

STATE OF COLORADO

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

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Colorado Department
of Public Health
and Environment

August 1, 2008

PWSID# CO-0157900

Telluride Pines Home Owners Association
Attention: Kurt Shugars, Registered Agent
1756 Green Meadow Ln.
Placerville, CO 81430

Certified Mail Number: 7005 1820 0000 3208 1913

RE: Service of Drinking Water Enforcement Order, Number: DC-080801-2

Dear Mr. Shugars:

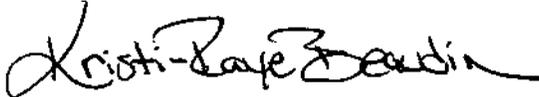
Telluride Pines Home Owners Association is hereby issued the enclosed Enforcement Order (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that Telluride Pines Home Owners Association violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order Telluride Pines Home Owners Association may request a formal hearing to contest the Order in accordance with the Regulations, 5 CCR 1003-1, §1.6.7(g). Requests for such a hearing must be filed in writing with the Department within thirty (30) calendar days after service of the Order. Hearings on enforcement orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

This action could result in the imposition of administrative or civil penalties. The Department or a State District Court is authorized pursuant to §25-1-114.1, C.R.S. to impose a penalty of up to \$1,000 per violation per day. Please be advised that the Department is continuing its investigation into this matter and the Department may identify supplementary violations that warrant amendments to this Order or the issuance of additional enforcement actions.

Should Telluride Pines Home Owners Association desire to informally discuss this matter with the Department or if you have any questions regarding the Order, please don't hesitate to contact Cathy Heald at (303) 692-3254 or by electronic mail at catherine.heald@state.co.us.

Sincerely,



Kristi-Raye Beaudin, Legal Assistant
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

Enclosure

- cc: San Miguel County Public Health Nursing Service
Compliance Monitor / Drinking Water File
- ec: Jocelyn Mullen, Engineering Section, CDPHE
Dick Parachini, Outreach and Assistance Unit, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Melanie Wasco, EPA Region VIII



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

ENFORCEMENT ORDER

NUMBER: DC-080801-2

**IN THE MATTER OF: TELLURIDE PINES HOME OWNERS ASSOCIATION
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0157900
SAN MIGUEL COUNTY, COLORADO**

Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority has been delegated to the Department's Water Quality Control Division (the "Division"), the Division hereby makes the following findings and issues the following Enforcement Order:

GENERAL FINDINGS

1. Telluride Pines Home Owners Association owns and/or operates a drinking water system, known as Telluride Pines HOA, located at in or near the city of Placerville, in San Miguel County, Colorado (the "System").
2. Telluride Pines HOA is a person as defined by 5 CCR 1003-1, §1.5.2(92).
3. Telluride Pines HOA is a supplier of water within the meaning of §25-1.5-201(2), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(122).
4. The System is a public water system as defined by §25-1.5-201(1), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(101).
5. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID # CO-0157900.
6. Pursuant to 5 CCR 1003-1, §1.2, the System is subject to the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.
7. Telluride Pines HOA provides piped water for human consumption from the System to at least fifteen (15) service connections used by year-round residents of the area served by the System and/or regularly

serves at least twenty-five (25) year-round residents. The System is therefore classified as a “community water system” as defined by 5 CCR 1003-1, §1.5.2(13).

8. The source of the water served by the System is groundwater under the direct influence of surface water as defined by 5 CCR 1003-1, §1.5.2(54). Pursuant to 5 CCR 1003-1, §1.5.2(123), groundwaters found to be under the direct influence of surface water will be classified as surface water.

First Violation
(Failure to Comply with the Treatment Technique Limits for Turbidity)

9. Pursuant to 5 CCR 1003-1, §7.1.3, a public water system that uses a surface water source, in whole or in part, must provide treatment consisting of both disinfection and filtration treatment.
10. A public water system that uses a surface water source or a groundwater source under the direct influence of surface water and serves fewer than 10,000 people must provide filtration treatment which complies with the requirements of 5 CCR 1003-1, §7.1.3(f) or (g) or 5 CCR 1003-1, §7.3.4(a), (b) or (c).
11. Pursuant to 5 CCR 1003-1, §2.8, the treatment technique requirements for turbidity are applicable to all public water systems using surface water sources in whole or in part.
12. Department records establish that the System performs “Bag Filtration Treatment”, as defined by 5 CCR 1003-1, §1.5.2(4), as part of its treatment process of its surface water source.
13. Pursuant to 5 CCR 1003-1, §2.8 and §7.3.4, for systems serving less than 10,000 people, using bag filtration, the turbidity treatment technique limit of representative samples of a system's filtered water must be less than or equal to 1 nephelometric turbidity unit (NTU) in at least 95 percent of the measurements taken each month and at no time shall the combined filter effluent turbidity exceed 5 NTU during the month (“maximum turbidity limit”).
14. Pursuant to 5 CCR 1003-1, §7.1.4(a)(1), the System must perform turbidity measurements every four hours (or more frequently) on samples of water collected from a location representative of the combined filtered water provided to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department.
15. Pursuant to 5 CCR 1003-1, §7.1.5(a)(1), a public water system that uses a surface water source must provide the Department with the results of all turbidity measurements within ten (10) days after the end of each month that the System serves water to the public.
16. A review of the turbidity monitoring data, provided to the Department by the System, identifies the following instance in which turbidity measurements were not less than or equal to 1 NTU in at least 95 percent of the measurements taken each month:

Monitoring Period	Number of Samples Taken	Number of Samples >1 NTU	% of Samples With NTU < 1 NTU
March 2007	115	90	22
April 2007	123	123	0.0
May 2007	68	68	0.0
March 2008	20	13	35
April 2008	30	30	0.0
May 2008	48	48	0.0

17. A review of the turbidity monitoring data provided to the Department by the System shows the combined filter effluent turbidity measurements exceeded the 5 NTU maximum turbidity facility analyte level during the following instances.

Monitoring Period	Number of Samples Taken	Number of Samples >5 NTU	Maximum Turbidity Value Recorded (in NTUs)
March 2007	115	87	21.96
April 2007	123	123	17.49
May 2007	68	27	9.19
April 2008	30	25	33.97
May 2008	48	14	24.64

18. Telluride Pines HOA's failure to maintain compliance with the treatment technique limits for turbidity constitutes violations of 5 CCR 1003-1, §2.8 and §7.3.4.

COMPLIANCE ORDER

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Telluride Pines HOA is hereby ordered to:

19. Immediately comply with the *Colorado Primary Drinking Water Regulations*, 5 CCR 1003-1, Articles 1 through 12.

Further, the Division hereby orders Telluride Pines HOA to comply with the following specific terms and conditions of this Order.

20. Immediately initiate necessary measures to ensure compliance with the treatment technique limits for turbidity as required by 5 CCR 1003-1, section Article 7.
21. In order to ensure long-term compliance with the turbidity treatment technique limits, evaluate and upgrade, as needed, the System's surface water filtration treatment process in accordance with the following schedule:
 - a. By September 1, 2008, retain a qualified Professional Engineer (experienced in filtration treatment of drinking water supplies) to evaluate and recommend improvements to ensure compliance and conformance with the surface water treatment requirements of 5 CCR 1003-1, Article 7 and the *Colorado Design Criteria for Potable Water Systems*.
 - b. By October 30, 2008, submit for Department review and comment a finalized Preliminary Design Report for system improvements to comply with the disinfection requirements of 5 CCR 1003-1, Article 7.

{Please note that, prior to any construction, the Department must give final approval to any modifications to the System's water source or treatment process. The Department will not perform a detailed review and final approval of any proposed modifications until the final design plans and specifications have been received pursuant to paragraph 21(c) below.}
 - c. By December 31, 2008, submit Final Design Plans and Specifications for the System improvements for Department review and approval.
 - d. By March 31, 2009, complete construction/implementation of the Department approved system improvements to ensure compliance with the filtration requirements of 5 CCR 1003-1, Article 7.
22. Submit "System Improvement Project - Progress Reports" to the Department every ninety (90) calendar days. The first report shall be submitted to the Department by September 1, 2008. At a minimum, each report shall clearly indicate the status of the system improvement project at the time the report is filed and outline activities to be undertaken within the next ninety (90) calendar days.

23. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, Telluride Pines HOA shall issue a public notice in accordance with 5 CCR 1003-1, §9.2 for each violation identified in this Order. Within ten (10) calendar days of completion of each required public notification, Telluride Pines HOA shall submit to the Department, along with the mandatory certification, a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by the system and/or to the media. *(See attached public notification procedures.)*

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this order, Telluride Pines HOA shall submit an original and one copy (electronic is preferred) to the Division at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-WQP-B2
Compliance Assurance and Data Management Section / Enforcement Team
Attention: Catherine Heald
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: catherine.heald@state.co.us

Pursuant to 5 CCR 1003-1, §1.6.4(e), all reports, notices, summaries, and certifications required to be submitted to the Department by the public water system must bear the original signature of the owner or the owner's authorized representative.

NOTICE OF COMPLETION

24. Telluride Pines HOA, located at in or near the city of Placerville, San Miguel County shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Enforcement Order. The Division shall either accept or reject the Notice of Completion in writing. If the Division rejects the 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. If Telluride Pines HOA, located at in or near the city of Placerville, San Miguel County wishes to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) calendar days of receipt of the Division's rejection, submit a written statement as to its belief of full compliance, addressing in detail all concerns the Division raised in the rejection letter to the System's Notice of Completion.

PRIOR APPROVAL REQUIRED

Pursuant to 5 CCR 1003-1, §1.11.2, no person shall commence construction of any new waterworks, or make improvements to or modify the treatment process of an existing waterworks, or initiate use of a new source, until plans and specifications for such construction, improvements, modifications or use have been submitted to, and approved by the Department. A Professional Engineer registered in the State of Colorado shall design all treatment systems serving a community water supply. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with all applicable laws, standards, rules, and regulations.

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars (\$1,000) per violation per day, to be imposed by the Department or a State District Court. Further, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an Enforcement Order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

REQUEST FOR HEARING OR APPEAL

You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests shall state the grounds upon which the order is contested and state the amount of time the recipient estimates will be required for the hearing. Hearings on Enforcement Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S.

Alternatively (or additionally), under section 25-1-113(1), C.R.S., you may file a request for judicial review in the State District Court in the county in which you reside or in the city and county of Denver within ninety (90) calendar days of your receipt of this Enforcement Order.

ADDITIONAL ACTION

You are further advised that under §25-1-114.1(1), C.R.S., the Department may institute a civil action against any person who violates a final Enforcement Order of the Department issued for violation of any minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S.

Additionally, the Department may request the Attorney General to seek a temporary restraining order or permanent injunction to prevent or abate any violation of a minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S. Further information concerning the aforementioned action is contained in §25-1-114.1(3), C.R.S.

Issued at Denver, Colorado, this 1st day of August 2008.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
Water Quality Control Division