

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

December 19, 2008

PWSID# CO-0139344

John Whiting, Registered Agent
Hidden Valley Water Company, Inc.
100 Whiting Road
Whitewater, CO 81527

Certified Mail Number: 7007 0220 0001 0156 8526

RE: Service of Amendment to Enforcement Order Number: DC-071130-3

Dear Mr. Whiting:

Hidden Valley Water Company, Inc. is hereby issued the enclosed amendment to the Enforcement Order (Number: DC-071130-3) that was issued to Hidden Valley Water Company, Inc. on November 30, 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 Scott Klarich at (303) 692-3564 or by electronic mail at scott.klarich@state.co.us.

Sincerely,

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

- cc: Mesa County Health Department
Compliance Monitor / Drinking Water File
- ec: Mark Kadnuck, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Jeff Lawrence, Director Consumer Protection Division, CDPHE
Carolyn Schachterle, OPA



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

AMENDMENT NUMBER ONE TO ENFORCEMENT ORDER NUMBER: DC-071130-3

**IN THE MATTER OF: HIDDEN VALLEY WATER COMPANY, INC.
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0139344
MESA 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-071130-3 issued to Hidden Valley Water Company, Inc.

GENERAL FINDINGS

1. On November 30, 2007, the Division issued Enforcement Order Number DC-071130-2 to Hidden Valley Water Company, Inc. citing violations of the Colorado Primary Drinking Water Regulations for failure to prepare, certify and/or deliver a consumer confidence report. The Enforcement Order is attached hereto as Exhibit A and is incorporated herein by reference.
2. In response to the Enforcement Order, Hidden Valley Water Company, Inc. provided copies of the Consumer Confidence Reports and the associated certificates of delivery for calendar years 2005 and 2006.
3. After re-evaluating the facts associated with the issuance of Enforcement Order Number DC-071130-2 the Division has determined that the following amendments to the enforcement order and the associated administrative penalty assessment are appropriate.

AMENDMENT NUMBER ONE

4. Effective as of the issued date of this Amendment, Enforcement Order Number: DC-071130-3 is therefore amended to revise the Enforcement Order as follows:
 - a. Since Hidden Valley Water Company, Inc. provided copies of the Consumer Confidence Reports and the associated certificates of delivery for calendar years 2005 and 2006 to the Division, but failed to submit copies in a timely manner, the Order for Administrative Penalty section, paragraphs 17-19, are superseded and replaced with the following new paragraphs:

17. 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.
18. 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 *two hundred twenty-five dollars (\$225.00)* 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 B.

Terms of Administrative Penalty Payment

19. If Hidden Valley Water Company, Inc. 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:

Mr. Scott Klarich, Unit Manager
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 Mr. Klarich's name is on the outside of the envelope.)

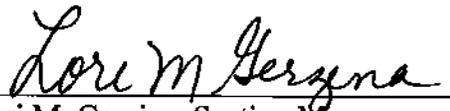
Payment or appeal of the administrative penalty in this manner does not relieve Hidden Valley Water Company, Inc. of its obligation to perform the activities required by this enforcement action.

SCOPE OF AMENDMENT NUMBER ONE

The scope of this Amendment Number One to Enforcement Order Number DC-071130-3 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 December, 2008.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Handwritten signature of Lori M. Gerzina in cursive script, written over a horizontal line.

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

Exhibit B

**HIDDEN VALLEY WATER COMPANY, INC.
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0139344
MESA COUNTY, COLORADO**

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(December 18, 2008)

Penalty Summary

Penalty Calculation -Violation Number 1 (Count 1) (Revised).....\$100.00
(Count 2) (Revised).....\$125.00

Violation: Failure to Submit Consumer Confidence Report
Regulation Violated: 5 CCR 1003-1, §9.1.2

TOTAL PENALTY.....\$225.00

Exhibit B

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 1 (Count 1)

System Name: Hidden Valley Water Company, Inc.	PWSID Number: CO-0139344
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Date of Enforcement Order: November 30, 2007	Number: DC-071130-3
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Regulation Violated: Failure to Submit Consumer Confidence Report, 5 CCR 1003-1, §9.1.2	Population Served: 60
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Submit Consumer Confidence Report - 2005	< 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 B

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 Hidden Valley Water Company, Inc. 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)	\$100.00

Exhibit B

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

System Name: Hidden Valley Water Company, Inc.	PWSID Number: CO-0139344
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Date of Enforcement Order: November 30, 2007	Number: DC-071130-3
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Regulation Violated: Failure to Submit Consumer Confidence Report, 5 CCR 1003-1, §9.1.2	Population Served: 60
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Submit Consumer Confidence Report - 2006	< 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: Justification: Hidden Valley Water Company, Inc. failed to submit the Consumer Confidence Report even after the Division provided specific notice of its requirements. In addition, the Division provided specific information on the Division's ongoing expectations on multiple occasions which the system disregarded.</i>	+25%	\$25.00
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

Exhibit B

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 9	Sum of Lines 2 through Line 8		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$125.00

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 Submit Consumer Confidence Report for 2006 as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$125.00
	<i>Calculations:</i>	
	<i>Day 1 (\$125.00)</i>	<i>= \$125.00</i>

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$0.00
	<i>Justification: The Division believes that the System did not realize a significant economic benefit by failing to submit copies of their Consumer Confidence Report with 2006 data and certificate of delivery to the Division.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$125.00

Exhibit B

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 Hidden Valley Water Company, Inc. 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)		\$125.00