall pay Sixteen Thousand Thirty Six Dollars (\$16,036.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Sixteen Thousand Thirty Six Dollars (\$16,036.00) civil penalty for the above violation(s) and MCBWSD agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his designee. 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:

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

44. MCBWSD shall also perform the SEP identified below. MCBWSD's total expenditure for the SEP shall be not less than Forty Eight Thousand One Hundred Eight Dollars (\$48,108.00).
45. MCBWSD shall undertake the following SEP, which the Parties agree is intended to secure significant environmental or public health protection and improvements:
  - a. MCBWSD shall donate Forty Eight Thousand One Hundred Eight Dollars (\$48,108.00) to the Crested Butte Land Trust. The funds will be used for specific activities (*see attachment A*) associated with the Peanut Mine Remediation project in Gunnison County. MCBWSD shall make the payment of Forty Eight Thousand One Hundred Eight Dollars (\$48,108.00), and shall include with the donation a cover letter identifying the monies for the above-described project within thirty (30) calendar days of the effective date of this Consent Order, as follows: "Crested Butte Land Trust", to the attention of Ann Johnston, Executive Director, P.O. Box 2224, Crested Butte, Colorado 81224. MCBWSD shall provide the Division with a copy of the cover letter and check within forty five (45) calendar days of the effective date of this Consent Order.
46. MCBWSD shall not deduct the payment of the SEP donation provided for in this paragraph for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project.
47. MCBWSD 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. MCBWSD further certifies that it has not received, and will not receive, credit in any other enforcement action for the SEP. In the event that MCBWSD has, or will receive credit under any other legal obligation for the SEP, MCBWSD shall pay Forty Eight Thousand One Hundred Eight Dollars (\$48,108.00) 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 as specified in paragraph 43 above.
48. MCBWSD shall submit a SEP Completion Report to the Division by no later than December 31, 2008. 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).
49. Failure to submit the SEP Completion Report with the required information, or any periodic report, shall be deemed a violation of this Consent Order.
50. All SEPs must be completed to the satisfaction of the Division, within 10 months of the effective date of this Consent Order, and must be operated for the useful life of the SEP. In the event that MCBWSD fails to comply with any of the terms or provisions of this Consent Order relating to the performance of the SEP, MCBWSD shall be liable for penalties as follows:

- a. Payment of a penalty in the amount of Forty Eight Thousand One Hundred Eight Dollars (\$48,108.00). The Division, in its sole discretion, may elect to reduce this penalty for environmental benefits created by the partial performance of the SEP.
  - b. MCBWSD 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 43 above.
51. MCBWSD 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**

52. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the violations alleged herein and in the April 7, 2006 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: MO-060407-1).
53. 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 MCBWSD 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.
54. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty. Any violation of the provisions of this Consent Order by MCBWSD, 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.
55. Notwithstanding paragraph 38 above, the violations described in this Consent Order will constitute part of MCBWSD'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 MCBWSD. MCBWSD agrees not to challenge the use of the cited violations for any such purpose.
56. This Consent Order does not relieve MCBWSD from complying 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**

57. 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 and in the April 7, 2006 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: MO-060407-1). The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.
58. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
59. Nothing in this Consent Order shall 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.
60. Upon the effective date of this Consent Order, MCBWSD 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.
61. MCBWSD 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 MCBWSD, or those acting for or on behalf of MCBWSD, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. MCBWSD shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by MCBWSD 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 AND SAMPLING**

62. 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 property, at any time, where 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 MCBWSD's compliance with the Act, the Regulations, 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 MCBWSD'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 MCBWSD facilities or operations.

## FORCE MAJEURE

63. MCBWSD 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 beyond the control of MCBWSD, and which cannot be overcome by due diligence.
64. Within seventy-two (72) hours of the time that MCBWSD knows or has reason to know of the occurrence of any event which MCBWSD has reason to believe may prevent MCBWSD from timely compliance with any requirement under this Consent Order, MCBWSD shall provide verbal notification to the Division. Within seven (7) calendar days of the time that MCBWSD knows or has reason to know of the occurrence of such event, MCBWSD 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.
65. The burden of proving that any delay was caused by a force majeure shall at all times rest with MCBWSD. If the Division agrees that a force majeure has occurred, the Division will so notify MCBWSD. The Division will also approve or disapprove of MCBWSD'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 MCBWSD's proposed actions for mitigating the delay, it shall provide a written explanation of its determination to MCBWSD.
66. 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, MCBWSD shall perform the requirements of this Consent Order that were delayed by the force majeure with all due diligence.

## NOTICES

67. 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 MCBWSD:

Frank Glick, District Manager  
Mt. Crested Butte Water & Sanitation District  
P.O. Box 5740  
Mt. Crested Butte, CO 81225

With a copy to:

Ms. Jill T. Norris  
Wilderson, O'Hayre, Dawson & Norris, P.C.  
120 N. Taylor Street  
Gunnison, Colorado 81230

### **MODIFICATIONS**

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

### **COMPLETION OF REQUIRED ACTIONS**

69. MCBWSD 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 MCBWSD 's Notice of Completion in writing within sixty (60) calendar days of receipt. If the Division rejects MCBWSD '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. MCBWSD 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 MCBWSD fails to submit either of the above notices within the specified time, it will be deemed to have accepted the Division's determination.

70. If MCBWSD files any notice of dispute pursuant to paragraph 69 the notice shall specify the particular matters in the Division's determination that MCBWSD seeks to dispute, and the basis for the dispute. Matters not identified in the notice of dispute shall be deemed accepted by MCBWSD. The Division and MCBWSD 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**

71. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

**BINDING EFFECT AND AUTHORIZATION TO SIGN**

72. This Consent Order is binding upon MCBWSD and its directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. MCBWSD 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:**

Lori M. Gerzina Date: March 14, 2008  
Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

**FOR THE MT. CRESTED BUTTE WATER & SANITATION DISTRICT:**

Frank Glick Date: 15 Feb 08  
Frank Glick, District Manager