

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.
Denver, Colorado 80246-1530
Phone (303) 692-2000
TDD Line (303) 691-7700
Located in Glendale, Colorado

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

August 15, 2008

Certified Mail Number: 7005 1820 0000 3208 1951

PWSID# CO-0221975
Jamal Anthony Ross, Registered Agent
Mystic Meadows Events Center, LLC
14275 S. Highway 115
Colorado Springs, CO 80926

RE: Service of Drinking Water Enforcement Order, Number: DT-080815-3

Dear Mr. Ross:

Mystic Meadows Events Center, LLC 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 Mystic Meadows Events Center, LLC violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order Mystic Meadows Events Center, LLC 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 you 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: El Paso County Department of Health and Environment
Compliance Monitor / Drinking Water File

ec: Tim Vrudny, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Paul Klug, Consumer Protection Division, CDPHE
Carolyn Schachterle, OPA



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION

ENFORCEMENT ORDER

NUMBER: DT-080815-3

IN THE MATTER OF: MYSTIC MEADOWS EVENTS CENTER, LLC
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0221975
EL PASO 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. Mystic Meadows Events Center, LLC owns and/or operates a drinking water system, known as Mystic Meadows Event Center, located at 14275 S. Highway 115, Colorado Springs, El Paso County, Colorado (the "System").
2. Mystic Meadows Events Center, LLC is a person as defined by 5 CCR 1003-1, §1.5.2(92).
3. Mystic Meadows Events Center, LLC 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 # CO0221975.
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. Mystic Meadows Events Center, LLC provides piped water for human consumption from the System to at least twenty-five (25) people, but the System does not serve twenty-five (25) or more of the same people, for sixty (60) or more days per year. The System is therefore classified as a "transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(131).
8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(60).

First Violation
(Failure to Monitor and/or Report for Nitrate)

1. Pursuant to 5 CCR 1003-1, §6.1.5(e) all public water systems shall monitor to determine compliance with the maximum contaminant levels for Nitrate.
2. Pursuant to 5 CCR 1003-1, §6.1.5(e)(1), systems served by groundwater, shall monitor for Nitrate annually.
3. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), the System is required to collect a minimum of one Nitrate sample at every entry point to the distribution system which is representative of each groundwater source after treatment.
4. The *Official 2006 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor separately for Nitrate at each entry point to the distribution system (after treatment) during calendar year 2006.
5. The *Official 2007 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor separately for Nitrate at each entry point to the distribution system (after treatment) during calendar year 2007.
6. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System shall report to the Department the results of the System's Nitrate analyses within (a) the first ten (10) days following the month in which the results are received, or (b) the first ten (10) days following the end of the required monitoring period as stipulated by the Department, whichever of these is soonest.
7. Department records establish that the System failed to submit results of its Nitrate monitoring for calendar years 2006 and 2007.
8. Mystic Meadows Events Center, LLC's failure to submit the results of the System's Nitrate analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Mystic Meadows Events Center, LLC failed to perform the Nitrate analyses during the identified periods, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§6.1.5(e) and 6.1.5(b)(1).

COMPLIANCE ORDER

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Mystic Meadows Events Center, LLC is hereby ordered to:

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

Further, the Division hereby orders Mystic Meadows Events Center, LLC to comply with the following specific terms and conditions of this Order.

10. Within fourteen (14) calendar days after receipt of this Order, Mystic Meadows Events Center, LLC shall submit the results of any Nitrate monitoring performed for calendar years 2006 and 2007.
11. If the system has not performed the Nitrate monitoring for calendar years 2008, Mystic Meadows Events Center, LLC shall perform Nitrate analyses on a representative water sample, taken from each entry point to the distribution system, within thirty (30) calendar days of receipt of this Order. The Nitrate sample(s) must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods and cited detection limits. Mystic Meadows Events Center, LLC shall provide the Department with the results of the Nitrate analyses within ten (10) calendar days of receipt of the results from the laboratory.
12. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, Mystic Meadows Events Center, LLC 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, Mystic Meadows Events Center, LLC 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.*)

ORDER FOR ADMINISTRATIVE PENALTY

13. Pursuant to §25-1-114.1(2.5)(a), C.R.S. any person who violates the *Colorado Primary Drinking Water Regulations* or any final Enforcement Order issued by the Division, shall be subject to an administrative penalty as follows:
 - a. For systems that serve a population of more than ten thousand people, an amount not to exceed one thousand dollars per violation per day; or
 - b. For systems that serve a population of ten thousand people or less, an amount not to exceed one thousand dollars per violation per day, but only in an amount, as determined by the division, that is necessary to ensure compliance.
14. Based upon the facts described in this action the Department has determined that an administrative penalty is appropriate in this matter and therefore assesses an administrative penalty of five hundred ninety dollars (\$590.00) for the specific violations identified in this action. The reasoning behind this penalty amount is detailed in the administrative penalty methodology/calculation worksheet, which is incorporated herein by reference and enclosed as Exhibit A.

Terms of Administrative Penalty Payment

15. If Mystic Meadows Events Center, LLC does not contest the findings and penalty assessment set out above, payment of the administrative penalty for the violations shall be forwarded to the Colorado Department of Public Health and Environment within sixty (60) calendar days of the date of issue of this action. 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:

Ms. Catherine Heald, Drinking Water Enforcement Specialist
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

(To facilitate payment processing, please ensure that Ms. Heald's name is on the outside of the envelope.)

Payment or appeal of the administrative penalty in this manner does not relieve Mystic Meadows Events Center, LLC of its obligation to perform the activities required by this enforcement action.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this order, Mystic Meadows Events Center, LLC 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

Mystic Meadows Events Center, LLC 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 Mystic Meadows Events Center, LLC 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.

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

You are also advised, 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. In the event that Mystic Meadows Events Center, LLC does not achieve complete and timely compliance with all of the terms and conditions outlined herein, including full and timely payment of administrative penalties, the Department reserves, in addition to any other remedies allowed by law, its right under §25-1-114(4), C.R.S., to pursue an action for additional penalties.

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.

Pursuant to §25-1-114.1(2.5)(b) C.R.S. an Administrative Penalty Assessment may be appealed to the Water Quality Control Commission. Requests for such an appeal should be filed in writing with the Water Quality Control Commission within thirty (30) calendar days after service of the penalty assessment.

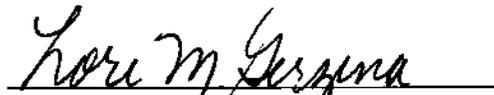
ADDITIONAL ACTION

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 15th 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

Exhibit A

MYSTIC MEADOWS EVENTS CENTER, LLC
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0221975
EL PASO COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(August 15, 2008)

Penalty Summary

Penalty Calculation -Violation Number 1 (Count 1) \$270.00
(Count 2) \$320.00

Violation: Failure to Monitor for Nitrate
Regulation Violated: 5 CCR 1003-1, §6.1.5

TOTAL PENALTY..... \$590.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1 (Count 1)

System Name: Mystic Meadows Event Center,	PWSID Number: CO-0221975
Date of Enforcement Order: August 15, 2008	Number: DT-080815-3
Regulation Violated: Failure to Monitor for Nitrate, 5 CCR 1003-1, §6.1.5	Population Served: 410

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Nitrate – calendar year 2006	< 500 Served	\$200.00

Part II – Application of Aggravating or Mitigating Factors

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 2	Factor A: Threat to Public Health and Welfare <i>Justification: n/a</i>		\$0.00
Line 3	Factor B: Intentional, Reckless, or Negligent Actions <i>Justification: n/a</i>		\$0.00
Line 4	Factor C: Recalcitrance or Recidivism <i>Justification: n/a</i>		\$0.00
Line 5	Factor D: Voluntary and Complete Disclosure of Violations <i>Justification: n/a</i>		\$0.00
Line 6	Factor E: Full and Prompt Cooperation <i>Justification: n/a</i>		\$0.00
Line 7	Factor F: Environmental Compliance Program <i>Justification: n/a</i>		\$0.00
Line 8	Factor G: Other Aggravating or Mitigating Circumstances <i>Justification: n/a</i>		\$0.00
Line 9	Sum of Lines 2 through Line 8		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$200.00

Exhibit A

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the 2006 failure to monitor for Nitrate violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$200.00
	<i>Calculations:</i>	
	<u>Day 1</u>	<u>(\$200.00) = \$200.00</u>

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$70.00
	<i>Justification: The Division believes that Mystic Meadows Events Center, LLC realized an economic benefit by failing to monitor. The cost of the test itself and the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab were avoided.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$270.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division does not have any information suggesting that Mystic Meadows Events Center, LLC has an inability to pay the assessed penalty amount.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$270.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1 (Count 2)

System Name: Mystic Meadows Event Center	PWSID Number: CO-0221975
Date of Enforcement Order: August 15, 2008	Number: DT-080815-3
Regulation Violated: Failure to Monitor for Nitrate, 5 CCR 1003-1, §6.1.5	Population Served: 410

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Nitrate – calendar year 2007	< 500 Served	\$200.00

Part II – Application of Aggravating or Mitigating Factors

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 2	Factor A: Threat to Public Health and Welfare <i>Justification: n/a</i>		\$0.00
Line 3	Factor B: Intentional, Reckless, or Negligent Actions <i>Justification: n/a</i>		\$0.00
Line 4	Factor C: Recalcitrance or Recidivism <i>Justification: Mystic Meadows Events Center, LLC failed to monitor for nitrate in 2007 even after the Division provided specific notice of its 2006 failure to monitor violation. In addition, the Division provided specific information on the Division's ongoing expectations on multiple occasions which the system disregarded.</i>		\$50.00
Line 5	Factor D: Voluntary and Complete Disclosure of Violations <i>Justification: n/a</i>		\$0.00
Line 6	Factor E: Full and Prompt Cooperation <i>Justification: n/a</i>		\$0.00
Line 7	Factor F: Environmental Compliance Program <i>Justification: n/a</i>		\$0.00
Line 8	Factor G: Other Aggravating or Mitigating Circumstances <i>Justification: n/a</i>		\$0.00
Line 9	Sum of Lines 2 through Line 8		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$250.00

Exhibit A

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
<i>Justification: The Division has chosen to consider the 2007 failure to monitor for Nitrate violation as a single day violation.</i>		

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$200.00
<u>Calculations:</u>		
	<i>Day 1</i> (\$200.00) = \$200.00	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$70.00
<i>Justification: The Division believes that Mystic Meadows Events Center, LLC realized an economic benefit by failing to monitor. The cost of the test itself and the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab were avoided.</i>		

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$320.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
<i>Justification: Not Applicable – The Division does not have any information suggesting that Mystic Meadows Events Center, LLC has an inability to pay the assessed penalty amount.</i>		

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$320.00