

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

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Colorado Department
of Public Health
and Environment

August 19, 2008

PWSID# CO-0121060

Mr. Chuck Crum

Bobcat Meadows Metropolitan District

PO Box 463

Woodland Park, CO 80866

Certified Mail Number: 70005 1820 0000 3208 1920

RE: Service of Amendment to Enforcement Order Number: DC-070827-3

Dear Mr. Crum:

Bobcat Meadows Metropolitan District is hereby issued the enclosed amendment to the Enforcement Order (Number: DC-070827-3) that was issued to Bobcat Meadows Metropolitan District on August 27, 2007. This order amendment is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §25-1.5-203 of the Colorado Revised Statutes.

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. Cathy Heald of this office 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

cc: El Paso County Department of Health and Environment
Compliance Monitor/Drinking Water File

cc: Tim Vrudny, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Betsy Beaver, Facility Operators Program, CDPHE

Enclosures



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

AMENDMENT NUMBER ONE TO ENFORCEMENT ORDER NUMBER: DC-070827-3

**IN THE MATTER OF: BOBCAT MEADOWS METROPOLITAN DISTRICT
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0121060
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 amends Enforcement Order Number: DC-070827-3 issued to Bobcat Meadows Metropolitan District.

GENERAL FINDINGS

1. On August 27, 2007, the Division issued an Enforcement Order to Bobcat Meadows Metropolitan District citing violations of the *Colorado Primary Drinking Water Regulations* for failure to monitor and/or report for a detected synthetic organic chemical, specifically Di(2-ethylhexyl)phthalate. The Enforcement Order is attached hereto as Exhibit A and is incorporated herein by reference.
2. After re-evaluating the facts associated with the issuance of the Enforcement Order to Bobcat Meadows Metropolitan District for violation of the synthetic organic chemical rule and in response to Bobcat Meadows Metropolitan District's submittal pursuant to the Enforcement Order showing that the monitoring for the synthetic organic chemical had been conducted during first and second quarters of calendar year 2007 and that the results had been reported to the Division, the Division withdraws the violations and associated penalties as they relate to Bobcat Meadows Metropolitan District's failure to monitor and/or report during the first and second quarters of calendar year 2007.

AMENDMENT NUMBER ONE

3. Effective as of the issued date of this Amendment, Enforcement Order Number: DC-070827-3 is therefore amended to revise the Enforcement Order as follows:
 - a. Since Bobcat Meadows provided documentation to the Division establishing that the monitoring for the synthetic organic chemical had been conducted during first and second quarters of calendar year 2007, paragraph 12 is superseded and replaced with the following new paragraph:

12. Division records establish that the System has failed to provide the Department with the results of its required synthetic organic chemical - Di(2-ethylhexyl)phthalate quarterly monitoring, except for the 3rd quarter of calendar year 2004 and the 1st and 2nd quarters of calendar year 2007. Department records further establish that the System has not completed four consecutive quarters of monitoring, nor has the System requested, in writing, any reduction of its sampling frequency.
- b. The Order for Administrative Penalty Section, paragraphs 18-20, are superseded and replaced with the following new paragraphs:

ORDER FOR ADMINISTRATIVE PENALTY

18. 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.
19. 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 Sixty-Two dollars and Fifty cents (\$562.50) for the specific violation identified in this action. The reasoning behind this penalty number is detailed in the administrative penalty methodology/calculation worksheet, which is incorporated herein by reference and enclosed as Exhibit B.

Terms of Administrative Penalty Payment

20. If Bobcat Meadows Metropolitan District 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

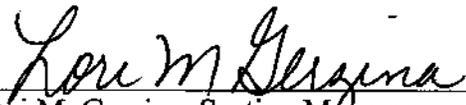
Payment or appeal of the administrative penalty in this manner does not relieve Bobcat Meadows Metropolitan District of its obligation to perform the activities required by this action.

SCOPE OF AMENDMENT NUMBER ONE

The scope of this Amendment Number One to Enforcement Order Number DC-070827-3 is limited to the revisions outlined above. All other terms and conditions of the Enforcement Order shall remain unchanged and in effect.

Issued at Denver, Colorado, this 19th 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 B

**BOBCAT MEADOWS METROPOLITAN DISTRICT
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0121060
EL PASO COUNTY, COLORADO**

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(August 12, 2008)

Penalty Summary

Penalty Calculation -Violation Number 1 (Count 1) **\$187.50**
(Count 2)..... **\$187.50**
(Count 3)..... **\$187.50**

Violation: Failure to Monitor for a Detected Synthetic Organic Chemical
Regulation Violated: 5 CCR 1003-1, §6.2.6(a)(7)(i)

TOTAL PENALTY.....\$562.50

Exhibit B

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

System Name: Bobcat Meadows Metropolitan District	PWSID Number: CO-0121060
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Date of Enforcement Order: August 27, 2007	Number: DC-070827-3
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Regulation Violated: Failure to Monitor for Detected Synthetic Organic Chemical Contaminant, 5 CCR 1003-1, §6.2.6(a)(7)(i)	Population Served: 310
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor (Quarterly) for a Detected Synthetic Organic Chemical – second quarter of calendar year 2006	< 500 Served	\$150.00

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: Bobcat Meadows Metropolitan District has fail to properly monitor for its detected synthetic organic chemical since the first quarter of 2004, despite the Division's specific notice on multiple occasion of this ongoing quarterly monitoring requirement.</i>	+25%	\$37.50
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		\$0.00

Exhibit B

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
	<i>Justification: n/a</i>		
Line 8	Factor G: Other Aggravating or Mitigating Circumstances		\$0.00
	<i>Justification: n/a</i>		
Line 9	Sum of Lines 2 through Line 8		\$37.50
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$187.50

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 failure to monitor for specific synthetic organic chemicals for the second quarter 2006 violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$187.50
	Calculations: Day 1 (\$187.50) = \$187.50	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$0.00

Exhibit B

<p><i>Justification: The Division believes that Bobcat Meadows Metropolitan District realized an economic benefit by failing to monitor since it has delayed its cost for the tests itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab. However, the Division currently believes that this economic benefit is insignificant as this enforcement order will require Bobcat Meadows Metropolitan District to perform the delinquent monitoring.</i></p>

Exhibit B

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$187.50

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 Bobcat Meadows Metropolitan District 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)	\$187.50

Exhibit B

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

System Name: Bobcat Meadows Metropolitan District	PWSID Number: CO-0121060
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Date of Enforcement Order: August 27, 2007	Number: DC-070827-3
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Regulation Violated: Failure to Monitor for Detected Synthetic Organic Chemical Contaminant, 5 CCR 1003-1, §6.2.6(a)(7)(i)	Population Served: 310
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor (Quarterly) for a Detected Synthetic Organic Chemical – third quarter of calendar year 2006	< 500 Served	\$150.00

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: Bobcat Meadows Metropolitan District has fail to properly monitor for its detected synthetic organic chemical since the first quarter of 2004, despite the Division's specific notice on multiple occasion of this ongoing quarterly monitoring requirement.</i>	+25%	\$37.50
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

Exhibit B

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 7	Factor F: Environmental Compliance Program		\$0.00
	<i>Justification: n/a</i>		
Line 8	Factor G: Other Aggravating or Mitigating Circumstances		\$0.00
	<i>Justification: n/a</i>		
Line 9	Sum of Lines 2 through Line 8		\$37.50
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$187.50

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 failure to monitor for specific synthetic organic chemicals for the third quarter 2006 violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$187.50
	Calculations: Day 1 (\$187.50) = \$187.50	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$0.00

Exhibit B

<p><i>Justification: The Division believes that Bobcat Meadows Metropolitan District realized an economic benefit by failing to monitor since it has delayed its cost for the tests itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab. However, the Division currently believes that this economic benefit is insignificant as this enforcement order will require Bobcat Meadows Metropolitan District to perform the delinquent monitoring.</i></p>

Exhibit B

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$187.50

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 Bobcat Meadows Metropolitan District 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)	\$187.50

Exhibit B

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1 (Count 3)

System Name: Bobcat Meadows Metropolitan District	PWSID Number: CO-0121060
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Date of Enforcement Order: August 27, 2007	Number: DC-070827-3
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Regulation Violated: Failure to Monitor for Detected Synthetic Organic Chemical Contaminant, 5 CCR 1003-1, §6.2.6(a)(7)(i)	Population Served: 310
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor (Quarterly) for a Detected Synthetic Organic Chemical – fourth quarter of calendar year 2006	< 500 Served	\$150.00

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: Bobcat Meadows Metropolitan District has fail to properly monitor for its detected synthetic organic chemical since the first quarter of 2004, despite the Division's specific notice on multiple occasion of this ongoing quarterly monitoring requirement.</i>	+25%	\$37.50
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		\$0.00

Exhibit B

<p><i>Justification: The Division believes that Bobcat Meadows Metropolitan District realized an economic benefit by failing to monitor since it has delayed its cost for the tests itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab. However, the Division currently believes that this economic benefit is insignificant as this enforcement order will require Bobcat Meadows Metropolitan District to perform the delinquent monitoring.</i></p>

Exhibit B

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$187.50

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 Bobcat Meadows Metropolitan District 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)	\$187.50