



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

**ENFORCEMENT ORDER &
ADMINISTRATIVE PENALTY ASSESSMENT**

NUMBER: DC-080331-1

**IN THE MATTER OF: JERRY BARTON
d/b/a RIVERVIEW MOBILE HOME PARK
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0138040
LOGAN 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. Jerry Barton owns and/or operates a drinking water system, known as Riverview Mobile Home Park, located at or near 923 Highway 61, in or near the Town of Sterling, Logan County, Colorado (the "System").
2. Jerry Barton is a person as defined by 5 CCR 1003-1, §1.5.2(80).
3. Jerry Barton 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(108).
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(87).
5. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID # CO-0138040.
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. Jerry Barton 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).

8. The System’s source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(53).

First Violation

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

9. 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.
10. 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.

11. The *Official 2006 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 of calendar year 2006.
12. 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 of calendar year 2007.
13. 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.
14. Department records to date establish that the System failed to submit results to the Department of its annual TTHM and HAA5 monitoring for calendar years 2006 and 2007.
15. Jerry Barton’s failure to submit the results of its annual TTHM and HAA5 analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §7.5.5(a). Additionally, if Jerry Barton failed to perform the annual TTHM and HAA5 analyses during the identified periods, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§7.5.1(b)(1) and 7.5.3(b)(1).

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

16. 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.
17. 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. Jerry Barton's compliance period was January 1, 2005 through December 31, 2007.
18. 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.
19. Division records show 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 years 2005 through 2007.
20. Jerry Barton'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 Jerry Barton 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).

Fourth Violation
(Failure to Monitor and/or Report for Nitrite)

21. Pursuant to 5 CCR 1003-1, §6.1.5(f), all public water systems shall monitor to determine compliance with the maximum contaminant level for Nitrite.
22. Pursuant to 5 CCR 1003-1, §6.1.5(f)(1), the System shall monitor for Nitrite at least once during each monitoring cycle (i.e., once every nine years).
23. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), the System is required to collect a minimum of one Nitrite sample at every entry point to the distribution system which is representative of each groundwater source after treatment.
24. Pursuant to 5 CCR 1003-1, §6.1.5(j), the System must monitor for Nitrite at the time designated by the Department during each compliance period.

25. The *Official 2007 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor separately for Nitrate and Nitrite at each entry point to the distribution system (after treatment) during calendar year 2007.
26. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System shall report to the Department the results of the System's Nitrite analysis 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.
27. Department records establish that the System failed to submit results of its Nitrite monitoring for calendar year 2007.
28. Jerry Barton's failure to submit the results of the System's Nitrite analysis to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Jerry Barton failed to perform the Nitrite analysis during the identified period, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§6.1.5(f), 6.1.5(f)(1), 6.1.5(b)(1) and 6.1.5(j).

COMPLIANCE ORDER

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

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

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

30. Immediately initiate efforts to comply with the TTHM and HAA5 monitoring/reporting obligations as required by 5 CCR 1003-1, §7.5.
31. Within fourteen (14) calendar days after receipt of this Order, Jerry Barton shall submit the results of any TTHM and HAA5 monitoring performed for calendar years 2006 and 2007.
32. If the calendar year 2006 and 2007 TTHM and HAA5 monitoring has not been conducted by the System, Jerry Barton shall perform TTHM and HAA5 monitoring by no later than July 31, 2008. The TTHM and HAA5 samples must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. Jerry Barton 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.
33. Within fourteen (14) calendar days after receipt of this Order, Jerry Barton shall submit the results of any volatile and synthetic organic chemicals monitoring performed during the compliance period of calendar years 2005 through 2007.

34. If the System has not performed the volatile and synthetic organic chemicals monitoring for the compliance period of calendar years 2005 through 2007, Jerry Barton 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. Jerry Barton 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.
35. Immediately initiate efforts to comply with the Nitrite monitoring/reporting obligations as required by 5 CCR 1003-1, Article 6.
36. Within fourteen (14) calendar days after receipt of this Order, Jerry Barton shall submit the results of any Nitrite monitoring performed for calendar year 2007.
37. If the System has not performed the nitrite monitoring for the compliance period of calendar year 2007, Jerry Barton shall perform a Nitrite analysis 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 Nitrite sample(s) must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods and cited detection limits. Jerry Barton shall provide the Department with the results of the Nitrite analysis within ten (10) calendar days of receipt of the results from the laboratory.
38. Within thirty (30) calendar days after receipt of this Order, if he has not already done so, Jerry Barton 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, Jerry Barton 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

39. 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.
40. 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 Thousand Seven Hundred Eighty dollars (\$2,780.00)*** 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

41. If Jerry Barton 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 Jerry Barton 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, Jerry Barton shall submit an original and one copy (electronic is preferred) 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: Catherine Heald
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
catherine.heald@state.co.us

Pursuant to 5 CCR 1003-1, §1.6.4(e), all reports, notices, summaries, and certifications required to be submitted to the Department by the public water system must bear the original signature of the owner or the owner's authorized representative.

NOTICE OF COMPLETION

Jerry Barton 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 Jerry Barton wishes to dispute the Division's rejection of his Notice of Completion, he shall, within fifteen (15) calendar 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 Jerry Barton 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 §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 31st 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