



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

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**ENFORCEMENT ORDER &  
ADMINISTRATIVE PENALTY ASSESSMENT**

**NUMBER: DC-080331-2**

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**IN THE MATTER OF: BRAD BAUER**  
**d/b/a HAPPY CAMPERS RV PARK**  
**PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0204200**  
**ARCHULETA 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 and Administrative Penalty Assessment:

**GENERAL FINDINGS**

1. Brad Bauer owns and/or operates a drinking water system, known as Happy Campers RV Park, located at or near the Town of Pagosa Springs, in Archuleta County, Colorado (the "System").
2. Brad Bauer 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-0204200.
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. Brad Bauer 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 Monitor and/or Report Lead and Copper Measurements)**

8. Pursuant to 5 CCR 1003-1, §8.7(c), the System shall collect at least one sample during each monitoring period specified in 5 CCR 1003-1, §8.7(d) from the number of sites listed in the first column of 5 CCR 1003-1, Article 8, Table 8-1, (*five (5) sites for a system that serves less than or equal to 100 persons*).
9. Pursuant to 5 CCR 1003-1, §8.7(d)(1)(ii), the System must monitor during two consecutive six-month periods at five (5) sites until the System either exceeds the lead or copper action level and is therefore required to implement corrosion control treatment requirements, or the System meets the lead and copper action levels for two consecutive six-month periods and is eligible for reduced monitoring.
10. Pursuant to 5 CCR 1003-1, §8.10(a)(1), the System is required to report the information specified below, to the Department, for all tap water samples within the first ten (10) days following the end of each applicable monitoring period (or when monitoring is complete):
  - a. The results of all tap water samples for lead and copper including the location of each site and the criteria under 5 CCR 1003-1, §8.7(a)(3), (4), (5), (6) and/or (7) under which the site was selected for the system's sampling pool;
  - b. Documentation for each tap water lead or copper sample for which the water system requests invalidation pursuant to 5 CCR 1003-1, §8.7(f)(2);
  - c. The 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with 5 CCR 1003-1, §8.1(c)(3)), unless the Department calculates the system's 90<sup>th</sup> percentile lead and copper levels under 5 CCR 1003-1, §8.10(h);
  - d. With the exception of initial tap water sampling conducted pursuant to 5 CCR 1003-1, §8.7(d)(1), the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed;
  - e. The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under 5 CCR 1003-1, §§8.8(b)-(e);
  - f. The results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under 5 CCR 1003-1, §§8.8(b)-(e);
  - g. A water system shall report the results of all water quality parameter samples collected under 5 CCR 1003-1, §§8.8(c)-(f) during each six-month monitoring period specified in 5 CCR 1003-1, §8.8(d) within the first ten (10) days following the end of the monitoring period unless the Department has specified a more frequent reporting requirement.
11. Division records establish that the System failed to provide the Department with the results of its required "initial" lead and copper monitoring for the following monitoring period:

July 1, 2007 through December 31, 2007

12. Division records further establish that Brad Bauer failed to provide the Department with the results of the required lead and copper monitoring for July 1, 2006 through December 31, 2006 and January

2007 through June 30, 2007 and was therefore issued an Enforcement Order (number DC-070831-11) on August 31, 2007 for such failures.

13. Brad Bauer's failure to submit to the Department the results of the System's lead and copper monitoring constitutes violation(s) of 5 CCR 1003-1, §8.10(a)(1). Additionally, if Brad Bauer failed to perform lead and copper monitoring during the identified period, such failure to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §8.7(c) and §8.7(d)(1)(ii).

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

14. In a letter from the Department to the System, dated June 28, 2006, the Department advised the System that since the System now serves water to at least 25 year-round residents the System was being reclassified as a community public water system and the System would therefore be subject to all the monitoring requirements, including organic chemical monitoring, of a community system.
15. 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.
16. Pursuant to 5 CCR 1003-1, §6.2.5(a)(4), the System shall take four consecutive quarterly samples for each volatile organic chemical contaminant listed in 5 CCR 1003-1, table 2-1(2) through (21), during each compliance period, beginning in the initial compliance period.
17. Pursuant to 5 CCR 1003-1, §6.2.6(a)(4), the System shall take four consecutive quarterly samples for each synthetic organic chemical contaminant listed in 5 CCR 1003-1, table 2-2 during each compliance period beginning with the initial compliance period.
18. 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.
19. The information provided to the System by the Department in the June 28, 2006 letter required the System to begin the initial quarterly volatile and synthetic organic chemicals monitoring during the third quarter (July – September) of calendar year 2006.
20. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System 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.
21. Division records show that Brad Bauer has failed to provide the Department with the results of the volatile and synthetic organic chemical monitoring for third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.

22. Division records further establish that Brad Bauer failed to provide the Department with the results of volatile and synthetic organic chemical monitoring for third quarter (July – September) and fourth quarter (October – December) of calendar year 2006 and first quarter (January – March) and second quarter (April – June) of calendar year 2007 and was therefore issued an Enforcement Order (number DC-070831-11) on August 31, 2007 for such failures.
23. Brad Bauer'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 Brad Bauer failed to perform volatile and synthetic organic chemical monitoring during the identified periods, such failure to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §§6.2.5(a), 6.2.6(a), 6.2.3(e), 6.2.5(a)(4) and 6.2.6(a)(4).

**Fourth Violation**  
**(Failure Measure/Report Residual Disinfection Concentration)**

24. Pursuant to 5 CCR 1003-1, §7.6.1(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.
25. Division records establish that the System utilizes chlorination methods to achieve disinfection.
26. Pursuant to 5 CCR 1003-1, §§7.5.3(c)(1) and 7.6.1(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.
27. Pursuant to 5 CCR 1003-1, §7.5.2, analyses conducted to determine compliance with this §7.5 shall be made by methods as specified in 5 CCR 1003-1, §10.7.
28. Pursuant to 5 CCR 1003-1, §7.5.5(c)(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 §7.5.4(c)(1), the MRDL was violated.
29. Pursuant to 5 CCR 1003-1, §7.5.5(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.

30. Review of bacteriological sampling results submitted to the Division establishes that the System did not measure and/or report its residual disinfection concentrations in the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters of calendar year 2007.
31. Brad Bauer's failure to report for residual disinfectant concentrations in the distribution system constitutes violations of §7.5.5. Further, if Brad Bauer failed to measure the residual disinfectant concentration in the distribution system, such failure constitutes violations of 5 CCR 1003-1, §§ 7.5.3(c)(1) and 7.6.1(c)(2).

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

32. Pursuant to 5 CCR 1003-1, §7.5.1(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.
33. Pursuant to 5 CCR 1003-1, §7.5.3(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.

34. 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 month of August in calendar year 2007.
35. Pursuant to 5 CCR 1003-1, §7.5.5(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.
36. 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.
37. Brad Bauer's failure to submit the results of the annual TTHM and HAA5 analysis to the Department constitutes violation(s) of 5 CCR 1003-1, §7.5.5(a). Additionally, if the System failed to perform its annual TTHM and HAA5 analyses during the identified period, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§7.5.1(b)(1) and 7.5.3(b)(1).

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

38. In a letter from the Department to the System, dated June 28, 2006, the Department advised the System that since the System now serves water to at least 25 year-round residents the System was being reclassified as a community public water system and the System would therefore be subject to all the monitoring requirements, including inorganic chemical monitoring, of a community system.
39. 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.
40. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), the System must take a minimum of one inorganic chemical sample at every entry point to the distribution system, which is representative of each groundwater source after treatment.
41. Pursuant to 5 CCR 1003-1, §6.1.5(d)(10), all new systems or systems that use a new source of water must demonstrate compliance with the maximum contaminant levels specified in Table 2-3 within one year of beginning operation. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the maximum contaminant levels. Routine and increased monitoring frequencies shall be conducted in accordance with the requirements of this section.
42. 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.
43. The information provided to the System by the Department in the June 28, 2006 letter required the System to begin the initial quarterly inorganic chemical monitoring during the third quarter (July – September) of calendar year 2006.
44. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System shall report to the Department the results of their inorganic 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.
45. Division records show that the System has failed to provide the Department with the results of the inorganic chemical monitoring for third quarter (July – September) and fourth quarter (October – December) of calendar year 2006 and first quarter (January – March), second quarter (April – June), third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.
46. Brad Bauer'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 Brad Bauer failed to perform the routine inorganic monitoring during the identified periods, such failures 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)(10) and §6.1.5(j).

**Seventh Violation**  
**(Failure to Monitor and/or Report for Fluoride)**

47. In a letter from the Department to the System, dated June 28, 2006, the Department advised the System that since the System now serves water to at least 25 year-round residents the System was being reclassified as a community public water system and the System would therefore be subject to all the monitoring requirements, including fluoride monitoring, of a community system.
48. Pursuant to 5 CCR 1003-1, §6.1.5(a), community water systems shall conduct monitoring to determine compliance with the maximum contaminant levels specified in Table 2-3 of 5 CCR 1003-1, §2.2, *MCLs and MCLGs for Inorganic Chemicals* that includes fluoride.
49. Pursuant to 5 CCR 1003-1, §6.1.5(d)(10), all new systems or systems that use a new source of water must demonstrate compliance with the maximum contaminant levels specified in Table 2-3 within one year of beginning operation. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the maximum contaminant levels. Routine and increased monitoring frequencies shall be conducted in accordance with the requirements of this section.
50. Pursuant to 5 CCR 1003-1, §6.1.5(j), the System must monitor for fluoride at the time designated by the Department during each compliance period.
51. The information provided to the System by the Department in the June 28, 2006 letter required the System to begin the initial quarterly fluoride monitoring during the third quarter (July – September) of calendar year 2006.
52. Pursuant to 5 CCR 1003-1, §1.6.4(a), the supplier of water shall report to the Department the results of their fluoride 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.
53. Division records show that the System has failed to provide the Department with the results of the fluoride monitoring for third quarter (July – September) and fourth quarter (October – December) of calendar year 2006 and first quarter (January – March), second quarter (April – June), third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.
54. Brad Bauer's failure to submit the results of the System's fluoride monitoring to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Brad Bauer failed to perform fluoride monitoring during the identified periods, such failures to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §6.1.5(a), §6.1.5(d)(1) and §6.1.5(j).

**Eighth Violation**  
**(Failure to Monitor and/or Report for Gross Alpha Particle Activity,  
Combined Radium-226 + 228 and Uranium)**

55. In a letter from the Department to the System, dated June 28, 2006, the Department advised the System that since the System now serves water to at least 25 year-round residents the System was being reclassified as a community public water system and the System would therefore be subject to all the monitoring requirements, including radiological monitoring, of a community system.
56. Pursuant to 5 CCR 1003-1, §6.3.2(a)(2), all new community water systems that use a new source of water must begin to conduct initial monitoring for the new source within the first quarter after initiating use of the source. Initial monitoring for gross alpha particle activity, combined radium-226+228 and uranium must be conducted in conformance with 5 CCR 1003-1 §6.3.2(b). For the purpose of the initial radiological monitoring, the Department considers a non-community system that has been reclassified to a community water system the same as an existing community water system adding a new source.
57. The information provided to the System by the Department in the June 28, 2006 letter required the System to begin the initial quarterly radiological monitoring during the third quarter (July – September) of calendar year 2006.
58. The *Official 2007 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor for radiological parameters during each quarter of calendar year 2007.
59. Pursuant to 5 CCR 1003-1, §1.6.4(a), the supplier of water shall report to the Department the results of their radiological 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.
60. Division records show that the System has failed to provide the Department with the results of the radiological monitoring for third quarter (July – September) and fourth quarter (October – December) of calendar year 2006 and first quarter (January – March), second quarter (April – June), third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.
61. Brad Bauer's failure to submit the results of the System's radiological monitoring to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Brad Bauer failed to perform radiological monitoring during the identified periods, such failures to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §6.3.2(a)(2).

**COMPLIANCE ORDER**

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

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

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

63. Immediately initiate efforts to comply with the lead and copper monitoring/reporting obligations as required by 5 CCR 1003-1, Article 8.
64. Within fourteen (14) calendar days after receipt of this Order, Brad Bauer shall submit the results of any lead and copper monitoring performed for the following monitoring period:

July 1, 2007 through December 31, 2007

65. If the System has not performed “initial” lead and copper monitoring during the monitoring periods identified in the paragraph above, Brad Bauer shall collect and analyze lead and copper samples from the appropriate number of locations (*5 for a system that serves less than 100 people*) in accordance with 5 CCR 1003-1, §8.7(d)(1) by May 31, 2008. Within ten (10) calendar days of receipt of the analytical results from a Department certified laboratory, Brad Bauer shall report the results of the monitoring in accordance with 5 CCR 1003-1, §8.10(a)(1) to the Department. (*See attached lead and copper sampling information/procedures.*)
66. If the System has not completed its two consecutive “initial” rounds of lead and copper monitoring, Brad Bauer shall properly collect and analyze its first round of lead and copper samples in accordance with 5 CCR 1003-1, §8.7(b)(1) after July 1, 2008, but before August 31, 2008. The System must collect five (5) lead and copper samples from the locations utilized in previous sampling events and report the results of the monitoring, in accordance with 5 CCR 1003-1, §8.10(a)(1), to the Division within ten (10) calendar days of receipt of the analytical results from a Department certified laboratory.
67. Within fourteen (14) calendar days after receipt of this Order, Brad Bauer shall submit the results of any volatile and synthetic organic chemicals monitoring performed during third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.
68. If the System has not performed four consecutive quarters of volatile and synthetic organic chemicals monitoring, Brad Bauer shall conduct volatile and synthetic organic chemicals analyses on a representative water sample, within thirty (30) calendar days of receipt of this Order. Additionally, if Brad Bauer has not performed four consecutive quarters of volatile and synthetic organic chemicals monitoring, Brad Bauer shall continue performing such quarterly monitoring until he has obtained four consecutive quarters of volatile and synthetic organic chemicals analytical results. The volatile and synthetic organic chemicals samples must be properly collected and analyzed by a Department certified laboratory in accordance with approved methods. Brad Bauer 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.

69. Brad Bauer must monitor/report residual disinfection concentration in accordance with 5 CCR 1003-1, §7.5, including, but not limited to, reporting on a MRDL Form 2. (*See attached*) The running annual average must be recalculated each quarter using the most recent twelve (12) months of data.
70. Immediately initiate efforts to comply with the TTHM and HAA5 monitoring/reporting obligations as required by 5 CCR 1003-1, §7.5.
71. Within fourteen (14) calendar days after receipt of this Order, Brad Bauer shall submit the results of any TTHM and HAA5 monitoring performed for calendar year 2007.
72. If the calendar year 2007 TTHM and HAA5 monitoring has not been conducted by the System, Brad Bauer shall perform TTHM and HAA5 monitoring this calendar year during the month of August. The TTHM and HAA5 sample(s) must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. Brad Bauer 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.
73. Immediately initiate efforts to comply with the inorganic chemical monitoring and reporting obligations as required by 5 CCR 1003-1, §6.1.
74. Within thirty (30) calendar days after receipt of this Order, Brad Bauer shall submit the results of any inorganic chemicals monitoring during third quarter (July – September) and fourth quarter (October – December) of calendar year 2006 and first quarter (January – March), second quarter (April – June), third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.
75. If the System has not performed four consecutive quarters of inorganic chemicals monitoring, Brad Bauer shall conduct inorganic chemicals analyses on a representative water sample, within thirty (30) calendar days of receipt of this Order. Additionally, if Brad Bauer has not performed four consecutive quarters of inorganic chemicals monitoring, Brad Bauer shall continue performing such quarterly monitoring until he has obtained four consecutive quarters of inorganic chemicals analytical results. The inorganic chemicals samples must be properly collected and analyzed by a Department certified laboratory in accordance with approved methods. Brad Bauer shall provide the Department with the results of the inorganic chemicals analyses within ten (10) calendar days of receipt of the results from the laboratory.
76. Immediately initiate efforts to comply with the fluoride monitoring and reporting obligations as required by 5 CCR 1003-1, §6.1.
77. Within thirty (30) calendar days after receipt of this Order, Brad Bauer shall submit the results of any fluoride monitoring performed on the system's distributed water during third quarter (July – September) and fourth quarter (October – December) of calendar year 2006 and first quarter (January – March), second quarter (April – June), third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.

78. If the System has not performed four consecutive quarters of fluoride monitoring, Brad Bauer shall conduct a fluoride 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 fluoride sample(s) must be properly collected and analyzed by a Department certified laboratory in accordance with approved methods and cited detection limits. Brad Bauer shall provide the Department with the results of the fluoride analysis within ten (10) calendar days of receipt of the results from the laboratory.
79. Immediately initiate efforts to comply with the radiological monitoring/reporting obligations as required by 5 CCR 1003-1, §6.3.2.
80. Within thirty (30) calendar days after receipt of this Order, Brad Bauer shall submit the results of any radiological monitoring performed on the system's distributed water during third quarter (July – September) and fourth quarter (October – December) of calendar year 2006 and first quarter (January – March), second quarter (April – June), third quarter (July – September) and fourth quarter (October – December) of calendar year 2007.
81. If the System has not performed four consecutive quarters of radiological monitoring, Brad Bauer shall conduct radiological analyses 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. *(See Radiological Monitoring Requirements Table below.)* The radiological sample(s) must be properly collected and analyzed by a Department certified laboratory in accordance with approved methods and cited detection limits. Brad Bauer shall provide the Department with the results of the radiological analyses within ten (10) calendar days of receipt of the results from the laboratory.

1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
Gross Alpha Particle Activity			
Radium-226	Radium-226	Radium-226	Radium-226
Radium-228	Radium-228	Radium-228	Radium-228
Uranium	Uranium	Uranium	Uranium

*Note: Compliance with the maximum contaminant level will be based on the arithmetic mean of four samples obtained at quarterly intervals. If a system does not collect all required samples, compliance will be based on the running average of the samples collected.*

82. Within thirty (30) calendar days after receipt of this Order, if he has not already done so, Brad Bauer shall issue a public notice in accordance with 5 CCR 1003-1, §9.2 for each violation identified in this Order. Within ten (10) calendar days of completion of each required public notification, Brad Bauer 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

83. 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.
84. 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 ***Three Thousand Five Hundred Seventy*** dollars (\$3,570.00) for the specific violation identified in this action. The reasoning behind this penalty number is detailed in the administrative penalty methodology/calculation worksheet, which is incorporated herein by reference and enclosed as Exhibit A.

### Terms of Administrative Penalty Payment

85. If Brad Bauer 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 of the civil penalty in this manner does not relieve Brad Bauer of his 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, Brad Bauer 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: 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**

Brad Bauer 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 Brad Bauer 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 Brad Bauer 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 31<sup>st</sup> day of March, 2008.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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