COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL DIVISION

ENFORCEMENT ORDER **NUMBER: DT-080530-1**

IN THE MATTER OF: MURDIE HOMEOWNERS' ASSOCIATION, INC.
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0126507
GUNNISON 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:

GENERAL FINDINGS

1. Murdie Homeowners' Association, Inc. owns and/or operates a drinking water system located in or near the Town of Almont, Gunnison County, Colorado (the "System").

2. Murdie Homeowners' Association, Inc. is a person as defined by 5 CCR 1003-1, §1.5.2(92).

3. Murdie Homeowners' Association, Inc. 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(122).

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(101).

5. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID # CO-0126507.

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. Murdie Homeowners' Association, Inc. provides 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 is therefore classified as a "transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(131).

8. The System's source of water is surface water as defined by 5 CCR 1003-1, §1.5.2(123).

First Violation
(Exceedance of the Maximum Contaminant Level for Microbiological Contaminants)

9. Pursuant to 5 CCR 1003-1, §5.7(a), the maximum contaminant level for microbiological contaminants is based on the presence or absence of total coliforms in a sample, rather than coliform density.

10. Pursuant to 5 CCR 1003-1, §5.7(a)(2), the System, which collects fewer than 40 total coliform samples per month, exceeds the maximum contaminant level for microbiological contaminants if more than one sample collected during a month is total coliform-positive.

11. Pursuant to 5 CCR 1003-1, §5.1.1(b), the System is required to submit the results of all routine total coliform sampling and analyses to the Department for review.

12. Division records establish that the System reported total coliform-positive results for the following sample dates:

Sample Month/Day/Year	Number of Positive Sample(s)
September 25, 2006 September 29, 2006	1 1
May 22, 2007 May 22, 2007 (repeat)	1 2
June 6, 2007 June 6, 2007 (repeat)	1 4
July 16, 2007 July 16, 2007 (repeat)	1 4
August 8, 2007 August 8, 2007 (repeat)	1 4
September 12, 2007 September 12, 2007 (repeat)	1 4
October 8, 2007 October 8, 2007 (repeat)	1 4

13. Murdie Homeowners' Association, Inc.'s failure to maintain compliance with the maximum contaminant level for microbiological contaminants during the months of May, June, July, August, September, and October in calendar year 2007 constitutes violations of 5 CCR 1003-1, §5.7(a)(2).

Second Violation
(Failure to Provide Treatment of a Public Water Supply)

14. Pursuant to 5 CCR 1003-1, §7.1.3(b), a public water system that uses a surface water source or a groundwater source under the direct influence of surface water and serves fewer than 10,000 people must provide treatment consisting of both disinfection and filtration treatment.

15. In a letter dated August 18, 2006, the Division notified the System of its monitoring/reporting requirements as a public water system. At that time, the Division believed that the System's water source was groundwater. Further information from the System indicated that the water source was surface water and the source was changed accordingly in September 2006.

16. Division records establish that as of the date of this Enforcement Order, Murdie Homeowners' Association, Inc. does not provide approved disinfection and filtration treatment.

17. Murdie Homeowners' Association, Inc.'s ongoing failure to provide approved disinfection and filtration treatment on the System's distributed water constitutes violation(s) of 5 CCR 1003-1, §§7.1.2 and 7.1.3.

COMPLIANCE ORDER

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Murdie Homeowners' Association, Inc. is hereby ordered to:

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

Further, the Division hereby orders Murdie Homeowners' Association, Inc. to comply with the following specific terms and conditions of this Order.

19. In order to ensure long-term compliance with the maximum contaminant level for microbiological contaminants and surface water treatment requirements for public water supplies, Murdie Homeowners' Association, Inc. shall evaluate and upgrade, as needed, the System's water sources and/or treatment processes in accordance with the following schedule:

    a. By August 1, 2008, submit for Department review and comment a finalized Preliminary Design Report for system improvements to comply with the maximum contaminant level for microbiological contaminants and surface water treatment requirements of the Regulations. If an alternate water source is proposed, submit for Department review and comment a detailed description of the alternate water source along with a copy of the laboratory analyses supporting that the alternate water source is suitable.

        i. The Preliminary Design Report (if applicable) must clearly identify the specific treatment technology Murdie Homeowners' Association, Inc. will use to ensure compliance with the maximum contaminant level for microbiological contaminants and surface water treatment requirements of the Regulations.

        ii. The Preliminary Design Report (if applicable) must include a process flow schematic of the distribution system from wellheads to points of use, including all service connections supplied by the wells. Alternative treatment locations for the selected treatment process or processes must be evaluated with a recommended location selection. The process flow schematic information and evaluation must be included to ensure all water from the System is treated.

        iii. The Preliminary Design Report must include a proposal for management of residuals (if applicable) from the treatment technology selected.

iv. The Preliminary Design Report submittal package must include design calculations showing the proposed treatment system is properly sized and chlorine contact times can be met for expected flow rates.

v. The Preliminary Design Report submittal package must include specifications for treatment equipment and/or chemical additives that come in contact with the water that indicate ANSI standards 60 and 61 are met (NSF certification).

{Please note that, prior to construction, the Department must give final approval to any modifications to the System's water source or treatment process. The Department will not perform a detailed review and final approval of any proposed modifications until the final design plans and specifications have been received pursuant to paragraph 19(c) below.}

b. By November 1, 2008, submit for Department review and comment the final Design Report for the Murdie Homeowners' Association, Inc. system improvements to comply with the maximum contaminant level for microbiological contaminants and surface water treatment requirements of the Regulations. The presented design should be reviewed for conformance with the Colorado Design Criteria for Potable Water Systems prior to submittal. A copy of which can be found at the following internet location:

http://www.cdphe.state.co.us/wq/engineering/pdf/DesignCriteriaPotableWaterSystem.pdf

c. By January 1, 2009, submit Final Design Plans and Specifications for the System improvements for Department review and approval.

d. By May 1, 2009, complete construction/implementation of the Department approved system improvements to ensure long-term compliance with the maximum contaminant level for microbiological contaminants and surface water treatment requirements of the Regulations.

20. As an interim measure to ensure that the System is providing the best possible quality of water available until the System implements improvements to ensure long-term compliance with the Regulations, within twenty (20) calendar days after receipt of this Order, the Murdie Homeowners' Association, Inc. shall submit, for Department review and approval, plans and specifications for the installation of interim disinfection treatment for the System. Within sixty (60) calendar days after receipt of this Enforcement Order, the Murdie Homeowners' Association, Inc. will install and properly operate the disinfection treatment in accordance with the Department approved design plans, specifications and the Regulations.

21. Murdie Homeowners' Association, Inc. shall submit "System Improvement Project - Progress Reports" to the Division every ninety (90) calendar days. The first report shall be submitted to the Division within twenty (20) calendar days after receipt of this Order. At a minimum, each report shall clearly indicate the status of the system evaluation/improvement project at the time the report is filed and outline activities to be undertaken within the next ninety (90) calendar days.

22. Consistent with the terms of the October 16, 2006 Boil Water Order, the Murdie Homeowners' Association, Inc. shall reissue its public notice (*boil water advisory*) in accordance with 5 CCR 1003-1, §9.2 every two (2) weeks until the Department has acknowledged in writing that the Murdie Homeowners' Association, Inc. is consistently distributing safe water. Within ten (10) calendar days of completion of each required public notification, the Murdie Homeowners' Association, Inc. 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.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this order, Murdie Homeowners' Association, Inc. 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: Scott Klarich
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: scott.klarich@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

Murdie Homeowners' Association, Inc. 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 Murdie Homeowners' Association, Inc. 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.

PRIOR APPROVAL REQUIRED

Pursuant to 5 CCR 1003-1, §1.11.2, no person shall commence construction of any new waterworks, or make improvements to or modify the treatment process of an existing waterworks, or initiate use of a new source, until plans and specifications for such construction, improvements, modifications or use have been submitted to, and approved by the Department. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with all applicable laws, standards, rules and regulations.

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars ($1,000) per violation per day, to be imposed by the Department or a State District Court. Further, 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. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

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.

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.

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 30th day of May, 2008.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Lori M. Gerzina

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