

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
TDD Line (303) 691-7700      (303) 692-3090  
Located in Glendale, Colorado  
<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

May 9, 2008

Permit # CO-0040291  
Mr. Michael Sjobakken, President  
Stonegate Village Metropolitan District  
6399 S. Fiddler's Green Circle, Suite 102  
Greenwood Village, CO 80111

Certified Mail Number: 7005 1820 0000 3213 1557

**RE: Service of Amendment to Notice of Violation/ Cease and Desist Order Number: MO-070831-1**

Dear Mr. Sjobakken:

Pursuant to the Division's review of Monthly Discharge Monitoring Reports and other information provided by Stonegate Village Metropolitan District, the Water Quality Control Division ("the Division") finds it prudent to amend some of the violations and compliance requirements set forth in the Notice of Violation/ Cease and Desist Order (Number: MO-070831-1) that was executed on August 31, 2007.

Please note that all other requirements, conditions, dates referenced in the order remain unchanged and in effect.

Should you desire to discuss this matter with the Division or if you have any questions regarding the order amendment(s), please don't hesitate to contact Ms. Ginny Torrez of this office at (303) 692-3612 or by electronic mail at [ginny.torrez@state.co.us](mailto:ginny.torrez@state.co.us).

Sincerely,

  
Karen Tidwell, Legal Assistant  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

cc: Tri-County Health Department

ec: Bret Icenogle, Engineering Section, CDPHE  
Dick Parachini, Outreach and Assistance Unit, CDPHE  
Aaron Urdiales, EPA Region VIII

Enclosure



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

---

AMENDMENT NO. 1

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: MO-070831-1

---

IN THE MATTER OF:     **STONEGATE VILLAGE METROPOLITAN DISTRICT**  
                              **CDPS PERMIT NO. CO-0040291**  
                              **DOUGLAS COUNTY, COLORADO**

---

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority has been delegated to the Director of the Department's Water Quality Control Division (the "Division"), and pursuant to §25-8-605, C.R.S., the Division hereby issues the following Amendment Number 1 to Notice of Violation/Cease and Desist Order, Number: MO-070831-1. *(See attached copy marked as "Exhibit A" for reference.)*

**AMENDMENT NUMBER ONE**

1. On August 31 2007, the Division issued Notice of Violation/Cease and Desist Order, Number MO-070831-1, (the "NOV/CDO") to the Stonegate Village Metropolitan District ("Stonegate").
2. Monthly Discharge Monitoring Reports (the "DMRs") submitted by Stonegate subsequent to issuance of the NOV/CDO reflect additional instances of violation of permit effluent limits. Therefore, the Division finds it necessary to amend the NOV/CDO to include the additional data submitted by Stonegate and to impose further requirements upon Stonegate aimed at ensuring that compliance is achieved and maintained in an expedited manner. Additionally, the Division is addressing its omission of total nitrate for May 2007 from the NOV/CDO and is deleting a previously reported violative total residual chlorine result resolved through Stonegate's submittal of an amended DMR for March 2007. The NOV/CDO is hereby amended as shown below:
  - a. Paragraph 16 is amended to read as follows:
    16. The DMRs for the months of February 2007 through March 2008 include, in addition to other data not subject of this action, the following effluent concentration data for total suspended solids,

total phosphorus, E. coli, pH, total ammonia as N, total nitrate as N, effluent flow measurement data and annual loading data for phosphorus:

PARAMETER & DMR REPORTING PERIOD	PERMIT LIMIT & REPORTED RESULT
<b>OUTFALL 001A</b>	
<b>Total Phosphorus (in mg/l)</b>	<b>30-Day Average Limit = 0.25 mg/l</b>
February 1-February 28, 2007	0.71
June 1-June 30, 2007	0.44
<b>July 1-July 31, 2007</b>	<b>0.34</b>
<b>August 1-August 31, 2007</b>	<b>1.16</b>
<b>E. coli (in mg/l)</b>	<b>Maximum 7-Day Average Limit = 235 (#/100ml)</b>
June 1-June 30, 2007	403
<b>August 1-August 31, 2007</b>	<b>375</b>
<b>Flow (in MGD)</b>	<b>30-Day Average Limit = 1.1 MGD</b>
February 1-February 28, 2007	1.30
PARAMETER & DMR REPORTING PERIOD	PERMIT LIMIT & REPORTED RESULT
<b>OUTFALL 002A</b>	
<b>Total Phosphorus (in mg/l)</b>	<b>30-Day Average Limit = 0.05 mg/l</b>
February 1-February 28, 2007	0.58
March 1-March 31, 2007	1.48
April 1-April 30, 2007	0.56
May 1-May 31, 2007	0.33
<b>November 1-November 30, 2007</b>	<b>0.15</b>
<b>December 1-December 31, 2007</b>	<b>0.07</b>
<b>January 1-January 31, 2008</b>	<b>0.45</b>
<b>February 1-February 29, 2008</b>	<b>0.07</b>
<b>March 1-March 31, 2008</b>	<b>0.29</b>

<b>Total Ammonia as N (mg/l)</b>	<b>30-Day Average Limit = 2.0-8.0 mg/l</b>
<b>February 1-February 28, 2007</b>	<b>10.8</b>
<b>March 1-March 31, 2007</b>	<b>24.7</b>
<b>April 1-April 30, 2007</b>	<b>16.4</b>
<b>May 1-May 31, 2007</b>	<b>13.3</b>
<b>February 1-February 29, 2008</b>	<b>17.0</b>
<b>March 1-March 31, 2008</b>	<b>17.9</b>
<b>Total Suspended Solids (mg/l)</b>	<b>Maximum 7-Day Average Limit = 45 mg/l</b>
<b>May 1-May 31, 2007</b>	<b>74</b>
<b>pH (in s.u.)</b>	<b>Instantaneous Minimum Limit = 6.5 s.u.</b>
<b>February 1-February 28, 2007</b>	<b>6.30</b>
<b>Total Residual Chlorine (in mg/l)</b>	<b>30-Day Average Limit = 0.015 mg/l</b>
<b>deleted</b>	<b>deleted</b>
<b>Total Residual Chlorine (in mg/l)</b>	<b>Instantaneous Maximum Limit = 0.025 mg/l</b>
<b>deleted</b>	<b>deleted</b>
<b>Total Nitrate as N (in mg/l)</b>	<b>Maximum Daily Average Limit = 10 mg/l</b>
<b>May 1-May 31, 2007</b>	<b>11.9</b>
<b>November 1-November 30, 2007</b>	<b>10.6</b>
<b>December 1-December 31, 2007</b>	<b>11.2</b>
<b>January 1-January 31, 2008</b>	<b>22.1</b>
<b>February 1-February 29, 2008</b>	<b>19.7</b>
<b>OUTFALL 002F</b>	
<b>Total Phosphorus (in lbs./yr.)</b>	<b>Annual Total (as year to date total) Limit = 161 lbs.</b>
<b>December 1-December 31, 2007</b>	<b>485.5</b>

- b. Paragraph 17 is modified to delete the reference to total residual chlorine and add reference to total nitrate as N and reads follows:
  - 17. Total phosphorus , E. coli, total ammonia as N, total suspended solids, pH, and total nitrate as N are “pollutants” as defined by §25-8-103(15), C.R.S.
- c. Paragraph 32 is modified to reflect deletion of reference to total residual chlorine violation and replacement with reference to total nitrate as N and reads as follows:
  - 32. The maximum daily average 30-day average effluent total nitrate as N concentrations listed for Outfall 002A in paragraph 16 of the Findings of Fact constitute violations of the maximum daily average concentration limit of 10 mg/l established by Part I, Section A.5.b of the Permit.
- d. Paragraph 33 is modified to reflect deletion of reference to total residual chlorine violation and replacement with reference to total phosphorus annual loading as follows:
  - 33. The annual total phosphorus poundage listed for Outfall 002F in paragraph 16 of the Findings of Fact constitutes violation of the annual poundage limit of 161 lbs./yr. established by Part I, Section A.5.c of the Permit and clarified on page 11 of the Permit’s Summary of Rationale.
- e. Paragraph 45 is added and reads as follows:
  - 45. Complete all the tasks identified in Exhibit B, Tasks Timeline, submitted by Stonegate in accordance with the timelines set forth therein unless adjusted timelines are specified in the following paragraphs.
- f. Paragraph 46 is added and reads as follows:
  - 46. By August 31, 2008, submit a report, including supporting effluent data, demonstrating that compliance has been achieved by completing the tasks identified in Exhibit B. If demonstration that compliance has been achieved can not be made, the report shall outline further immediate and ongoing corrective measures that shall be undertaken to expedite a return to compliance. The report shall include a timeline for implementing further corrective actions.
- g. Paragraph 47 is added and reads as follows:
  - 47. By May 31, 2008, submit an executed copy of a contract retaining a licensed professional engineer with design and operations experience with wastewater treatment facilities such as Stonegate’s Facility to perform a Comprehensive Performance Evaluation (“CPE”) of the Facility and to develop a Composite Correction Program (“CCP”). CCP expectations are identified below in paragraph 50. The CPE shall identify any performance limiting factors affecting the Facility’s ability to comply in the short- and long term. The CPE shall include, but not be limited to, analysis/evaluation of the following:

- system design capacity
- influent loading
- individual unit processes
- process reliability
- chemical feed system reliability
- operations and maintenance staffing
- operator expertise needs
- process control systems adequacy and functionality
- managerial and financial systems

h. Paragraph 48 is added and reads as follows:

48. By July 15, 2008, submit a preliminary report on the CPE efforts and findings to the Division.

i. Paragraph 49 is added and reads as follows:

49. By August 15, 2008, submit a final CPE report to the Division.

j. Paragraph 50 is added and reads as follows:

50. By September 15, 2008, submit a completed CCP report to the Division. The CCP report shall include the following:

- A plan for systematically addressing the facility-specific areas for improvement identified in the CPE.
- A plan for systematically obtaining any necessary training.
- Recommendations for other measures to optimize treatment or for addressing other deficiencies.
- A time schedule for addressing, implementing, or completing correction of, each performance limiting factors or other recommendation identified in the CPE. This time schedule shall be based on a noncompliance risk based priority system.

k. Paragraph 51 is added and reads as follows:

51. By May 31, 2008, submit to the Division an executed copy of a contract with a consultant, experienced in pretreatment program development, to complete an industrial/commercial user survey and a comprehensive wastewater characterization study of all industrial and commercial users (all non-domestic users) within Stonegate's service area including, but not limited to: dry cleaners, laundries, food preparation facilities, schools, medical/veterinary facilities, dental facilities, photo shops, car wash facilities, and automotive repair/maintenance facilities. The goal of this effort is to identify industrial/commercial users contributing wastewater to the Facility, characterizing the nature and pollutant concentration in this wastewater through sampling of waste streams, and determining whether these wastewater contributions are causing, or have the potential to cause, negative impacts on the Facility's ability to consistently comply with Permit effluent limits.

- l. Paragraph 52 is added and reads as follows:
  - 52. By July 15, 2008, initiate, and notify the Division of said initiation, an industrial/commercial user survey by completing a mailing to all non-residential users or by initiating a door to door survey.
- m. Paragraph 53 is added and reads as follows:
  - 53. By November 15, 2008 complete industrial user survey, industrial/commercial user facility inspections and a waste characterization study and submit a report on the findings to the Division.
- n. Paragraph 54 is added and reads as follows:
  - 54. By December 15, 2008 submit a report outlining recommendations and a timeline for eliminating/controlling non-residential sources of pollution interfering with the Facility's ability to comply with effluent limits and for ensuring compliance with Part I.A.9 of the Permit.
- o. Paragraph 55 is added and reads as follows:
  - 55. The timelines and/or schedules presented in response to paragraphs 46, 50 and 54 shall become a condition of this Order and Stonegate shall implement the proposed activities in accordance with the timelines and/or schedules unless notified by the Division, in writing, that alternate activities and/or time schedules/timelines are appropriate. If the Division imposes alternate activities and/or time schedules/timelines, they shall also become a condition of this Order.

**NOTICE OF EFFECTIVE DATE OF AMENDMENT**

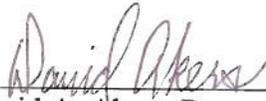
- 3. This amendment shall be fully effective and enforceable upon issuance.

**SCOPE OF AMENDMENT NO. 1**

- 4. The scope of this Amendment Number 1 to the Notice of Violation/Cease and Desist Order, Number MO-070831-1 is limited to the provisions and/or conditions outlined above. All other terms, conditions or requirements of the NOV/CDO remain unchanged and in effect.

Issued at Denver, Colorado, this 9<sup>th</sup> day of May, 2008.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**



\_\_\_\_\_  
David A. Akers, Program Manager  
Clean Water Facilities Program  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

**RECEIVED**  
APR 25 2008  
Water Quality Control

## Stonegate Village Metropolitan District

c/o Mulhern MRE, Inc.  
2 Inverness Drive East Suite 200  
Englewood, CO 80112  
303-649-9857  
303-414-0671 fax

April 22, 2008

Colorado Department of Public Health and Environment  
Water Quality Control Division/WQCD-B2  
Compliance Assurance and Data Management Section  
Attention: Ginny Torrez  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

Re: Compliance Task Timeline

Dear Ms. Torrez

Attached is a list of the tasks and timelines which describe the necessary steps that Stonegate Village Metropolitan District ("District") has and will take to meet its permit requirements related to phosphorous and ammonia limits.

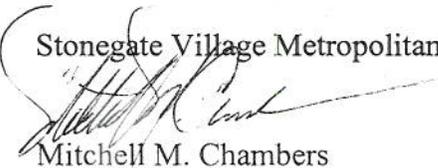
The list of tasks and timelines has been prepared by Southwest Water and TC Consulting Services with input provided by the Richard P. Arber Associates and the District.

The District has contracts in place with Richard P. Arber Associates and TC Consulting for the purpose of providing assistance to the District in its efforts to meet the discharge permit requirements. Further, the District has the financial resources necessary to fund the tasks and equipment described.

We appreciate your assistance in this matter. Please give me a call if you have any questions.

Sincerely,

Stonegate Village Metropolitan District

  
Mitchell M. Chambers  
District Manager.

**RECEIVED**

APR 28 2008

CADM

EXHIBIT B

RECEIVED

APR 28 2008

CADM



STONEGATE VILLAGE METROPOLITAN DISTRICT  
% Mitch Chambers  
2 Inverness Drive East #200  
Englewood, CO 80112

## TASKS TIMELINE

APRIL 21, 2008

Dear Mr. Chambers:

The Stonegate Village Metropolitan District (SVMD) representatives met with the Colorado Department of Public Health and Environment (CDPHE) officials on April 15, 2008. The meeting was attended by the following:

- o Ginny Torrez – CDPHE, Permits and Enforcement
- o Bret Icenogle – CDPHE, District Engineer
- o Stephen Connelly – SVMD, Board Member
- o Mitch Chambers – Mulhern MRE, District Manager
- o Bill Veydovec – Arber Associates, Project Manager
- o Terry Cunningham – TC Consulting Services, Consultant

### BRIEF:

The SVMD provided an exchange of information with the CDPHE regarding the progress and status of the Wastewater Treatment Plant (WWTP). Past and future labors and efforts were described necessary for compliance with the existing limits specified in the Colorado Discharge Permit Elimination Standard (CDPES) Permit CO0040291.

The SVMD WWTP final effluent cannot exceed a concentration of 0.05 mg/L Total P (milligrams per liter Total Phosphorus) and 6.0 mg/L Ammonia during the second quarter of the calendar year when discharging directly to Cherry Creek according to the Colorado Discharge Permit System.

The biological treatment (ammonia reduction) and filtration (phosphorus reduction) processes have not been sufficient to meet the permit limits:

- Filaments in the biological process have been an interference with aeration. Vigorous aeration contributes to large amounts of unmanageable foam
- Numerous equipment problems have hindered and hampered chemical additions for phosphorus removal

A Timeline identifying tasks, engagements and scheduling was requested. The issues, inquiries and presumptions that transpired during the meeting have been included in the Timeline

**SCHEDULE:**

A TASK TIMELINE has been developed identifying corrective steps, items and equipment to rectify the limitations and deficiencies of the present biological and physical facilities that are apparent at this time:

**TASK TIMELINE**

DATE	DESCRIPTION
4/09/08	Inspection and survey of filtration system by the Pinery (complete)
4/14/08	Collect aeration basin mixed liquor samples and foam for identification (complete)
4/15/08	Isolate and begin emptying North Train aeration tanks' contents (complete)
4/15/08	Stonegate provides an information exchange with the CDPHE (complete)
4/16/08	Review results of mixed liquor and foam analysis (complete)
4/16/08	Pinery begins conducting a pilot demonstration, adding a polymer feeder, to dose Filter No. 4 with polymer to improve floc strength (complete)
4/16/08	Complete installation of polymer feeder and begin polymer additions to Filter No. 4
4/16/08	Pinery performs analysis of Filter No. 4 effluent and quantifies Total P as 0.047 mg/L (complete)
4/17/08	Chlorinate North Train aeration tanks (complete)
4/17/08	Telephone CDPHE regarding observed disposal of chlorine on-site approximately (6) six ago (complete)
4/21/08	Establish an account with Severn Trent aka TestAmerica to perform testing of influent
4/21/08	Complete emptying and cleaning of North Train aeration tanks
4/22/08	Provide CDPHE "Ability to Fund" (included in cover letter)
4/22/08	Provide report and results of mixed liquor and foam analyses to CDPHE (enclosed ATTACHMENT NO. 1)
4/22/08	Begin collecting information regarding DMR 002F report to CDPHE for calendar year 2007
4/22/08	Repair North Train air distribution system
4/22/08	Peak Poly will perform Jar Tests to determine optimal chemical doses for phosphorus removal. This includes alum and polymer.
4/22/08	Pinery will analyze jar test supernatant for low level Total P analysis
4/22/08	Install isolation valves on filter sensing ports to facilitate testing of gauges, instruments and switches
4/22/08	Observe, inspect and test gauges, switches and instruments on filters for proper operation, repair and replace items as necessary.

**RECEIVED**

**APR 28 2008**

**CADM**

4/22/08	Pinery will install a second Poly Blend unit on Filter No. 1
4/22/08	Correct pressure loss of filter blowers by adjusting the pressure relief valves to provide and enhance filter cleaning
4/22/08	Fill North Train aeration tanks with influent and test aeration system
4/23/08	Transport "Seed Sludge" from Inverness and inoculate all North Train aeration tanks
4/23/08	Transfer solids in Clarifier No. 1 to digester
4/23/08	Remove solids from digester (routine belt press, more volume)
4/23/08	Remove South Treatment Train from service and discontinue returning sludge from those basins (prevent cross contamination of filaments)
4/24/08	Schedule electrician to install necessary hardwiring for new polymer feed equipment
4/24/08	Select and order polymer feed equipment and polymer for all filters. Investigate the availability of loan equipment or temporary use equipment
4/24/08	Obtain all sample collection bottles from Severn Trent to perform testing of influent
4/24/08	Communicate changes, revisions and modifications to Supervisory Control and Data Acquisition (SCADA) programmer and effect changes necessary for proper filter operation
4/25/08	Order calcium hypochlorite to disinfect South Train aeration basins
4/25/08	Perform routine laboratory process control tests including: ammonia and phosphorus to evaluate performance and status of the North Train
4/28/08	Begin collecting influent samples for screening analyses and submit to Severn Trent for testing (list of contaminants to be tested is ATTACHMENT NO. 2)
4/28/08	Obtain Board approval to purchase equipment to modify air distribution including: dissolved oxygen sensors, controllers, hardwiring and programming changes
4/29/08	Authorize vendor to order aeration system equipment
4/30/08	Stonegate personnel will receive laboratory training in the method, technique and procedure for low level phosphorus analyses
5/01/08	Waste solids from South Train to digester
5/01/08	Continue sampling and analyses of stream flows in Cherry Creek (Ammonia Study)
5/02/08	Observe South Train aeration basins for signs and indications of filaments
5/02/08	Chlorinate the contents of aeration basins in the South Train if filaments exist
5/09/08	Provide report to CDPHE pertaining to the monthly and annual phosphorus loading for 2007 DMR Discharge 002F
5/09/08	Transfer solids in any South Train aeration basins that were chlorinated to the digester
5/12/08	Transport "Seed Sludge" from Inverness and inoculate the South Train aeration tanks
5/14/08	Remove solids from digester (routine belt press, more volume)
5/16/08	Perform routine laboratory process control tests including: ammonia and phosphorus to evaluate performance and status of the South Train
5/20/08	Begin installation of aeration system equipment
5/21/08	Review results of laboratory analyses performed by Severn Trent

**RECEIVED**

APR 28 2008

CADM

5/21/08	Develop a "Sampling Plan" (if Influent Screening results indicate suspect discharges)
5/22/08	Provide report and results of Influent Screening Analyses to the CDPHE
5/26/08	Begin collecting samples for 2 <sup>nd</sup> quarter WET test
5/26/08	Alert laboratory to retain adequate volumes of samples to conduct TIE analyses if the WET test fails
5/27/08	Complete aeration system modifications including programming
6/02/08	Continue sampling and analyses of flows in Cherry Creek (Ammonia Study)
6/02/08	Begin discharging final effluent to irrigation storage (dependent on reservoir level and weather)
6/09/08	Request that the laboratory perform TIE analyses if WET test fails. The remainder of the sample collected for the WET test will be sufficient for the TIE
6/10/08	Install polymer feed equipment and dose filters with polymer
6/25/08	Review results of TIE analyses (if performed)
6/26/08	Provide report and results of TIE analyses to CDPHE (if performed)
9/01/08	Provide surveys, characterize discharges and identify pretreatment program

**SUMMARY:**

Monies and staff have been approved to perform and complete those tasks identified in the Timeline. Most of the labors and equipment purchases will occur in the subsequent (8) eight weeks.

Completing the tasks will rectify and alleviate those immediate physical and biological limitations apparent at this time. Certain and specific tasks are included in an effort to identify potential inhibitions to the treatment process.

Additional, surveys, inspections and observations during this period may conclude that other physical facilities or treatment changes are necessary.

The help and assistance of time, efforts, equipment and labors by the Pinery is acknowledged and gratefully appreciated.

Sincerely,



Terry Cunningham

**RECEIVED**

APR 28 2008

CADM



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

---

**NOTICE OF VIOLATION / CEASE AND DESIST ORDER**

**NUMBER: MO-070831-1**

---

**IN THE MATTER OF:     STONEGATE VILLAGE METROPOLITAN DISTRICT  
                              CDPS PERMIT NO. CO-0040291  
                              DOUGLAS COUNTY COUNTY, COLORADO**

---

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority has been delegated to the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. At all times relevant to the violations cited herein, the Stonegate Village Metropolitan District ("Stonegate") was a "Special District" formed in Douglas County, Colorado pursuant to the Special District Act, §§32-1-101 through 32-1-1702 C.R.S.
2. Stonegate is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
3. Stonegate owns and/or operates a wastewater treatment facility (the "Facility"), located in the Northeast ¼ of the Northeast ¼ of Section 8, Township 6 South, Range 66 West, Douglas County, Colorado.
4. The Facility's treatment train consists of influent flow measuring, preliminary treatment facilities (bar screen, grit chamber); secondary treatment (aeration basins, clarifiers); advance wastewater treatment (chemical addition, adsorption clarifiers and multimedia filters); disinfection (gas chlorination) and flow measurement with SCADA transmitter.
5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO-0040291 (the "Permit"). The current Permit became effective on August 1, 2003 and is due to expire July 31, 2008.
6. Section 61.8, 5 CCR 1002-61, states in part that "A permittee must comply with all the terms and conditions of the permit."

7. The Permit authorizes Stonegate to discharge treated wastewater from the Facility to storage for land application through Outfall 001A and to Cherry Creek through Outfall 002A. The discharge is subject to the specific effluent limitations and other conditions of the Permit.
8. The Permit requires that Stonegate properly operate and maintain all components of the facility which are necessary to achieve compliance with the conditions of the Permit.
9. Outfall 001A and 002A are each a "point source" as defined by §25-8-103(14), C.R.S.
10. Cherry Creek 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).

#### Operation and Maintenance

11. On February 17, 2006 the Division received notification from the company providing certified wastewater treatment operator services (the "operator") to Stonegate advising that due to elevated influent flows to the facility, the filters which provide advance wastewater treatment (the "AWT filters") were overloading and ultimately became plugged. The operator further advised that wastewater from the aeration basins overflowed. (Further notification on February 22, 2007 advised that the volume released was 1,000 gallons.) At this point flows to the AWT filters were partially diverted around this treatment component of the facility. The operator pointed out that if the AWT filters had been functioning properly at the time elevated flows were received, they should have been able to handle the flows without problem.
12. The partial diversion described in paragraph 11 continued through June 2007.
13. On March 20, 2007 a representative of the Division conducted an on-site inspection of the Facility. The following observations were made:
  - a) A portion of the flow that would normally flow through the AWT filters for treatment was being bypassed around the AWT filters.
  - b) Clarifier No. 3 was out of service.
  - c) The aeration basins were short-circuiting as a result of improperly set valves.
  - d) Rag and debris was entering the aeration basins as a result of the mechanical bar screen not functioning properly.
  - e) One RAS pump was not functioning at the time of the inspection.
  - f) The pH buffers were expired.
  - g) The Operation and Maintenance Manual on site was outdated and did not reflect the current operating and maintenance practices and information.

- h) Severe scaling of concrete in area of caustic tanks resulting from leaks of caustic chemicals in the area of the AWT building which could eventually impact the structural integrity of the AWT building.
- i) Housekeeping and facility organization was in poor condition.

Quality of the Discharge

- 14. Pursuant to the requirements of the Permit, Stonegate collects specific samples at points described in the Permit as Outfall 001A, following treatment and prior to entering storage, and, Outfall 002A, following treatment and prior to mixing with the receiving stream.
- 15. The analytical results of the samples collected at Outfall 001A and Outfall 002A are summarized and reported to the Division via monthly discharge monitoring reports ("DMRs") which include a certification by Stonegate that the information provided therein is true, accurate and complete, to the knowledge and belief of Stonegate.
- 16. The DMRs for the months of February 2007 through June 2007 include, in addition to other data not subject of this action, the following effluent concentration data for total suspended solids, total phosphorus, E. coli, pH, total ammonia as N, total residual chlorine and effluent flow measurement data.

PARAMETER & DMR REPORTING PERIOD	PERMIT LIMIT & REPORTED RESULT
<b>OUTFALL 001A</b>	
<b>Total Phosphorus (in mg/l)</b>	<b>30-Day Average Limit = 0.25 mg/l</b>
February 1-February 28, 2007	0.71
June 1-June 30, 2007	0.44
<b>E. coli (in mg/l)</b>	<b>Maximum 7-Day Average Limit = 235 (#/100ml)</b>
June 1-June 30, 2007	403
<b>Flow (in MGD)</b>	<b>30-Day Average Limit = 1.1 MGD</b>
February 1-February 28, 2007	1.30

PARAMETER & DMR REPORTING PERIOD	PERMIT LIMIT & REPORTED RESULT
<b>OUTFALL 002A</b>	
<b>Total Phosphorus (in mg/l)</b>	<b>30-Day Average Limit = 0.05 mg/l</b>
February 1-February 28, 2007	0.58
March 1-March 31, 2007	1.48
April 1-April 30, 2007	0.56
May 1-May 31, 2007	0.33
<b>Total Ammonia as N (mg/l)</b>	<b>30-Day Average Limit = 2.0-8.0 mg/l</b>
February 1-February 28, 2007	10.8
March 1-March 31, 2007	24.7
April 1-April 30, 2007	16.4
May 1-May 31, 2007	13.3
<b>Total Suspended Solids (mg/l)</b>	<b>Maximum 7-Day Average Limit = 45 mg/l</b>
May 1-May 31, 2007	74
<b>pH (in s.u.)</b>	<b>Instantaneous Minimum Limit = 6.5 s.u.</b>
February 1-February 28, 2007	6.30
<b>Total Residual Chlorine (in mg/l)</b>	<b>30-Day Average Limit = 0.015 mg/l</b>
March 1-March 31, 2007	>0.05
<b>Total Residual Chlorine (in mg/l)</b>	<b>Instantaneous Maximum Limit = 0.025 mg/l</b>
March 1-March 31, 2007	>0.05

17. Total phosphorus, *E. coli*, total ammonia as N, total suspended solids, pH, and total residual chlorine are "pollutants" as defined by §25-8-103(15), C.R.S.

Unauthorized Land Application

18. Via letters dated June 5, 2007 and June 30, 2007, Stonegate reported discharges of sewage onto the ground from manholes in its sanitary sewer system. The volumes of the discharges were 100 gallons and 600 gallons, respectively. Both discharges were attributed to vandalism.
19. The discharge described in paragraph 11 above was a discharge onto the ground with a volume of 1,000 gallons as reported in additional notification from Stonegate dated February 22, 2007.

20. Pursuant to 5 CCR 1002-61, §61.14(1)(a), a CDPS permit shall be required for all land application discharges and for all discharges from impoundments, with exceptions, none of which apply in this case.
21. Stonegate's discharges to the ground constitutes "Land Application" as defined by 5 CCR 1002-61, §61.2(48).
22. Stonegate's land application discharges are subject to the land application discharge permit requirements.
23. Division records establish that Stonegate does not have a land application permit authorizing the discharges in question.

### NOTICE OF VIOLATION

Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Stonegate has violated the following sections of the Permit and/or the Colorado Water Quality Control Act's implementing permit regulations.

24. The observations listed in paragraph 13, supported by effluent quality data listed in paragraph 16, demonstrate violation of the requirements of Part I, Section A.4 of the Permit which reads in part:  
  
"The permittee shall at all times properly operate and maintain all effluent 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 the permit."
25. The 30-day average effluent total phosphorus concentrations listed for Outfall 001A in paragraph 16 of the Findings of Fact constitute violations of the 30-day average effluent concentration limit of 0.25 mg/l established by Part I, Section A.5.a. of the Permit.
26. The maximum 7-day average effluent *E. coli* concentration listed for Outfall 001A in paragraph 16 of the Findings of Fact constitutes a violation of the 7-day average effluent concentration limit of 235 #/100 ml established Part I, Section A.5.a. of the Permit.
27. The effluent flow rate listed in paragraph for Outfall 001A in paragraph 16 of the Findings of Fact constitutes a violation the 30-day average effluent flow rate of 1.1 MGD established by Part I, Section A.5.a. of the Permit.
28. The 30-day average effluent total phosphorus concentrations listed for Outfall 002A in paragraph 16 of the Findings of Fact constitute violations of the 30-day average effluent concentration limit of 0.05 mg/l established by Part I, Section A.5.b. of the Permit.

29. The 30-day average effluent total ammonia as N concentrations listed for Outfall 002A in paragraph 16 of the Findings of Fact constitute violations of the of the respective 30-day average effluent concentration limits of 8.0 mg/l (February), 6.0 mg/l (March), 4.0 mg/l (April) and 2.0 mg/l (May) established by Part I, Section A.5.b. of the Permit.
30. The 30-day average effluent total phosphorus concentrations listed for Outfall 002A in paragraph 16 of the Findings of Fact constitute violations of the 30-day average effluent concentration limit of 0.05 mg/l established by Part I, Section A.5.b. of the Permit.
31. The instantaneous minimum effluent pH level listed for Outfall 002A in paragraph 16 of the Findings of Fact constitutes a violation of the instantaneous minimum effluent level 6.5 s.u. established by Part I, Section A.5.b. of the Permit.
32. The 30-day average effluent total residual chlorine concentration listed for Outfall 002A in paragraph 16 of the Findings of Fact constitutes a violation of the 30-day average effluent concentration limit of 0.015 mg/l established by Part I, Section A.5.b. of the Permit.
33. The instantaneous maximum effluent total residual chlorine concentration listed for Outfall 002A in paragraph 16 of the Findings of Fact constitutes a violation of the instantaneous maximum effluent concentration limit of 0.025 mg/l established by Part I, Section A.5.b. of the Permit.
34. The land application discharges described in paragraph 11, 18 and 19 of the Findings of Fact are violations of 5 CCR 1002-61, §61.14(1)(a), a CDPS permit shall be required for all land application discharges and for all discharges from impoundments, with exceptions, none of which apply in this case.

#### REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Stonegate is hereby ordered to:

35. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-703, C.R.S., the permit regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Stonegate to comply with the following specific terms and conditions of this Order:

36. By October 31, 2007, Stonegate shall complete all necessary repairs to the Facility including but not limited to repair of: the secondary clarifiers, the tertiary filters, the diffused aeration equipment and aerators, the dissolved oxygen meters for the aeration basins; the mixers in the aeration basins, the recycle pumps and the SCADA system. By November 15, 2007, Stonegate shall provide a written statement to the Division verifying that the necessary repairs have been completed. If repairs are not possible and replacement of a unit or component is necessary, Stonegate shall submit, by November 15, 2007, a schedule for expedited replacement of the unit(s)/component(s).

37. By October 31, 2007, Stonegate shall develop and implement an activated sludge process control plan. A copy of the written process control plan shall be submitted to the Division by November 15, 2007.
38. By October 31, 2007, Stonegate shall develop a list of and obtain an inventory of spare parts and back-up equipment for vital processes. A vital process is one which without it, compliance can not be achieved through optimization of other process or modified operations. By November 15, 2007, Stonegate shall provide the list and a written statement to the Division verifying that all back-up equipment and spare parts on the list have been obtained.
39. By November 15, 2007, Stonegate shall submit a revised/updated Operations and Maintenance Manual prepared by a qualified consultant retained explicitly for this purpose by Stonegate.
40. By November 15, 2007, Stonegate shall submit a plan for preventing vandalism involving their sanitary sewer as a means of preventing vandalism related unauthorized discharges.
41. By November 15, 2007, Stonegate shall submit a detailed written description of the process that will be implemented to deal with the currently inadequate bar screen in a manner that will ensure effluent compliance is not compromised in the interim until the bar screen is replaced.
42. January 31, 2008, Stonegate shall complete installation of a new bar screen.
43. If Stonegate becomes aware of any situation or circumstances that cause Stonegate to become unable to comply with any condition or time schedules set forth by this Order, Stonegate shall provide written notice to the Division within five (5) calendar days of Stonegate becoming aware of such circumstances. Stonegate's notice shall describe what, if any, impacts will occur on Stonegate's ability to comply with the Colorado Water Quality Control Act and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.
44. All documents submitted under this Order shall be submitted under the signature of the District; shall use the same titles as stated in this Order; and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required.

### NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, Stonegate shall submit an original and one copy to the Division at the following address:

Colorado Department of Public Health and Environment  
Water Quality Control Division / WQCD-B2  
Compliance Assurance and Data Management Section  
Attention: Ginny Torrez  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

### **OBLIGATION TO ANSWER AND REQUEST FOR HEARING**

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11(A) you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding.

Both the answer and the request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

### **FALSIFICATION AND TAMPERING**

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

### **POTENTIAL CIVIL AND CRIMINAL PENALTIES**

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 703, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the

Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

**RELEASE OR DISCHARGE NOTIFICATION**

Pursuant to §25-8-601, C.R.S., you are further advised that 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, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

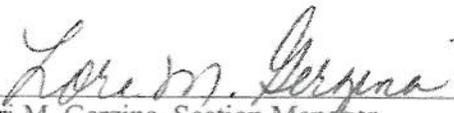
**EFFECT OF ORDER**

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 31<sup>st</sup> day of August, 2007.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

  
\_\_\_\_\_  
Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION