



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

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**ENFORCEMENT ORDER**

**NUMBER: DC-080328-1**

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**IN THE MATTER OF: ROBERT COLEMAN**  
**d/b/a HIGH VALLEY MHP**  
**PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0102300**  
**ALAMOSA COUNTY, COLORADO**

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

**GENERAL FINDINGS**

1. Robert Coleman owns and/or operates a drinking water system, known as High Valley MHP, located in or near the City of Alamosa, Alamosa County, Colorado (the "System").
2. Robert Coleman is a supplier of water within the meaning of §25-1.5-201(2), C.R.S.
3. 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(87).
4. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID # CO-0102300.
5. 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.
6. Robert Coleman 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(10).
7. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(53).

**First Violation**  
**(Failure to Prepare, Certify and/or Deliver a Consumer Confidence Report)**

8. Section 9.1, 5 CCR 1003-1 establishes the minimum requirements for the content of the Consumer Confidence Report, annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.
9. Pursuant to 5 CCR 1003-1, §§9.1.2(a) and 9.1.5(a), each community water system must mail or otherwise directly deliver one copy of the System's Consumer Confidence Report to each customer served by the System by July 1 of each calendar year. Each Consumer Confidence Report must contain system information, sampling results, and violation data collected during, or prior to, the previous calendar year.
10. Pursuant to 5 CCR 1003-1, §§9.1.2(d) and 9.1.5(c), each community water system must mail a copy of the System's Consumer Confidence Report to the Department and a certification that the Consumer Confidence Report has been distributed to customers and that the information is correct and consistent with the compliance monitoring data previously submitted to the Department by July 1 of each calendar year.
11. Division records show that Robert Coleman has failed to provide the Department with a copy of the System's Consumer Confidence Report containing compliance data from calendar year 2005, due by July 1, 2006, and has failed to provide the Department with the required certification that this report was distributed.
12. Further, Division records show that Robert Coleman has failed to provide the Department with a copy of the System's Consumer Confidence Report containing compliance data from calendar year 2006, due by July 1, 2007, and has failed to provide the Department with the required certification that this report was distributed.
13. Robert Coleman's failure to provide the Department with a copy of the System's Consumer Confidence Report and required certification constitutes violations of 5 CCR 1003-1, §§9.1.2(d) and 9.1.5(c). Additionally, if Robert Coleman failed to provide each customer served by the System with a copy of the System's Consumer Confidence Reports, such failures constitute violations of 5 CCR 1003-1, §§9.1.2(a) and 9.1.5(a).

**COMPLIANCE ORDER**

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

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

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

15. Within fourteen (14) calendar days after receipt of this Order, Robert Coleman shall provide the Division with a copy of the System's Consumer Confidence Report and required delivery certification with compliance data from calendar years 2005 and 2006, which were due by July 1, 2006 and July 1, 2007 respectively. If Robert Coleman has not prepared the Consumer Confidence Report containing compliance data from calendar year 2006, Robert Coleman shall prepare, mail or otherwise directly deliver one copy of the report to each customer served by the System and provide the Division with a copy of the report along with the required delivery certification within thirty (30) calendar days of receipt of this Order. At a minimum, the report shall contain the information specified in 5 CCR 1003-1, §9.1. (*Consumer Confidence Report templates are available in an electronic format at the following Internet location: [http://www.cdphe.state.co.us/wq/Drinking\\_Water/Regulatory\\_Guidance.htm](http://www.cdphe.state.co.us/wq/Drinking_Water/Regulatory_Guidance.htm)*)

### **ORDER FOR ADMINISTRATIVE PENALTY**

16. 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.
17. 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 ***Six Hundred Twelve dollars and Fifty cents (\$612.50)*** for the specific violation 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**

18. If Robert Coleman 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 Robert Coleman of his obligation to perform the activities required by this enforcement action.

### **NOTICES AND SUBMITTALS**

For all documents, plans, records, reports and replies required to be submitted by this order, Robert Coleman 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 Section / Enforcement Team  
Attention: Ms. Catherine Heald  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: (303) 692-3254  
Email: catherine.heald@state.co.us

### **NOTICE OF COMPLETION**

Robert Coleman 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 Robert Coleman System wishes to dispute the Division's rejection of his Notice of Completion, he shall, within fifteen (15) days of receipt of the Division's rejection, submit a written statement as to his 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 Robert Coleman 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 State Board of Health. Requests for such an appeal should be filed in writing with the State Board of Health within thirty (30) calendar days after service of the penalty assessment.

Alternatively (or additionally), under section 25-1-113(1), C.R.S., you may file a request for judicial review in the State district court in the county in which you reside or in the city and county of Denver within ninety (90) calendar days of your receipt of this Enforcement Order and Administrative 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 28<sup>th</sup> day of March, 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