

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 26, 2008

Certified Mail Number: 7007 0220 0001 0159 9162

PWSID# CO-0128300
Barbara Calistro
Town of Gardner
P.O. Box 136
Gardner, CO 81040

RE: Service of Drinking Water Enforcement Order, Number: DC-080826-2

Dear Barbara:

You are 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 you have violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order you 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: Las Animas- Huerfano Counties District Health Department
Compliance Monitor / Drinking Water File
- ec: Dave Knope, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Patricia Klocker, Assistant Division Director, Consumer Protection Division, CDPHE
Carolyn Schachterle, OPA
Steve Wachterman, System Operator (swachterman@webcoast2coast.net)



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL DIVISION

**ENFORCEMENT ORDER &
ADMINISTRATIVE PENALTY ASSESSMENT**

NUMBER: DC-080826-2

**IN THE MATTER OF: TOWN OF GARDNER
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0128300
HUERFANO 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 and Administrative Penalty Assessment:

GENERAL FINDINGS

1. The Town of Gardner owns and/or operates a drinking water system located at or near 25655 Highway 69, in or near the Town of Gardner, Huerfano County, Colorado (the "System").
2. The Town of Gardner is a person as defined by 5 CCR 1003-1, §1.5.2(92).
3. The Town of Gardner 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-0128300.
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. The Town of Gardner 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 System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(60).

First Violation

(Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five))

9. Pursuant to 5 CCR 1003-1, §7.6.1(b)(1), all community water systems and non-transient, non-community water systems, unless otherwise noted, must comply with the total trihalomethanes (“TTHM”) and haloacetic acids (five) (“HAA5”) monitoring requirements of §7.5.
10. Pursuant to 5 CCR 1003-1, §7.6.3(b)(1), the System must monitor for TTHM and HAA5 at the following frequency and locations:

Type of System	Minimum Monitoring Frequency	Sample Location in the Distribution System
System using only groundwater not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons.	One sample per year per treatment plant during month of warmest water temperature.	Locations representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in paragraph (b)(1)(iv) of this section.

11. The *Official 2007 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor for TTHM and HAA5 during the third quarter (specifically August 1, 2007 through August 31, 2007 time period) of calendar year 2007.
12. Pursuant to 5 CCR 1003-1, §7.6.5(a), systems required to sample less frequently than quarterly must report to the Department within ten (10) days after the end of each monitoring period in which samples were collected.
13. Department records to date establish that the System failed to submit results to the Department of its annual TTHM and HAA5 monitoring for calendar year 2007.
14. Division records further establish that the Town of Gardner failed to submit results to the Department of its annual TTHM and HAA5 monitoring for calendar years 2004, 2005 and 2006 and was therefore issued an Enforcement Order (number DC-061130-4) on November 30, 2006 and an Enforcement Order (number DC-070831-9) on August 31, 2007 for such failures.
15. The Town of Gardner’s failure to submit the results of its annual TTHM and HAA5 analyses to the Department constitutes ongoing violation(s) of 5 CCR 1003-1, §7.6.5(a). Additionally, if the Town of Gardner failed to perform its annual TTHM and HAA5 analyses during the identified periods, such failure to perform the monitoring constitutes ongoing violations of 5 CCR 1003-1, §§7.6.1(b)(1) and 7.6.3(b)(1).

Second Violation

(Failure to Report Residual Disinfection Concentration)

16. Pursuant to 5 CCR 1003-1, §7.9.1(b), a public water system that uses only ground water sources which have been determined to not be under the direct influence of surface water shall be

disinfected by means or methods which are approved by the Department and are effective in the killing or removal of pathogenic organisms. Disinfection may include physical as well as chemical treatment. When chlorination methods are employed, a sufficient amount of chlorine shall be added to the water to destroy any pathogenic organisms potentially present and to maintain a detectable residual in at least 95% of the samples taken at the extremities of the distribution system from which water may be withdrawn.

17. Division records establish that the System utilizes chlorination methods to achieve disinfection.
18. Pursuant to 5 CCR 1003-1, §7.6.3(c)(1) and 7.9.1(c)(2), the System must measure the residual disinfectant concentration in the distribution system at least at the same points in the distribution system and at the same time as total coliforms are sampled.
19. Pursuant to 5 CCR 1003-1, §7.5.2, analyses conducted to determine compliance with this §7.6 shall be made by methods as specified in 5 CCR 1003-1, §10.7.
20. Pursuant to 5 CCR 1003-1, §7.6.5(d)(1), the System is required to report the following:
 - i. The number of samples taken during each month of the last quarter;
 - ii. The monthly arithmetic average of all samples taken in each month for the last 12 months;
 - iii. The arithmetic average of the monthly averages for the last 12 months; and
 - iv. Whether, based on §7.6.4(c)(1), the MRDL was violated.
21. Pursuant to 5 CCR 1003-1, §7.6.5(a), systems required to sample quarterly or more frequently must report to the Department within ten (10) days after the end of each quarter in which samples were collected, notwithstanding the provisions of 5 CCR 1003-1, §1.6.4. Systems required to sample less frequently than quarterly must report to the Department within ten (10) days after the end of each monitoring period in which samples were collected.
22. Review of the Division's records establishes that the System has not reported residual disinfection concentrations in the 2nd, 3rd, or 4th quarters of calendar year 2007 and the 1st and 2nd quarters of calendar year 2008.
23. Division records further establish that the Town of Gardner failed to provide the Department with the results of the residual disinfection concentrations monitoring during calendar year 2006 and was therefore issued an Enforcement Order (number DC-061130-4) on November 30, 2006 for such failure.
24. The Town of Gardner's failure to completely report for residual disinfectant concentrations in the distribution system constitutes violations of 5 CCR 1003-1, §7.6.5. Additionally, if the Town of Gardner failed to measure its annual TTHM and HAA5 analyses during the identified periods, such failure to perform the monitoring constitutes ongoing violations of 5 CCR 1003-1, §§7.6.3(c)(1) and 7.9.1(c)(2).

Third and Fourth Violations
(Failure to Monitor and/or Report for Volatile and Synthetic Organic Chemicals)

25. Pursuant to 5 CCR 1003-1, §§6.2.5(a) and 6.2.6(a), the System must take a minimum of one volatile and synthetic organic chemicals sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment.
26. According to 5 CCR 1003-1, §6.2.3(e), the System must monitor for volatile and synthetic organic chemicals at the time designated by the Department during each compliance period. The *Official 2007 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor for volatile and synthetic organic chemicals between January 1, 2005 and December 31, 2007 for the compliance period of calendar year 2005 through 2007.
27. Pursuant to 5 CCR 1003-1, §1.6.4(a), the supplier of water shall report to the Department the results of their volatile and synthetic organic chemical monitoring within (a) the first ten (10) days following the month in which the result is 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.
28. Division records establish that the System has failed to provide the Department with the results of volatile and synthetic organic chemical monitoring during the compliance period of calendar year 2005 through 2007.
29. The Town of Gardner's failure to submit the results of the System's volatile and synthetic organic chemical monitoring to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if the Town of Gardner failed to perform volatile and synthetic organic chemical monitoring during the identified period, such failure to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §§6.2.5(a), 6.2.6(a), and 6.2.3(e).

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

30. Pursuant to 5 CCR 1003-1, §6.1.5(e), all public water systems shall monitor to determine compliance with the maximum contaminant level for Nitrate.
31. Pursuant to 5 CCR 1003-1, §6.1.5(e)(1), the System was required to monitor for Nitrate annually.
32. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), the System was 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.
33. The *Official 2007 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor for *Nitrate* at each entry point to the distribution system (after treatment) during calendar year 2007.

34. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System was required to report to the Department the results of the System's annual Nitrate analysis within (1) the first ten calendar days following the month in which the result is received, or (2) the first ten calendar days following the end of the required monitoring period, as stipulated by the Department, whichever of these is shorter.
35. Department records establish that the System failed to submit results of its annual Nitrate monitoring to the Department for calendar year 2007.
36. The Town of Gardner's failure to submit the results of its 2007 annual Nitrate analysis to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if the Town of Gardner failed to perform its annual Nitrate analysis during the identified period, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§6.1.5(e), 6.1.5(e)(1) and 6.1.5(b)(1).

Sixth Violation
(Failure to Monitor and/or Report for Inorganic Chemicals)

37. Pursuant to 5 CCR 1003-1, §6.1.5(a), community water systems shall conduct monitoring to determine compliance with the inorganic chemical maximum contaminant levels specified in 5 CCR 1003-1, §2.2.
38. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), the System must take a minimum of one inorganic chemical sample, including fluoride, at every entry point to the distribution system, which is representative of each groundwater source after treatment.
39. Pursuant to 5 CCR 1003-1, §6.1.5(d)(1), the System must take one inorganic chemical sample, including fluoride, at each sampling point during each compliance period.
40. Pursuant to 5 CCR 1003-1, §6.1.5(j), the System must monitor for inorganic chemicals at the time designated by the Department during each compliance period. The *Official 2006 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor for inorganic chemicals during the compliance period of January 1, 2005 through December 31, 2007.
41. Division records show that the System has failed to provide the Department with the results of inorganic chemical monitoring, including fluoride, during the compliance period of calendar year 2005 through 2007.
42. The Town of Gardner's failure to submit the results of the System's routine inorganic chemical monitoring to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if the Town of Gardner failed to perform the routine inorganic monitoring during the identified period, such failure to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §6.1.5(a), §6.1.5(b)(1), §6.1.5(d)(1) and §6.1.5(j).

Seventh Violation
(Failure to Comply with Formal Enforcement Order)

43. Pursuant to 5 CCR 1003-1, §1.6.7(a), where a public water system has violated any provision of any article of the *Colorado Primary Drinking Water Regulations*, the Department may issue an enforcement order requiring the public water system to take actions necessary to correct the violation(s). Such orders may require the public water system to design, redesign, install, modify, construct or reconstruct facilities or to take other such corrective action or to demonstrate adequacy of control measures and employ such operational techniques and practices as will eliminate any violations.
44. On November 30, 2006, the Division issued Enforcement Order Number DC-061130-4 to the Town of Gardner citing failure to monitor violations for TTHM/HAA5 and failure to report violations for residual disinfection concentrations.
45. On August 31, 2007, the Division issued Enforcement Order Number DC-070831-9 to the Town of Gardner citing failure to monitor violations for TTHM/HAA5.
46. Enforcement Order Number DC-061130-4 required the Town of Gardner to monitor and/or report for total trihalomethanes and haloacetic acids (five) and residual disinfection concentrations. Enforcement Order Number DC-070831-9 also required the Town of Gardner to monitor and/or report for total trihalomethanes and haloacetic acids (five). Division records establish that the Town of Gardner did not monitor or report as required by the aforementioned Enforcement Orders.
47. Division records further establish that the System has again violated the same *Colorado Primary Drinking Water Regulation* that triggered the aforementioned Enforcement Orders and such violations are included in this Enforcement Order and Administrative Penalty Assessment.
48. The Town of Gardner continued failure to comply with the *Colorado Primary Drinking Water Regulations* and Enforcement Order Numbers DC-061130-4 and DC-070831-9 constitutes violations of 5 CCR 1003-1, §1.6.7(a).

COMPLIANCE ORDER

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, the Town of Gardner is hereby ordered to:

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

Further, the Division hereby orders the Town of Gardner to comply with the following specific terms and conditions of this Order.

50. Immediately initiate efforts to comply with the TTHM and HAA5 monitoring/reporting obligations as required by 5 CCR 1003-1, §7.6.

51. Within fourteen (14) calendar days after receipt of this Order, the Town of Gardner shall submit the results of any TTHM and HAA5 monitoring performed for calendar year 2007.
52. If the calendar year 2008 TTHM and HAA5 monitoring has not been conducted by the System, the Town of Gardner shall perform TTHM and HAA5 monitoring by no later than September 30, 2008. The TTHM and HAA5 samples must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. The Town of Gardner shall provide the Department with the results of the TTHM and HAA5 monitoring within ten (10) calendar days of receipt of the results from the laboratory.
53. The Town of Gardner shall immediately begin monitoring and reporting residual disinfection concentrations in accordance with 5 CCR 1003-1, Article 7 by reporting residual disinfection concentrations along with each total coliform sample result. If results are not able to be reported along with each total coliform result or if supplemental monitoring is performed, The Town of Gardner shall report the results to the Division on a MRDL Form 2. (*See attached*)
54. Immediately initiate efforts to comply with the volatile and synthetic organic chemicals monitoring/reporting obligations as required by 5 CCR 1003-1, §6.2.
55. Within fourteen (14) calendar days after receipt of this Order, the Town of Gardner shall submit the results of any volatile and synthetic organic chemicals monitoring performed during the compliance period of calendar years 2005 through 2007.
56. If the System has not performed the volatile and synthetic organic chemicals monitoring for the compliance period of January 1, 2005 to December 31, 2007, or during this calendar year to-date, the Town of Gardner shall conduct volatile and synthetic organic chemicals analyses on a representative water sample within thirty (30) calendar days of receipt of this Order. The volatile and synthetic organic chemicals samples must be properly collected and analyzed by a Department certified laboratory in accordance with approved methods. The Town of Gardner shall provide the Department with the results of the volatile and synthetic organic chemicals analyses within ten (10) calendar days of receipt of the results from the laboratory.
57. Immediately initiate efforts to comply with the nitrate monitoring/reporting obligations as required by 5 CCR 1003-1, §6.1.
58. Within fourteen (14) calendar days after receipt of this Order, the Town of Gardner shall submit the results of any Nitrate monitoring performed for calendar year 2007.
59. If the system has not performed the Nitrate monitoring for calendar year 2008, the Town of Gardner 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. The Town of Gardner shall provide the Department with the results of the Nitrate analyses within ten (10) calendar days of receipt of the results from the laboratory.

60. Immediately initiate efforts to comply with the inorganic chemical, including fluoride, monitoring and reporting obligations as required by 5 CCR 1003-1, §6.1.
61. Within fourteen (14) calendar days after receipt of this Order, the Town of Gardner shall submit the results of any inorganic chemicals monitoring performed on the system's distributed water for the compliance period of January 1, 2005 to December 31, 2007.
62. If the System has not performed the inorganic chemicals monitoring, including fluoride, for the compliance period of January 1, 2005 to December 31, 2007, or during this calendar year to-date, the Town of Gardner shall conduct an inorganic chemicals analysis on a representative water sample(s), taken from each entry point to the distribution system and that is representative of each groundwater source after treatment, within thirty (30) calendar days of receipt of this Order. The inorganic chemical sample(s) must be properly collected and analyzed by a Department certified laboratory in accordance with approved methods and cited detection limits. The Town of Gardner shall provide the Department with the results of the inorganic chemical analysis within ten (10) calendar days of receipt of the results from the laboratory.
63. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, the Town of Gardner 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 the required public notification, the Town of Gardner 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

64. 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:
 - b. 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
 - c. 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.
65. 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 Four Thousand Four Hundred And Seventy Dollars (\$4,470.00) 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

66. If the Town of Gardner 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 the Town of Gardner of its obligation to perform the activities required by this action.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this order, the Town of Gardner 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-WQP-B2
Compliance Assurance and Data Management Unit / Enforcement Team
Attention: Catherine Heald
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

(For any facsimile transmittals, please include a cover sheet addressed to Ms. Heald.)

NOTICE OF COMPLETION

The Town of Gardner 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 the Town of Gardner wishes to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) 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 the Town of Gardner 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 26th 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

Town of Gardner
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0128300
HUERFANO COUNTY, COLORADO
ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(August 26, 2008)

Penalty Summary

Penalty Calculation -Violation Number 1\$470.00

Violation: Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five)
Regulation Violated: 5 CCR 1003-1, §7.5

Penalty Calculation -Violation Number 2 (Count 1)..... \$85.00
(Counts 2 - 3) \$340.00

Violation: Failure to Measure and/or Report for Residual Disinfection Concentration,
Regulation Violated: 5 CCR 1003-1, §7.5

Penalty Calculation -Violations Number 3.....\$290.00

Violation: Failure to Monitor for Volatile Organic Chemicals
Regulation Violated: 5 CCR 1003-1, §6.2.5

Penalty Calculation -Violation Number 4\$1,400.00

Violation: Failure to Monitor for Synthetic Organic Chemicals
Regulation Violated: 5 CCR 1003-1, §6.2.6

Penalty Calculation -Violation Number 5\$320.00

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

Penalty Calculation -Violation Number 6\$365.00

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

Penalty Calculation -Violation Number 7 (Count1)..... \$600.00
(Count 2) \$600.00

Violation: Failure to Comply with Formal Enforcement Order
Regulation Violated: 5 CCR 1003-1, §1.6.7(a)

TOTAL PENALTY.....\$4,470.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1

System Name: Town of Gardner	PWSID Number: CO-0128300
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Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
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Regulation Violated: Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five), 5 CCR 1003-1, §7.5	Population Served: 115
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five) – 2007	< 500 Served	\$100.00

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: Town of Gardner was issued an Enforcement Order (DC-061130-4) on November 30, 2006 for its failure to monitor for TTHM and HAA5 in 2004 and 2005. The Town of Gardner was also issued an Enforcement Order (DC-070831-9) on August 31, 2007 for its failure to monitor for TTHM and HAA5 in 2006. Therefore, the Town of Gardner has demonstrated a history/pattern of not obeying or complying with its regulatory obligations, thereby revealing a level of disregard for regulatory programs. Town of Gardner's continued noncompliance with the same violation in 2007 supports an upward adjustment of 50%.</i>	+50%	\$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		\$0.00

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
	<i>Justification: n/a</i>		
Line 9	Sum of Lines 2 through Line 8		\$50.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$150.00

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 TTHM and HAA5 in 2007 violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$150.00
	<i>Calculations:</i>	
	<i>Day 1 (\$150.00)</i>	<i>= \$150.00</i>

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$320.00
	<i>Justification: The Division believes that the Town of Gardner realized an economic benefit by failing to monitor since it avoided the cost of the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$470.00

Exhibit A

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 the Town of Gardner 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)	\$470.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 2 (Count 1)

System Name: Town of Gardner	PWSID Number: CO-0128300
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Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
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Regulation Violated: Failure to Measure and/or Report for Residual Disinfection Concentration, 5 CCR 1003-1, §7.5	Population Served: 115
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Measure and/or Report for Residual Disinfection Concentration – 2 nd quarter of 2007	< 500 Served	\$30.00

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: Town of Gardner was issued an Enforcement Order (DC-061130-4) on November 30, 2006 for its failure to report residual disinfection concentration in 2006. Therefore, the Town of Gardner has demonstrated a history/pattern of not obeying or complying with its regulatory obligations, thereby revealing a level of disregard for regulatory programs. Town of Gardner's continued noncompliance with the same violation in 2007 supports an upward adjustment of 50%.</i>	+50%	\$15.00
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		\$0.00

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
	<i>Justification: n/a</i>		
Line 9	Sum of Lines 2 through Line 8		\$15.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$45.00

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 residual disinfectant concentration in the 2nd quarter of 2007 as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$45.00
	<i>Calculations: Day 1 (\$45.00) = \$45.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$40.00
	<i>Justification: The Division believes that the Town of Gardner realized an economic benefit by failing to report since the Town avoided the cost of the labor involved in calculating and compiling the information into the required reports.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$85.00

Exhibit A

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 the Town of Gardner 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)	\$85.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 2 (Counts 2 - 5)

System Name: Town of Gardner	PWSID Number: CO-0128300
Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
Regulation Violated: Failure to Measure and/or Report for Residual Disinfection Concentration, 5 CCR 1003-1, §7.5	Population Served: 115

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Measure and/or Report for Residual Disinfection Concentration – 3 rd and 4 th quarters of 2007 and 1 st and 2 nd quarters of 2008	< 500 Served	\$30.00

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: Town of Gardner was issued an Enforcement Order (DC-061130-4) on November 30, 2006 for its failure to report residual disinfection concentration in 2006. Therefore, the Town of Gardner has demonstrated a history/pattern of not obeying or complying with its regulatory obligations, thereby revealing a level of disregard for regulatory programs. Town of Gardner's continued noncompliance with the same violation in 2007 supports an upward adjustment of 50%.</i>	+50%	\$15.00
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

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
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		\$15.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$45.00

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 report for residual disinfection concentration violation as a single day violation for each quarter of violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$180.00
	<i>Calculations:</i>	
	<i>Day 1 (3rd quarter 2007) (\$45.00) = \$45.00</i>	
	<i>Day 2 (4th quarter 2008) (\$45.00) = \$45.00</i>	
	<i>Day 3 (1st quarter 2008) (\$45.00) = \$45.00</i>	
	<i>Day 4 (2nd quarter 2008) (\$45.00) = \$45.00</i>	
	<i>Total = \$180.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$160.00
	<i>Justification: The Division believes that the Town of Gardner realized an economic benefit (\$40.00 per quarter) by failing to report since the Town avoided the cost of the labor involved in calculating and compiling the information into the required reports.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$340.00

Exhibit A

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 the Town of Gardner 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)	\$340.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 3

System Name: Town of Gardner	PWSID Number: CO-0128300
Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
Regulation Violated: Failure to Monitor for Volatile Organic Chemicals, 5 CCR 1003-1, §6.2.5	Population Served: 115

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor for Volatile Organic Chemicals – Compliance Period January 1, 2005 through December 31, 2007	< 500 Served	\$100.00

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)		\$100.00

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 failure to monitor for volatile organic chemicals violation as a single day violation.</i>		

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$100.00
<i>Calculations: Day 1 (\$100.00) = \$100.00</i>		

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$190.00
<i>Justification: The Division believes that the Town of Gardner realized an economic benefit by failing to monitor since the town has avoided the cost for the tests as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.</i>		

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$290.00

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 the Town of Gardner has an inability to pay the assessed penalty amount.</i>		

Exhibit A

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$290.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 4

System Name: Town of Gardner	PWSID Number: CO-0128300
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Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
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Regulation Violated: Failure to Monitor for Synthetic Organic Chemicals, 5 CCR 1003-1, §6.2.6	Population Served: 115
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor for Synthetic Organic Chemicals - Compliance Period January 1, 2005 through December 31, 2007	< 500 Served	\$100.00

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)		\$100.00

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 failure to monitor for synthetic organic chemicals violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$100.00
	<i>Calculations: Day 1 (\$100.00) = \$100.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$1,300.00
	<i>Justification: The Division believes that the Town of Gardner realized an economic benefit by failing to monitor since the town has avoided the cost for the tests as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$1,400.00

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 the Town of Gardner has an inability to pay the assessed penalty amount.</i>	

Exhibit A

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$1,400.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 5

System Name: Town of Gardner	PWSID Number: CO-0128300
Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
Regulation Violated: Failure to Monitor for Nitrate, 5 CCR 1003-1, §6.1.5	Population Served: 115

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: The Town of Gardner failed to monitor for nitrate during calendar year 2003 and was issued a Compliance Advisory on May 5, 2004. In addition, the Town of Gardner failed to monitor for nitrate during calendar year 2004. The Department mailed the Town of Gardner a Compliance Reminder letter on July 9, 2004 informing the Town that nitrate monitoring needed to be performed during calendar year 2004. The Department's records show that the Town of Gardner did not submit any nitrate monitoring results for calendar year 2004. Therefore, the Town of Gardner has demonstrated a history/pattern of not obeying or complying with its regulatory obligations, thereby revealing a level of disregard for regulatory programs. Town of Gardner's continued noncompliance with the same violation in 2007 supports an upward adjustment of 25%.</i>	+25%	\$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

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
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		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$250.00

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	\$250.00
	<i>Calculations:</i> Day 1 (\$250.00) = \$250.00	

Part V – Economic Benefit Consideration

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

Part VI – Violation Penalty Total

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

Exhibit A

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 the Town of Gardner 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

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 6

System Name: Town of Gardner	PWSID Number: CO-0128300
Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
Regulation Violated: Failure to Monitor for Inorganic Chemicals, 5 CCR 1003-1, §6.1.5	Population Served: 115

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor for Inorganic Chemicals – Compliance Period January 1, 2005 through December 31, 2007	< 500 Served	\$100.00

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)		\$100.00

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 failure to monitor for inorganic chemicals violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$100.00
	<i>Calculations: Day 1 (\$100.00) = \$100.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$265.00
	<i>Justification: The Division believes that the Town of Gardner realized an economic benefit by failing to monitor since the town has avoided the cost for the tests as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$365.00

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 the Town of Gardner has an inability to pay the assessed penalty amount.</i>	

Exhibit A

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$365.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 7 (Count 1)

System Name: Town of Gardner	PWSID Number: CO-0128300
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Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
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Regulation Violated: Failure to Comply with a Formal Enforcement Order, 5 CCR 1003-1, Article 1	Population Served: 115
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Comply with a Formal Enforcement Order (DC-061130-4)	< 500 Served	\$400.00

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: The Town of Gardner was issued an Enforcement Order (DC-061130-4) on November 30, 2006. The System has not complied with the Order and continues to incur violations of the same Regulation(s) cited in the Order. Therefore, the Town of Gardner has demonstrated a history/pattern of not obeying or complying with its regulatory obligations and Enforcement Orders, thereby revealing a level of disregard for regulatory programs. The Town of Gardner's continued noncompliance with the same violation supports an upward adjustment of 50%.</i>	+ 50%	\$200.00
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		\$200.00

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$600.00

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 comply with a formal enforcement order violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$600.00
	<i>Calculations: Day 1 (\$600.00) = \$600.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$0.00
	<i>Justification: The Division believes that the Town of Gardner realized an economic benefit from its ongoing noncompliance. However, the Division believes it has adequately recovered the economic benefit through the recovery of economic benefit within each penalty for the underlying individual violations.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$600.00

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 the Town of Gardner has an inability to pay the assessed penalty amount.</i>	

Exhibit A

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 – Line 15)	\$600.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 8 (Count 2)

System Name: Town of Gardner	PWSID Number: CO-0128300
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Date of Enforcement Order: August 26, 2008	Number: DC-080826-2
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Regulation Violated: Failure to Comply with a Formal Enforcement Order, 5 CCR 1003-1, Article 1	Population Served: 115
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Comply with a Formal Enforcement Order (DC-070831-9)	< 500 Served	\$400.00

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: The Town of Gardner was issued an Enforcement Order (DC-070831-9) on August 31, 2009. The System has not complied with the Order and continues to incur violations of the same Regulation(s) cited in the Order. Therefore, the Town of Gardner has demonstrated a history/pattern of not obeying or complying with its regulatory obligations and Enforcement Orders, thereby revealing a level of disregard for regulatory programs. The Town of Gardner's continued noncompliance with the same violation supports an upward adjustment of 50%.</i>	+ 50%	\$200.00
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		\$200.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$600.00

Exhibit A

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification:</i> The Division has chosen to consider the failure to comply with a formal enforcement order violation as a single day violation.	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$600.00
	<i>Calculations:</i> Day 1 (\$600.00) = \$600.00	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$0.00
	<i>Justification:</i> The Division believes that the Town of Gardner realized an economic benefit from its ongoing noncompliance. However, the Division believes it has adequately recovered the economic benefit through the recovery of economic benefit within each penalty for the underlying individual violations.	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$600.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification:</i> Not Applicable. The Division does not have any information suggesting that the Town of Gardner has an inability to pay the assessed penalty amount.	

Exhibit A

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 – Line 15)	\$600.00

1. **PWSID #:** Enter the Public Water System (PWS) ID number assigned by CDPHE/WQCD.
2. **System Name:** Enter system name provided to CDPHE/WQCD when PWSID assigned.
3. **Date:** Enter the date that the final report is prepared and signed.
4. **Month:** Enter the reporting month.
5. **Year:** Enter the last 2 digits of the reporting year.

FORM SPECIFICS

This worksheet is provided to assist public water systems in calculating the average of all chlorine or chloramine residual levels recorded during the month. Disinfectant residuals must be determined each time a routine, repeat, or increased routine total coliform sample is collected. Any additional disinfectant residual monitoring results obtained by the system must also be recorded and used to calculate compliance. Each row is to contain only one residual level which is to be associated with the appropriate heading: routine, repeat, increased routine or other compliance disinfectant residual level sample(s). Systems required by regulations to collect more than 10 samples per month may modify the form to disregard the column headings or use a spreadsheet to calculate monthly averages as long as all disinfectant residuals taken each month are recorded and used in the computation and reporting of the monthly average disinfectant level.

6. **Column A:** is used to indicate the number of sample events taken since the beginning of the reporting month. For example: if a PWS samples four times during the month for chlorine residual in the distribution system (in accordance with its written sampling plan) it would enter the results in rows 1-4. The number in Column A of the last row with an entry, is the number to be used in the denominator to calculate the average concentration from all sample locations. The numbers in this column do not correlate to the days of the month.
7. **Column B:** enter the location identifier, which should depict the location where each residual measurement was obtained.
8. **Column C:** enter the Chlorine/Chloramine residual in mg/L, measured at the time each "routine" Total Coliform (TC) sample was collected.
9. **Column D:** enter the Chlorine/Chloramine residual measured in mg/L, at the time each "repeat" Total Coliform (TC) sample was collected.
10. **Column E:** enter the Chlorine/Chloramine residual measured in mg/L, at the time each "increased routine" Total Coliform (TC) sample was collected.
11. **Column F:** enter the Chlorine/Chloramine residual measured in mg/L, at the time "other" residual determinations samples were made in the distribution system, not associated with minimum required TC monitoring, but included in the public water system monitoring plan.
12. **Column G:** enter the value of the disinfectant residual entered in any one of Columns C, D, E, or F.
13. Calculate the monthly average for chlorine/chloramine MRDL. This is the Sum of the values in Column G divided by the total number of entries in Column A.
14. Transfer monthly average as calculated above to Column A of MRDL Form 2 for the appropriate month.

Colorado Department of Public Health and Environment
 Water Quality Control Division, Drinking Water Program - Compliance Assurance and Data Management Unit
 4300 Cherry Creek Drive South -- Denver, CO 80246-1530

MRDL Form 1

Chlorine and Chloramine Maximum Residual Disinfectant Level (MRDL) Monthly Worksheet

PWSID #: _____ **SYSTEM NAME:** _____ **DATE:** _____
Month: _____ **Year: 20** ____

Column A	Column B	Column C	Column D	Column E	Column F	Column G
Sample Event #	Location ID #	Level Recorded ROUTINE TC Sample-- Chlorine/Chloramine (mg/L)	Level Recorded REPEAT TC Sample-- Chlorine/Chloramine (mg/L)	Level Recorded INCREASED ROUTINE TC Sample-- Chlorine/ Chloramine (mg/L)	Level Recorded OTHER Compliance Sample-- Chlorine/ Chloramine (mg/L)	Repeat any entry in Columns C, D, E, or F in this column (mg/L) (there should be only one sample per row)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						

Calculate the average of all residual levels for the month by dividing the sum of column G by the total number of samples taken during the month. Enter this average into Column A of MRDL Form 2 for the appropriate month.

Instructions on Reverse

PLEASE READ THIS FIRST

This form is for community and non-transient, non-community water systems that do not report residual disinfectant monitoring with EACH total coliform bacteria result. If the sampler writes the residual on the total coliform lab slip, there is no need to submit a MRDL Form 2 for compliance. The water system must confirm with their lab that the residuals are reported to the Division for EACH total coliform sample result.

When should a water system submit an MRDL Form 2?

1. If the sampler forgets to write the residual on each total coliform lab sample slip;
2. If the water system submits a summary of bacteria sampling instead of individual sample results (only appropriate for systems doing a high volume of sampling); or
3. If the laboratory does not transmit residuals to the state with each total coliform sample result.

INSTRUCTIONS FOR MRDL FORM 2

1. PWSID #: Enter the Public Water System (PWS) Identification Number assigned by CDPHE.
2. System Name: Enter system legal name provided to CDPHE when PWSID assigned.
3. Date: Enter the date that the final report is prepared and signed.
4. Prepared by: Print the name of the person completing the form.
5. Signature: The person that signs the form must be the legal owner or authorized representative of the legal owner. This signature certifies that the information submitted is correct and consistent with the written monitoring plan.
6. Year: Enter the reporting year.
7. Number of Samples Taken: Enter the total number of samples for chlorine and chloramines for each month of the reporting quarter.
8. Column A: Enter the average of all chlorine/chloramines residual levels for each month. Refer to MRDL Form 1, MRDL monthly worksheet.
9. Column B: For the current quarterly reporting period, enter into the Q1, Q2, Q3, or Q4 box the average monthly chlorine or chloramine residual for the months associated with the reporting quarter. For example, in Q1, sum the average chlorine or chloramine concentration reported for Jan, Feb and March, divide the sum by 3 and enter the result in the Q1 box.
10. Column C: Calculate the RAA (Running Annual Average) of the chlorine/chloramines residual levels for the four most recent quarters and enter the result in the last row of Column C titled: Running Annual Average.

Colorado Department of Public Health and Environment – Water Quality Control Division
 Drinking Water Program – Compliance Assurance and Data Management Unit
 4300 Cherry Creek Drive South, Denver, CO 80246-1530
 Fax 303-758-1398



PWSID #: _____ **SYSTEM NAME:** _____ **DATE:** _____

PREPARED BY: _____ **TITLE:** _____

SIGNATURE: _____

		Column A	Column B	Column C
Month	Year	Monthly Average Chlorine or Chloramines (mg/L)	Quarterly Average Chlorine or Chloramines (mg/L)	Running Annual Average Chlorine or Chloramines (mg/L)
January	20__ __			
February	20__ __			
March	20__ __		Q1 =	
April	20__ __			
May	20__ __			
June	20__ __		Q2 =	
July	20__ __			
August	20__ __			
September	20__ __		Q3 =	
October	20__ __			
November	20__ __			
December	20__ __		Q4 =	

Running Annual Average

MONITORING RECORDS MUST BE AVAILABLE UPON REQUEST

Instructions on Reverse

This form is available at <http://www.cdphe.state.co.us/wq/drinkingwater/PublicWaterSystemReportingForms.html>

Tier 3 Public Notice Instructions

TEMPLATE ON REVERSE

Delivery Requirements

Tier 3 public notices must be provided to persons served within one year (365 days) after you learn of the violation. Multiple monitoring violations can be serious. **Public water systems that provide water to other water systems must deliver public notices to the owners or operators of all receiving water systems (consecutive water systems) (9.2.1(c)).**

Community systems must use at least one of the following delivery methods (9.2.4(c)(1) and 9.2.4(d)):

- ✓ Hand delivery or other direct delivery method
- ✓ Mail (can be included with the bill)
- ✓ Insert the notice in the Consumer Confidence Report, as long the CCR is delivered within one year (365 days) after you learn of the violation.

Non-community systems must use at least one of the following delivery methods (9.2.4 9(c)(2)):

- ✓ Posting in conspicuous locations
- ✓ Mail, hand delivery, or other direct delivery method to each user (where known)

In addition, both community and non-community systems must use another method reasonably calculated to reach others if they would not be reached by the first method. Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved, but no less than seven days.

Ten Required Elements of a Public Notice (9.2.5)

1. Description of the violation or situation including contaminant(s) of concern and (as applicable) the contaminant level(s).
2. When the violation or situation occurred.
3. Any potential adverse health effects from the violation or situation, including any standard language provided in the rule. The health effects language may not be modified.
4. The population at risk; including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water.
5. Whether alternate water supplies should be used.
6. What actions consumers should take, including when to seek medical help, if known.
7. What the system is doing to correct the violation or situation (corrective action).
8. When the system expects to return to compliance or resolve the situation.
9. Contact information: name, business address, and phone number of the water system owner or the owner's legal representative of the PWS that can provide additional information.
10. A statement encouraging notice recipients to distribute the notice to other persons served using the following standard language from the rule. This statement may not be modified: "Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in public places or by distributing copies by hand."

Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

- ✓ We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- ✓ We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- ✓ We plan to take the required samples soon, as described in the last column of the table above.

After Issuing the Notice

Make sure to send WQCD copies of all public notice(s) and a Tier 3 Certificate of Delivery Form within ten days after issuing the notice.



Colorado Department
of Public Health
and Environment

Tier 3

Drinking Water Public Notification Certificate of Delivery Form

System Name: _____

PWSID CO0 _____

Reason for Notice: (description of violation or situation) _____

Date of Violation Letter: _____

I hereby affirm that Public Notification for the violation or situation identified above has been provided to consumers and any consecutive water systems in accordance with the delivery, content, and format requirements of the *Colorado Primary Drinking Water Regulations*, section 9.2. I affirm that future requirements for notifying new billing units will be met. I also understand that this notice may need to be repeated in accordance with section 9.2 and I must submit this form again with each repeated notice.

Public Notice Distributed on: (date) _____

Check all distribution methods used to reach all consumers:

- Direct delivery method (includes hand delivery and U.S. mail)
- Continuously posted: (list locations) _____
- Television, Radio, and/or Newspaper: _____
- Delivery of multiple copies to hospitals, apartment buildings, schools, or other community centers
- E-mail
- Included in Consumer Confidence Report -- applies to community water systems only
- Other method approved by CDPHE: _____

List all consecutive water systems (water systems that purchase water from your system) that notice was delivered to:

Signature of owner or owner's legal representative

Date Signed

Printed name of owner or owner's legal representative

Phone number: _____

Mailing Address: _____

Attach copies of each public notice and send to:

CDPHE-WQCD
ATTN: CADM-Public Notification
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Or Fax to: (303) 758-1398

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for

(System Name) _____

Our water system recently violated a drinking water standard. Although this situation does not require that you take immediate action, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During (compliance period) _____ we did not complete all monitoring for (contaminant) _____ and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

There is nothing you need to do at this time. The table below lists the contaminant(s) we did not properly test for.

Contaminant	Required Sampling Frequency	Number of Samples Taken	When Samples Should Have Been Taken	When Samples Were or Will Be Taken

What happened? What is being done?

(Describe corrective action)

For more information, please contact (name of contact) _____ at (phone number) _____ or (mailing address) _____.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by (system name) _____
Colorado Public Water System ID#: _____ Date distributed: _____