

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

April 29, 2008

Certified Mail Number: 7005 1820 0000 3213 1465

PWSID# CO-0221100
Mr. Dan King
Forest Restaurant, Inc.
4745 Terrell Lane
Colorado Springs, CO 80908

RE: Service of Drinking Water Enforcement Order, Number: DT-080428-1

Dear Mr. King:

Forest Restaurant, Inc. is hereby issued the enclosed Enforcement Order and Administrative Penalty Assessment (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 and §25-1-114.1 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that Forest Restaurant, Inc. has violated the Colorado Primary Drinking Water Regulations (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order and administrative penalty assessment Forest Restaurant, Inc. may request a formal hearing to contest the action in accordance with 5 CCR 1003-1, §1.6.7(g) and/or §25-1-114.1(2.5)(b) C.R.S. Requests for such a hearing must be filed in writing with the Department and/or the State Board of Health within thirty (30) calendar days after service of the Order. Hearings on enforcement orders and penalty assessments shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

Should Forest Restaurant, Inc. 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,


Karen Tidwell, Legal Assistant
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

Enclosure

- cc: El Paso County Department of Health and Environment
Garth J. Nicholls, P.C. (407 S. Tejon St., Colorado Springs, CO 80903)
Compliance Monitor / Drinking Water File
- ec: Gary Soldano, Engineering Section, CDPHE
Dick Parachini, Outreach and Assistance Unit, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Melanie Wasco, EPA Region VIII



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

**ENFORCEMENT ORDER &
ADMINISTRATIVE PENALTY ASSESSMENT**

NUMBER: DT-080428-1

**IN THE MATTER OF: FOREST RESTAURANT, INC.
d/b/a THE INN IN BLACK FOREST
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0221100
EL PASO 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. Forest Restaurant, Inc. ("Forest Restaurant") owned and/or operated a drinking water system known as The Inn in Black Forest, which is located at 6750 Shoup Road, near the Town of Monument, in El Paso County, Colorado (the "System").
2. Forest Restaurant is a person as defined by 5 CCR 1003-1, §1.5.2(80).
3. Forest Restaurant was 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 was 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-0221100.
6. Pursuant to 5 CCR 1003-1, §1.2, the System was subject to the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.

7. Forest Restaurant provided piped water for human consumption from the System to at least twenty-five (25) people, but the System does not serve twenty-five (25) or more of the same people, for sixty (60) or more days per year. The System was therefore classified as a “transient, non-community water system” as defined by 5 CCR 1003-1, §1.5.2(118).
8. The System’s source of water was groundwater as defined by 5 CCR 1003-1, §1.5.2(53).
9. Forest Restaurant operated the System from April 1, 2006 through November 12, 2006. The System has not operated since that time and is currently classified as inactive.

First Violation
(Failure to Monitor and/or Report for Microbiological Contaminants)

10. Pursuant to 5 CCR 1003-1, §5.1.1(a), the System was required to collect total coliform samples at sites that are representative of water throughout the distribution system, according to a written sample-siting plan.
11. Pursuant to 5 CCR 1003-1, §5.1.1(e)(1), the System, which serves less than 1,000 persons, was required to monitor in each calendar quarter that the system provides water to the public.
12. Pursuant to 5 CCR 1003-1, §§1.6.4(a) and 5.1.1(b), the System was required to submit the results of all routine total coliform sampling and analyses to the Department for review 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.
13. Division records establish that the System failed to provide the Department with the results of routine total coliform analyses for the following monitoring periods:

Quarter	Year	Number of Samples Required	Number of Samples Received
2 nd	2006	1	0
3 rd	2006	1	0
4 th	2006	1	0

14. Forest Restaurant’s failure to submit the results of its routine total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §§1.6.4(a) and 5.1.1(b). Additionally, if Forest Restaurant failed to perform routine total coliform monitoring during the identified periods, such failure to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §5.1.1(e)(1).

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

15. 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.

16. Pursuant to 5 CCR 1003-1, §6.1.5(e)(4), the System was required to monitor for Nitrate annually.
17. 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.
18. The *Official 2006 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 2006.
19. 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.
20. Department records establish that the System failed to submit results of its annual Nitrate monitoring to the Department for calendar year 2006.
21. Forest Restaurant's failure to submit the results of its 2006 annual Nitrate analysis to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Forest Restaurant 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)(4) and 6.1.5(b)(1).

COMPLIANCE ORDER

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

22. Immediately take steps to ensure that future operations of the System comply with the *Colorado Primary Drinking Water Regulations*, 5 CCR 1003-1, Articles 1 through 12.

ORDER FOR ADMINISTRATIVE PENALTY

23. 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.

24. 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 and Twenty Four Dollars (\$624.00) 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

25. If Forest Restaurant 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 Forest Restaurant 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, Forest Restaurant shall submit an original and one (1) 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: Catherine Heald
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

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

Forest Restaurant 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 Forest Restaurant wishes to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) calendar 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 Forest Restaurant 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

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.

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 28th day of April, 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

**FOREST RESTAURANT, INC. / THE INN IN BLACK FOREST
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0221100
EL PASO COUNTY, COLORADO**

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(April 28, 2008)

Penalty Summary

<u>Penalty Calculation -Violation Number 1</u> (Count 1)	<u>\$118.00</u>
(Count 2)	<u>\$118.00</u>
(Count 3)	<u>\$118.00</u>

Violation: Failure to Monitor for Microbiological Contaminants
Regulation Violated: 5 CCR 1003-1, §5.1.1

Penalty Calculation -Violation Number 2.....**\$270.00**

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

TOTAL PENALTY.....**\$624.00**

Exhibit A

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

System Name: The Inn in Black Forest	PWSID Number: CO-0221100
Date of Enforcement Order: April 28, 2008	Number: DT-080428-1
Regulation Violated: Failure to Monitor for Microbiological Contaminants, 5 CCR 1003-1, §5.1.1	Population Served: 175

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Microbiological Contaminants – 2 nd quarter 2006	< 500 Served	\$60.00

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

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 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$60.00

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 2nd quarter 2006 failure to monitor for microbiological contaminants violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$60.00
	<i>Calculations:</i> <i>Day 1 (\$60.00) = \$60.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$58.00
	<i>Justification: The Division believes that Forest Restaurant 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)	\$118.00

Exhibit A

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 Forest Restaurant has an inability to pay the assessed penalty amount.		

Part VIII – Final Adjusted Penalty

			Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)		\$118.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 1 (Count 2)

System Name: The Inn in Black Forest	PWSID Number: CO-0221100
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Date of Enforcement Order: April 28, 2008	Number: DT-080428-1
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Regulation Violated: Failure to Monitor for Microbiological Contaminants, 5 CCR 1003-1, §5.1.1	Population Served: 175
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Microbiological Contaminants – 3 rd quarter 2006	< 500 Served	\$60.00

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		\$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 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$60.00

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 3rd quarter 2006 failure to monitor for microbiological contaminants violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$60.00
	<i>Calculations:</i> <i>Day 1 (\$60.00) = \$60.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$58.00
	<i>Justification: The Division believes that Forest Restaurant 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)	\$118.00

Exhibit A

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 Forest Restaurant has an inability to pay the assessed penalty amount.		

Part VIII – Final Adjusted Penalty

			Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)		\$118.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 1 (Count 3)

System Name: The Inn in Black Forest	PWSID Number: CO-0221100
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Date of Enforcement Order: April 28, 2008	Number: DT-080428-1
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Regulation Violated: Failure to Monitor for Microbiological Contaminants, 5 CCR 1003-1, §5.1.1	Population Served: 175
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Microbiological Contaminants – 4 th quarter 2006	< 500 Served	\$60.00

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		\$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 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$60.00

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 4th quarter 2006 failure to monitor for microbiological contaminants violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$60.00
	<i>Calculations:</i> <i>Day 1 (\$60.00) = \$60.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$58.00
	<i>Justification: The Division believes that Forest Restaurant 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)	\$118.00

Exhibit A

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 Forest Restaurant has an inability to pay the assessed penalty amount.	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$118.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 2

System Name: The Inn in Black Forest	PWSID Number: CO-0221100
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Date of Enforcement Order: April 28, 2008	Number: DT-080428-1
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Regulation Violated: Failure to Monitor for Nitrate, 5 CCR 1003-1, §6.1.5	Population Served: 175
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Nitrate – calendar year 2006	< 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: 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

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 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$200.00

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 2006 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	\$200.00
	<i>Calculations:</i> <i>Day 1 (\$200.00) = \$200.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$70.00
	<i>Justification: The Division believes that Forest Restaurant 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)	\$270.00

Exhibit A

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 Forest Restaurant has an inability to pay the assessed penalty amount.	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$270.00