COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION
CEASE AND DESIST, CLEAN-UP ORDER

NUMBER: HO-080516-1

IN THE MATTER OF: **WHITESTONE FARMS, LLP**
HOLLY FARM: CDPS PERMIT NO. COB-013000
ROCKY RIDGE & DRY CREEK: CDPS PERMIT NO. COB-001000
NURSERY 'A': UNPERMITTED
NURSERY 'C': UNPERMITTED
BACA, BENT, & PROWERS COUNTIES, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority has been delegated to the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602, 25-8-605 C.R.S., and 25-8-606 C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist, Clean-Up Order:

FINDINGS OF FACT

1. At all times relevant to the alleged violations identified herein, WhiteStone Farms, LLP ("WhiteStone") was a foreign (North Dakota) limited liability partnership registered to conduct business in the State of Colorado.

2. WhiteStone is a "person" as defined by §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

3. WhiteStone owns and/or operates, or has operated, the following facilities used to house and raise swine:

    a. Holly Farm located at or near 33405 County Road P, near the town of Holly, Prowers County, Colorado (the "Holly Facility").

    b. Rocky Ridge Farm located approximately one mile west of the intersection of County Roads 26 and Y, near the town of Hasty, Bent County, Colorado (the "Rocky Ridge Facility").

    c. Dry Creek Finishers located at or near 2749 County Road BB, near the city of Lamar, Prowers County, Colorado (the "Dry Creek Facility").

d. Nursery 'A' located at or near 38750 County Road 41, near the town of Two Buttes, Baca County, Colorado. This facility was operated by WhiteStone from about February 8, 2007, to October 29, 2007 (the "Nursery A Facility").

e. Nursery 'C' located at or near 20019 County Road B, near the city of Lamar, Prowers County, Colorado (the "Nursery C Facility").

4. Pursuant to §25-8-501.1(3) C.R.S. and 5 CCR 1002-61, §61.13(2)(a), no person shall operate, construct, or expand a housed commercial swine feeding operation without first having obtained an individual discharge permit from the Division.

5. Pursuant to §25-8-501.1(2)(b) C.R.S. and 5 CCR 1002-61, §61.2(40), a Housed Commercial Swine Feeding Operation ("HCSFO") is defined as a housed swine feeding operation that is capable of housing eight hundred thousand pounds or more of live animal weight of swine at any one time or is deemed a commercial operation under local zoning or land use regulations. In addition, two or more housed swine feeding operations shall be considered to comprise a single housed commercial swine feeding operation if they are both under common or affiliated ownership or management and are located or discharge in the same watershed.

6. The Holly Facility is classified as a HCSFO and it is covered under the Colorado Discharge Permit System, Individual Permit Number COB-013000 (the "Holly Permit"). The Holly Permit authorizes WhiteStone to operate and discharge from the Holly Facility in accordance with the terms and conditions of the Holly Permit. The Holly Permit was issued to WhiteStone and became effective May 1, 2006 and is due to expire April 30, 2011.

7. The Rocky Ridge Facility and the Dry Creek Facility are each classified as a HCSFO and both are covered under the Colorado Discharge Permit System, Individual Permit Number COB-001000 (the "Rocky Ridge & Dry Creek Permit"). The Rocky Ridge & Dry Creek Permit authorizes WhiteStone to operate and discharge from the Rocky Ridge Facility and the Dry Creek Facility in accordance with the terms and conditions of the Rocky Ridge & Dry Creek Permit. The Rocky Ridge & Dry Creek Permit was issued to WhiteStone and became effective May 1, 2006 and is due to expire April 30, 2011.

8. Pursuant to 5 CCR 1002-61, §61.8 and Part II.A.1. of the Holly Permit and the Rocky Ridge & Dry Creek Permit, a permittee must comply with all the terms and conditions of a permit and violations of the terms and conditions specified in a permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.

9. The Nursery A Facility was classified as a HCSFO when it was operated by WhiteStone from about February 8, 2007 to October 29, 2007. It is located in the same watershed as the Holly Facility and had common or affiliated management with the Holly Facility (i.e., the facilities were both operated and managed by WhiteStone). The Nursery A Facility has not been covered under a Colorado Discharge Permit System HCSFO permit since July 31, 2004.

10. The Nursery C Facility is classified as a HCSFO. It is located in the same watershed as the Rocky Ridge Facility and Dry Creek Facility and has common or affiliated management with the Rocky Ridge and Dry Creek Facility (i.e., the facilities are all operated and managed by WhiteStone). The Nursery C Facility has not been covered under a Colorado Discharge Permit System HCSFO permit since July 31, 2004.

Concerning the Holly Facility

11. Pursuant to Part II.A.3. of the Holly Permit, WhiteStone is required at all times properly operate and maintain all facilities and systems of treatment and control used by WhiteStone to achieve compliance with the conditions of the permit.

12. Pursuant to Part I.B.7(a) of the Holly Permit, WhiteStone is required to implement the Facility's most recently approved Operations Plan for the Holly Facility.

13. WhiteStone's most recently approved Operations Plan for the Holly Facility was approved by the Department on December 12, 2006 (the "Holly OP").

14. WhiteStone's Holly OP states in part: "The Farm Manager or his designee shall keep records and document inspections of liner integrity… Weekly inspections shall be made in the production area of all …lagoons…If during the weekly inspections, any deficiencies are found, the deficiency will be remedied as soon as possible within 30 days. If a deficiency can not be remedied within 30 days, the mitigating factors as to why it can not be remedied will be documented, and every effort will be made to repair the issue as soon as possible…" The Holly Farm OP Weekly Inspection Checklist requires that conditions of the lagoons, including liner condition, vegetation growth on berms, condition of the inlet/outlet pipe, and any liner disturbance be recorded.

15. During an October 12, 2007 Department inspection, the Department inspector observed a tear in the liner on the west bank of the north evaporative pond (the "Stage 1 Pond"). The Department inspector also noted that a seam beneath the inlet pipe at the Stage 1 Pond was never sealed when it was installed.

16. During a March 18, 2008 Department inspection, the Department inspector observed that the tear in the liner on the west bank of the Stage 1 Pond was still present and had not been repaired. In addition, two rodent holes were observed on the north berm of the Stage 1 Pond.

17. WhiteStone's failure to operate, maintain, and promptly remedy the deficiencies in the Stage 1 Pond, specifically as it relates to liner and structure integrity, and in accordance with the provisions of the Holly OP, constitutes violation(s) of Parts II.A.3 and I.B.7(a) of the Holly Permit.

18. Pursuant to Part I.B.3(d)(i) of the Holly Permit, WhiteStone is prohibited from applying swine feeding process wastewater and residual solids to any sites or lands at a rate that exceeds the agronomic rate of application.

19. Pursuant to 5 CCR 1002-61, §61.13(4)(k)(ii) and Part I.B.3(g) of the Holly Permit, a permittee will be presumed to have exceeded the agronomic rate of application if the soil nitrate-nitrogen (the "NO_3-N") level in the four-to-six-foot increment or the six-to-eight-foot increment, within the monitoring zone, exceeds the comparative concentration by greater than 10 mg/kg (which equates to 72 lbs/acre for 2-foot soil depth increments, the "NO_3-N limit").

20. On July 30, 2007, the Department received the Holly Facility's Quarterly Monitoring Report (the "QMR") for the 2nd Quarter 2007. Department review of the QMR identified the following exceedance of the NO_3-N limit in the soil of the East Land Application Area (the "East Pivot") at the Holly Facility:

Field ID	Date of Most Current Soil Sample	Sample Depth (Feet)	Current NO_3-N (lbs/acre)	Comparative NO_3-N (lbs/acre)	Comparative NO_3-N Concentration Exceedance (lbs/acre)	Amount of NO_3-N Exceedance above 72 lbs/ac Limit (lbs/acre)
East Pivot	04/24/07	4'-6'	94	8	86	14

21. WhiteStone's exceedance of the NO_3-N limit by 14 lbs/acre in the four-to-six-foot increment within the monitoring zone of the East Pivot constitutes an exceedance of the agronomic rate of application and constitutes a violation of Part I. B.3(d)(i) of the Holly Permit.

22. Pursuant to 5 CCR 1002-61, §61.13(4)(e)(ii)(E)(I) and Part I.B.3(g)(i) of the Holly Permit, WhiteStone is required to develop and submit to the Department, an approvable intervention protocol within ninety (90) days of discovering a NO_3-N limit exceedance. The intervention protocol is required to describe adjustments to the Holly Facility's Swine Waste Management Plan (the "SWMP") that provide for strict minimization of future nitrogen loading within the monitoring zone.

23. In certified letters dated September 7, 2007 and November 2, 2007, the Department notified WhiteStone of the Holly Facility's permit requirement to submit an intervention protocol for the NO_3-N limit exceedance at the East Pivot. WhiteStone's October 19, 2007 response to the Department stated in part, that WhiteStone does not believe that any adjustments to the Holly SWMP are necessary.

24. WhiteStone's October 19, 2007 response to the Department stated in part, that WhiteStone discovered the exceedance of the agronomic rate of application between July 15, 2007 and July 30, 2007. Therefore, in accordance with Part I.B.3(g)(i) of the Holly Permit, an approvable intervention protocol for the exceedance of the agronomic rate of application at the East Pivot was due to the Department by October 28, 2007, which is 90 days after July 30, 2007.

25. To date, the Program has not received an intervention protocol for the exceedance of the agronomic rate of application that was established on April 24, 2007 for the East Pivot.

26. WhiteStone's failure to provide a complete intervention protocol by October 28, 2007 for the exceedance of the agronomic rate of application at the East Pivot constitutes violation(s) of Part I.B.3(g)(i) of the Holly Permit.

27. Pursuant to Part II.B.2(a) of the Holly Permit, WhiteStone is required to provide the Department with a non-compliance notification if, for any reason, the Facility is or will be in violation of the agronomic rate of application. At a minimum, the non-compliance notification shall include the following information:

    a. A description of the cause of violation.

    b. The period of violation, including the anticipated time the Facility will return to compliance.

    c. Steps being taken to reduce, eliminate, and prevent recurrence of the violation.

28. The 2007 2nd Quarter QMR establishes that WhiteStone exceeded the agronomic rate of application on the East Pivot. Department records further establish that WhiteStone failed to submit the required noncompliance notification.

29. WhiteStone's failure to submit the required noncompliance notification constitutes a violation of Part II.B.2(a) of the Holly Permit.

30. Pursuant to Part I.A.1(i) of the Holly Permit, the permitted swine capacity of the Holly Facility is five thousand five hundred (5,500) animals.

31. On January 31, 2007, WhiteStone submitted its 4th Quarter 2006 Quarterly Monitoring Report indicating that the maximum number of swine that were housed at the Holly Facility during 2006 was five thousand six hundred (5,600). On August 7, 2007, the Department sent WhiteStone an electronic mail requesting that WhiteStone submit actual swine confinement records for the Holly Facility. WhiteStone submitted its response via electronic mail on August 9, 2007, which showed that swine numbers at the Holly Facility exceeded the five thousand five hundred (5,500) permitted swine capacity during the four weeks between December 9, 2006 and January 5, 2007.

32. In response, on August 28, 2007, the Department sent a letter to WhiteStone requesting the number of swine that the facility confined during each week in 2006. On September 21, 2007, the Department received from WhiteStone the requested information.

33. Department records establish that WhiteStone exceeded the permitted swine capacity of five thousand five hundred head (5,500), for the following weeks:

Date	Number of Sows	Number of Sows in Excess of Permitted Capacity
May 3-9, 2006	5602	02
May 10-16, 2006	5588	88
May 24-30, 2006	5623	123
May 31 – June 6, 2006	5616	116
June 14-20, 2006	5654	154
June 21-27, 2006	5647	147
June 28 to July 4, 2006	5636	136

Date	Number of Sows	Number of Sows in Excess of Permitted Capacity
July 7-13, 2006	5526	26
July 14-20, 2006	5650	150
July 21-27, 2006	5654	154
July 28-August 3, 2006	5588	88
August 4-10, 2006	5584	84
August 11-17, 2006	5636	136
August 18-24, 2006	5592	92
August 25-31, 2006	5574	74
Sept. 15-22, 2006	5740	240
Sept. 23-29, 2006	5720	220
Sept. 30 – Oct. 6, 2006	5639	139
October 7-13, 2006	5632	132
October 14-20, 2006	5618	118
October 21-27, 2006	5613	113
Oct. 28 – Nov. 3, 2006	5553	53
November 11-17, 2006	5601	101
November 18-24, 2006	5594	94
Nov. 25 – Dec. 1, 2006	5537	37
December 2-8, 2006	5678	178
December 9-15, 2006	5,589	89
December 16-22, 2006	5,583	83
December 23-29, 2006	5,685	185
December 30, 2006-January 5, 2007	5,680	180

34. WhiteStone's exceedances of the permitted swine capacity for the Holly Facility constitute violations of Part I.A.1(i) of the Holly Permit.

35. Part II.A.7 of the Holly Permit states that, "The permittee shall furnish to the Division, within a reasonable time, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit."

36. On August 6, 2007, the Department received WhiteStone's 2nd Quarter 2007, Quarterly Monitoring Report. In response to WhiteStone's submittal the Department sent a September 7, 2007 information request requiring WhiteStone to submit to the Department by no later than September 28, 2007 the following: WhiteStone's "Monthly Reporting Sheet" for May 2007, a revised "Agronomic Application Form" for the East Pivot, accurate wastewater level readings for the secondary lagoon, and the date when WhiteStone discovered the exceedance of the NO_3-N limit as identified in paragraph 20.

37. On October 23, 2007, twenty-five (25) days past the required deadline, the Department received WhiteStone's response to the September 7, 2007 information request.

38. WhiteStone's failure to furnish requested information within a reasonable time in response to the September 7, 2007 information request constitutes a violation of Part II.A.7 of the Holly Permit.

Concerning the Rocky Ridge Facility

39. Part II.A.7 of the Rocky Ridge & Dry Creek Permit states that, "The permittee shall furnish to the Division, within a reasonable time, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit."

40. On July 19, 2007, the Department issued a Compliance Advisory to WhiteStone regarding WhiteStone's failure to maintain the clay liner of the west evaporation impoundment at the Rocky Ridge Facility and WhiteStone's failure to maintain the berms of the evaporation impoundments at the Rocky Ridge Facility.

41. The Compliance Advisory required WhiteStone to perform the following by no later than August 30, 2007: provide the Department with certification from a professional engineer indicating the seepage rate of all eroded liner areas of the west evaporative impoundment, provide the Department a detailed plan for repairing all erosion of the clay liner of the west evaporative impoundment including plans and a timeline for repairing the liner to meet the regulatory seepage rate of less than $1x10^{-6}$ cm/sec., repair all rodent holes in berms of the evaporation impoundments, provide the Department with corrective action plans to protect the liner and berm of the west evaporation impoundment, and provide the Department with the "Rocky Ridge Farm Weekly Inspection Checklists" completed by the Rocky Ridge Facility between October 1, 2006 and July 19, 2007. Additionally, the Compliance Advisory required WhiteStone to perform the following by no later than October 30, 2007: repair all erosion of the clay liner of the west evaporation impoundment so that the liner meets the regulatory seepage rate of less than $1x10^{-6}$ cm/sec., and provide the Department with photographic and written evidence that WhiteStone repaired all of the rodent holes in the berms of the evaporation impoundments.

42. Department records establish that, to date, WhiteStone has not furnished the following information: certification from a professional engineer indicating the seepage rate of all eroded liner areas of the west evaporative impoundment meet the $1x10^{-6}$ cm/sec. regulatory seepage rate; an adequate repair plan indicating how swine feeding process wastewater will be kept away from the eroded locations until they are properly repaired; an adequate repair plan indicating that the Department will be notified in writing that the liner repairs have been completed in accordance with the approved plan within five (5) days of the repair having been completed; and a revised repair plan stating the minimum standards for the fill material, the minimum deposition standards for the distributed material, the steps that will be taken to ensure that the distributed material bonds with the existing soil, the maximum lift depth that will be distributed and compacted, how the distributed material will be compacted, and the compaction standard that will be used.

43. WhiteStone's failure to furnish requested information within a reasonable time in response to the July 19, 2007 Compliance Advisory constitutes a violation of Part II.A.7 of the Rocky Ridge & Dry Creek Permit.

44. Pursuant to Part II.A.3 of the Rocky Ridge & Dry Creek Permit, WhiteStone is required to at all times, properly operate and maintain all facilities and systems of treatment and control used by WhiteStone to achieve compliance with the conditions of the permit.

45. Pursuant to Part I.B.6(a) of the Rocky Ridge & Dry Creek Permit, WhiteStone is required to implement the most recently approved Operations Plan for the Rocky Ridge Facility.

46. WhiteStone's most recently approved Operations Plan for the Rocky Ridge Facility was approved on March 31, 2006 (the "Rocky Ridge OP").

47. WhiteStone's Rocky Ridge OP states in part, "The Farm Manager or his designee shall keep records and document inspections of liner integrity…Weekly inspections shall be made in the production area of all …lagoons…If during the weekly inspections, any deficiencies are found, the deficiency will be remedied as soon as possible within 30 days. If a deficiency can not be remedied within 30 days, the mitigating factors as to why it can not be remedied will be documented, and every effort will be made to repair the issue as soon as possible…" The Rocky Ridge OP Weekly Inspection Checklist requires that conditions of the evaporation ponds, including embankment seepage, embankment cracking, condition of berms/ waterways, liner disturbance, placement of riprap or erosion controls, freeboard height, and staff gauge condition be recorded.

48. During an October 12, 2007 Department inspection, the Department inspector noted severe shelf erosion on all four banks of the Stage 1 Impoundment. The Department inspector also noted numerous animal burrows and rill erosion on all four sides of the berms associated with the Stage 1 Impoundment.

49. During the October 12, 2007 Department inspection, the Department inspector noted numerous animal burrows and rill erosion on all four sides of the berms associated with the Stage 2 Impoundment.

50. During a March 18, 2008 Department inspection, the Department inspector noted severe shelf erosion on all four banks of the Stage 1 Impoundment that had not been repaired. The Department inspector also noted numerous animal burrows and rill erosion on all four sides of the berms associated with the Stage 1 Impoundment that had not been repaired.

51. WhiteStone's failure to operate and maintain the Stage 1 and Stage 2 Impoundments, specifically as it relates to liner and structure integrity, and in accordance with the Rocky Ridge OP constitutes a violation of Part II.A.3 and Part I.B.6(a) of the Rocky Ridge & Dry Creek Permit.

Concerning the Dry Creek Facility

52. Pursuant to Part I.B.9(d) of the Rocky Ridge & Dry Creek Permit, WhiteStone is required to immediately report any spill that is not "de minimis" to the Division and the county health department. In addition, WhiteStone is required to submit a written report of the spill to the Division no later than twenty four (24) hours after the spill or contamination occurs. Additionally, WhiteStone is required to submit a post spill report to the Division describing the nature of the spill, any initial action taken to clean up the spill, and any additional action that may be necessary to ensure that the spill does not result in permanent contamination of soils, surface water, or ground water. The post spill report is required to be submitted to the Division for approval no later than five (5) working days after the spill occurs.

53. In accordance with 5 CCR 1002-61, §61.13(4)(i)(v) and Part I.B.3(a) of the Rocky Ridge & Dry Creek Permit, the site-specific interpretation of "de minimus" proposed by WhiteStone and approved by the Department on June 6, 2006 reads as follows:

> *"A 'de minimus' spill is an insignificant, unintentional, non-routine release of swine feeding process wastewater that meets the following criteria: The total spill is less than 5,000 gallons; The permit holder or its agent takes such actions as necessary to dam, block, restrain, or otherwise act to effectively prevent a spill from spreading or entering surface waters promptly upon discovering the existence of the spill; The spill does not enter surface waters or threaten ground waters; To the greatest extent practicable, the permit holder or its agent takes remedial action to minimize impacts of the spill to soil, surface water, and ground water by: promptly, but by no later than 24 hours after discovery, impounding all process wastewater in the designated catch basins; promptly, but by no later than 48 hours after discovery, completing removal of any process wastewater accumulating in designated catch basins, by pumping all process wastewater into an impoundment from the existing catch basins; if affected catch basins and spill flow pathways are flushed with water, pumping all flush water into an impoundment within 96 hours of spill discovery...."*

54. On April 16, 2007, the Department was notified by Southeastern Land & Environment of a spill of swine feeding process wastewater from the Dry Creek Facility. The spill, which discharged approximately forty thousand (40,000) gallons, was a result of overtopping of the digester, and flowed on the Dry Creek Facility and subsequently discharged onto the adjacent property to the north owned by Mr. Chad Hawkins (the "Hawkins Property"). On April 17, 2007, a Southeastern Land & Environment representative visited the Hawkins Property and noted evidence that process wastewater from the Dry Creek Facility had indeed discharged onto the Hawkins Property.

55. On April 17, 2007, the Department contacted WhiteStone about the spill of swine feeding process wastewater from the Dry Creek Facility. In response, on April 18, 2007, WhiteStone submitted a *Spill Incident 24 Hour Spill Report* (the "Report"). The Report stated that the spill started on or sometime after April 13, 2007, and occurred because a gate valve to a storm water retention area was not properly tightened, causing a mixture of manure and snowmelt to travel to neighboring property. WhiteStone estimated that the spill area was approximately one thousand fifty feet (1,050 ft.) from the gate valve to the end of the visible spill.

56. Based on information about the April 13, 2007 spill provided by the Southeastern Land & Environment inspector, the Department determined that the spill volume exceeded the de minimus volume of five thousand (5,000) gallons, as stated in WhiteStone's approved de minimus spill definition. On November 8, 2007, WhiteStone reported to the Department that the estimated spill volume was forty thousand (40,000) gallons, which confirmed that the April 13, 2007, spill was not de minimus.

57. Department records establish that WhiteStone did not submit immediately a verbal report of the April 13, 2007, non-de minimus spill to the Division or local health department. In addition, WhiteStone did not submit to the Department or local health department a written report of the April 13, 2007 non-deminimus spill within twenty four (24) hours after the spill occurred.

58. WhiteStone's failure to submit the reports as identified in paragraph 57 above for the April 13, 2007, non-de minimus spill at the Dry Creek Facility constitutes violations of Part I.B.9(d) of the Rocky Ridge & Dry Creek Permit.

59. On or about April 19, 2007, the Department verbally extended WhiteStone's submittal due date for the five day post-spill report from April 20, 2007 to April 27, 2007. WhiteStone submitted the five day post-spill report on April 27, 2007, however, the five day post-spill report did not satisfy all of the requirements specified in Part I. B. 9(d)(iv) of the Rocky Ridge & Dry Creek Permit.

60. On July 19, 2007, the Department issued WhiteStone a Compliance Advisory that informed WhiteStone, in part, that the five-day post-spill report for the April 13, 2007, non-deminimus spill was incomplete as follows:

    a. The estimated volume of the spill was not stated.

    b. The flow path of the spill was incorrectly defined.

    c. The initial action to clean up the spill was not stated.

    d. The report did not include any additional action that may be necessary to ensure that the spill does not result in permanent contamination of soils, surface water, or ground water.

61. WhiteStone's failure to submit a complete five day post-spill report for the April 13, 2007, non-deminimus spill at the Dry Creek Facility to the Division constitutes a violation of Part I. B. 9(d) of the Rocky Ridge & Dry Creek Permit.

62. Part II.A.7 of the Rocky Ridge & Dry Creek Permit states that, "The permittee shall furnish to the Division, within a reasonable time, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit."

63. On July 19, 2007, the Department issued WhiteStone a Compliance Advisory requesting WhiteStone to submit a complete five day post-spill report. Further, the Compliance Advisory requested WhiteStone to take composite nitrate-N and ammonium-N samples of the soils impacted by the April 13, 2007 spill on both WhiteStone's and the Hawkins' Property and submit the analytical results to the Department. Additionally, the Compliance Advisory requested WhiteStone to provide evidence that impacted soil at the Dry Creek Facility was removed, and that WhiteStone had undertaken any necessary remedial actions on the Hawkins' Property. The information requested in the Compliance Advisory was required to be provided to the Department by no later than August 30, 2007.

64. On November 8, 2007, the Department received WhiteStone's responses to the Department's July 19, 2007, Compliance Advisory. The November 8, 2007 date exceeded the Department's August 30, 2007 deadline by seventy (70) calendar days.

65. Department records establish that WhiteStone's November 8, 2007 response did not provide the following required information:

    a. The five-day post spill report was not revised to state initial actions taken by WhiteStone to clean up the April 13, 2007, non-de minimus spill.

    b. Documentation of what Mr. Hawkins' desires WhiteStone to accomplish regarding remediation of the spill flowpath on his land.

    c. If Mr. Hawkins desires remediation of the spill flowpath, the remediation action WhiteStone will perform and a reasonable timeline for completing the action.

    d. Evidence that soil affected by the April 13, 2007 spill, such that the soil nitrogen concentration in the top two soil feet is 200 lbs/ac or greater, was removed and placed in an evaporative impoundment.

66. WhiteStone's failure to submit the information required by the July 19, 2007 Compliance Advisory within a reasonable time constitutes a violation of Part II.A.7 of the Rocky Ridge & Dry Creek Permit.

67. Pursuant to Part II.A.3 of the Rocky Ridge & Dry Creek Permit, WhiteStone is required to at all times, properly operate and maintain all facilities and systems of treatment and control used by WhiteStone to achieve compliance with the conditions of the permit.

68. Pursuant to Part I.B.6(a) of the Rocky Ridge & Dry Creek Permit, WhiteStone is required to implement the most recently approved Operations Plan for the Dry Creek Facility.

69. WhiteStone's most recently approved Operations Plan for the Dry Creek Facility was approved on March 31, 2006 (the "Dry Creek OP").

70. WhiteStone's Dry Creek OP states in part, "The Farm Manager or his designee shall keep records and document inspections of liner integrity…Weekly inspections shall be made in the production area of all …lagoons…If during the weekly inspections, any deficiencies are found, the deficiency will be remedied as soon as possible within 30 days. If a deficiency can not be remedied within 30 days, the mitigating factors as to why it can not be remedied will be documented, and every effort will be made to repair the issue as soon as possible…" The Dry Creek OP Weekly Inspection Checklist requires that conditions of the evaporation ponds, including embankment seepage, embankment cracking, condition of berms/ waterways, liner disturbance, placement of riprap or erosion controls, erosion of interior slope, freeboard height, and staff gauge condition be recorded.

71. On October 12, 2007, a Department representative preformed an inspection at the Dry Creek Facility. During the inspection, the Department representative noted extremely heavy weed growth on the berms of all four (4) evaporation impoundments. Additionally, the Inspector noted evidence of animal burrow and/or piping damage at numerous locations at or around the berms of all four (4) evaporation impoundments. The Department representative also noted evidence of rill erosion on the berms of the evaporation impoundments.

72. WhiteStone's Failure to operate and maintain the Dry Creek Facility's evaporation impoundments, specifically as it relates to liner and structure integrity, and in accordance with the Dry Creek OP constitutes violations of Part II.A.3 and Part I.B.6(a) of the Rocky Ridge & Dry Creek Permit.

Concerning the Nursery A Facility

73. Pursuant to §25-8-501.1(3) C.R.S. and 5 CCR 1002-61, §61.13(2)(a), no person shall operate, construct, or expand a housed commercial swine feeding operation without first having obtained an individual discharge permit from the Division.

74. On July 19, 2007, the Department sent WhiteStone an advisory notifying WhiteStone that a HCSFO discharge permit was required for the Nursery A Facility. The advisory outlined that as of August 1, 2007 WhiteStone must either remove the entire swine population from the Nursery A Facility, and no longer manage swine at the facility, or submit notification to the Department that WhiteStone intends to continue swine management at the Nursery A Facility and submit a complete HCSFO discharge permit application by no later than October 30, 2007. The advisory clarified that if WhiteStone chose to maintain swine at the Nursery A Facility after July 31, 2007 the Department would consider WhiteStone to be operating the Nursery A Facility without the required HCSFO discharge permit.

75. Division records establish that swine were not removed from the Nursery A Facility by August 1, 2007, and that to-date a HCSFO permit application has not been received from WhiteStone for the Nursery A Facility.

76. In a telephone conversation with a Department representative, a WhiteStone representative advised the Department that all swine had been removed from the Nursery A Facility as of October 29, 2007.

77. WhiteStone's failure to obtain an individual discharge permit from the Division for the Nursery A Facility from August 1, 2007 to October 29, 2007 constitutes violations of §25-8-501.1(3) C.R.S. and 5 CCR 1002-61, §61.13(2)(a).

Concerning the Nursery C Facility

78. Pursuant to §25-8-501.1(3) C.R.S. and 5 CCR 1002-61, §61.13(2)(a), no person shall operate, construct, or expand a housed commercial swine feeding operation without first having obtained an individual discharge permit from the Division.

79. On July 23, 2007, the Department sent WhiteStone a letter notifying WhiteStone that a HCSFO discharge permit was required for the Nursery C Facility. Further, the letter required WhiteStone to submit a complete HCSFO discharge permit application no later than October 23, 2007.

80. Department records to date establish that WhiteStone has not responded to the Department's July 23, 2007 letter, nor has Whitestone submitted a HCSFO permit application or obtained an individual discharge permit for the Nursery C Facility.

81. WhiteStone's failure to obtain an individual discharge permit from the Division for the Nursery C Facility since at least July 23, 2007, constitutes ongoing violations of §25-8-501.1(2)(b) C.R.S. and 5 CCR 1002-61, §61.13(2)(a).

NOTICE OF VIOLATION

Based on the foregoing Findings of Fact, you are hereby notified that the Department has determined that WhiteStone has violated the following sections of the Water Quality Control Act and its implementing permit regulations and its Colorado Discharge Permit System permits:

25-8-501.1(3) C.R.S. and 5 CCR 1002-61, §61.13(2)(a) state in part "No person shall operate, construct, or expand a housed commercial swine feeding operation without first having obtained an individual discharge permit from the Division."

Part II. A. 3 of the Holly and Rocky Ridge & Dry Creek Permits, state in part, "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit."

Part I .B. 7(a) of the Holly Permit, which states in part, "The permittee shall implement the most recently approved Operations Plan upon receiving notice from the Division of such approval."

Part I. B. 3(d)(i) of the Holly Permit, which states in part, "Swine feeding process wastewater or residual solids shall not be applied to any sites or lands at a rate that exceeds, in amount or duration, the agronomic rate of application."

Part I. B. 3(g)(i) of the Holly Permit, which states in part, "The permittee shall… develop and submit to the Division within 90 days of discovering the exceedance an approvable intervention protocol…. The intervention protocol shall describe adjustments to the swine waste management plan that provide for strict minimization of future nitrogen loading within the monitoring zone…"

Part II.B.2(a) of the Holly Permit, which states "If, for any reason, the permittee is or will be in violation of agronomic application rate requirements specified in this permit, the permittee shall, at a minimum, provide the Division with the following information: i) A description of the cause of the violation; ii)The period of violation, including the anticipated time when the operation will return to compliance; and iii) Steps being taken to reduce, eliminate, and prevent recurrence of the violation.

Part I. A. 1(i) of the Holly Permit, which states the following:

i) Operation Units:

Unit	Capacity	Location				
		¼	Section	Township	Range	County
Sow Barns and Impoundments	5,500	SW/4 of SW/4	28	25S	42W	Prowers

Part II. A. 7 of the Holly and Rocky Ridge & Dry Creek Permits, which state in part, "The permittee shall furnish to the Division… any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit."

Part I. B. 6(a) Rocky Ridge & Dry Creek Permits, which states in part, "The permittee shall implement the most recently approved Operations Plan upon receiving notice from the Division of such approval…"

Part I. B. 9(d) of the Rocky Ridge and Dry Creek Permit, which states in part, "Any spill (unless the spill is considered to be 'de minimus' per the provisions of Part I. B. 4.); contamination, including contamination resulting from an actual or potential exceedance of the agronomic application rate; or any incident of noncompliance which may endanger public health or the environment, by a housed commercial swine feeding operation shall be subject to the following requirements: (iii) The permittee shall submit a report to the Department which describes the nature of any spill which is not considered to be 'de minimus' per the provisions of Part I. B. 4. of this permit, any initial action taken to clean up the spill, and any additional action that may be necessary to ensure that the spill does not result in permanent contamination of soils, surface water, or ground water. This report shall be submitted to the Department for approval no later than five working days after the spill occurs. (iv) The permittee shall submit a report to the Division which describes the nature of any spill which is not considered 'de minimus' per the provisions of Part I.B.3 of this permit, any initial action taken to clean up the spill, and any additional action that may be necessary to ensure that the spill does not result in permanent contamination of soils, surface water, or ground water. This report shall be submitted to the Division for approval no later than five working days after the spill."

REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §§25-8-602, 25-8-605 and 25-8-606, C.R.S., WhiteStone is hereby ordered to:

82. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., its permit regulations promulgated thereunder, the Holly Permit and the Rocky Ridge & Dry Creek Permit:

Further, the Department hereby orders WhiteStone to comply with the following specific terms and conditions of this Order.

83. Within fifteen (15) calendar days of this Order, WhiteStone shall certify in writing, to the Division, that the approved Operations Plans have been implemented at the Holly Facility, the Rocky Ridge Facility, and the Dry Creek Facility. In addition, this certification shall include any updates to Operations Plans for maintaining all process wastewater impoundments and waste handling structures at each facility.

84. Within forty-five (45) calendar days of receipt of this Order, WhiteStone shall submit for Department approval, an intervention protocol for the East Pivot that is prepared in accordance with Part I.B.3(g)(i) of the Holly Permit. The intervention protocol shall include a timeframe under which the specified intervention protocol activities will occur and the criteria that will be used to signal the end of the need for intervention protocol activities. The approved timeframe shall become a condition of this Order and WhiteStone shall comply with the actions and timeframe as submitted unless notified by the Department, in writing, that alternate actions and/or timeframe is appropriate. If the Department imposes alternate actions and/or timeframe, it shall also become a condition of this Order.

85. Within ten (10) calendar days of receipt of this Order, WhiteStone shall retain the services of a professional engineer, registered in the State of Colorado and experienced in wastewater impoundment/lagoon construction and repair, to develop and perform an evaluation of the physical condition of each process wastewater impoundment at the Holly Facility, the Rocky Ridge Facility, the Dry Creek Facility, and the Nursery C Facility. This evaluation shall be conducted with the primary goal of evaluating the liner integrity of each impoundment at each Facility. The evaluation should consider, but not be limited to, the effects of bank erosion and other physical features on the integrity of each liner and the condition of any synthetic liners in impoundments at Holly Facility, the Rocky Ridge Facility, the Dry Creek Facility, and the Nursery C Facility.

86. Within fifteen (15) calendar days of receipt of this Order, WhiteStone shall provide documentation to the Division that it has retained the services of the professional engineer identified in paragraph 85. This documentation shall include at, a minimum, a copy of the written contract between WhiteStone and the professional engineer for such services and a copy of the scope of services to be provided.

87. Within forty five (45) calendar days of receipt of this Order, WhiteStone shall submit, in writing to the Division, a final report on the findings of the evaluation identified in paragraph 85. Where the professional engineer identifies deficiencies in the integrity of an impoundment liner(s), the report must also identify specific short-term and long-term measures that will be taken by WhiteStone to rectify deficiencies identified by the evaluation. Such short-term measures shall include, but not be limited to:

    a. A description of the steps that WhiteStone will take to ensure that the depth of swine feeding process wastewater in any such impoundment will be kept below the damaged liner areas until they can be fully and properly repaired;

    b. The minimum standards for the fill material (e.g., free of sod, roots, and stones over three inches);

    c. The minimum deposition standards for the distributed material (e.g., no lenses, pockets, streaks);

    d. The steps that will be taken to ensure that the distributed material bonds with the existing liner soil;

    e. The maximum lift depth that will be distributed and compacted;

    f. How the distributed material will be compacted, including how the optimum water content will be maintained during compaction (e.g., a water truck will be available to wet the soils during compaction to maintain optimum water content within 5% during compaction);

g. The compaction standard that will be used (e.g., 95% of the maximum dry density as determined by the Standard Proctor Test);

h. How evidence that the required density was achieved (e.g., a licensed nuclear density gauge technical will be onsite and provide density readings every 100 feet of the repaired areas).

Long-term measures shall include corrective actions that will be taken by WhiteStone to provide long-term protection of the liner integrity. For each short-term and long-term measure identified, WhiteStone shall also submit a time schedule for completion of each measure. The schedule shall indicate that WhiteStone will submit, within thirty (30) calendar days of the liner repairs having been completed, a certification by a professional engineer registered in the State of Colorado certifying that the seepage rate for the repaired liners does not exceed 1×10^{-6} cm/sec. The certification shall include information regarding the basis on which the certification was made; e.g., the number of permeability samples and analyses made of repaired areas, and how sample cores were filled (e.g., with a compacted Bentonite mixture). In addition, the certification shall include a report relating how the repair was done, and a discussion of nuclear testing results, permeability lab results, and photographs of the repaired areas. Where repairs to liners have been completed prior to issuance of this Order, WhiteStone shall submit certification by a professional engineer certifying that the seepage rate of those repaired liners does not exceed 1×10^{-6} cm/sec. The time frame for completing all measures shall not exceed one hundred eighty (180) calendar days of receipt of this Order. The time schedule submitted shall become a condition of this Order and WhiteStone shall comply with the time schedule as submitted unless notified by the Division, in writing, that an alternate schedule is appropriate. If the Division imposes an alternate schedule, it shall also become a condition of this Order.

88. Within thirty (30) calendar days of receipt of this Order, WhiteStone shall submit to the Division, a log of all "de minimis" spills that have occurred at the Holly Facility, the Rocky Ridge Facility, the Dry Creek Facility, the Nursery A Facility, and the Nursery C Facility since May 1, 2006, including the volume of each spill, the exact location, and the method of remediation.

89. Within thirty (30) calendar days of receipt of this Order, WhiteStone shall submit to the Division, complete information about all spills that have exceeded "de minimis" at the Holly Facility, the Rocky Ridge Facility, the Dry Creek Facility, the Nursery A Facility, and the Nursery C Facility since May 1, 2006. Information should be submitted in accordance with Part I.B.9. Of the Holly Permit and the Rocky Ridge & Dry Creek Permit. Spill information for the unpermitted Nursery A Facility and the Nursery C Facility shall meet the information requirements of the Holly Permit and the Rocky Ridge & Dry Creek Permit including:

a. The estimated volume of each spill;

b. Justification for each estimated spill volume;

c. The location of each spill;

d. The total square feet of the spill area;

e. A determination of whether wastewater from each spill reached waters of the state.

90. Within thirty (30) calendar days of receipt of this Order, WhiteStone shall submit a written spill clean-up plan to the Department that outlines a time schedule and specific measures WhiteStone will undertake to remediate and/or clean up the impacted areas (including the adjacent impacted Hawkins Property) from the April 13, 2007 non-deminimus spill at the Dry Creek Facility. The submitted spill clean-up plan, at a minimum, should include the following:

    a. A specific remediation objective that outlines that the soil nitrogen (NO_3-N) level in the zero to two foot soil horizon of the impacted area does not exceed 72 lbs/acre NO_3-N;

    b. A detailed description of the remedial measure(s) to be implemented to achieve the remedial objective;

    c. A description of how excavated or removed materials will be properly managed onsite or properly disposed or managed off-site;

    d. A description of the soil monitoring methods and procedures (including sample numbers/locations) to be utilized to validate that the remediation objective has been achieved;

    e. An action item to prepare and submit a final report communicating to the Department that the remediation and spill clean up occurred in accordance with the submitted spill clean-up plan and that the remediation objective of the spill clean-up plan has been achieved.

    f. An aggressive implementation action and time schedule.

    The actions and time schedule submitted shall become a condition of this Order, and WhiteStone shall comply with the actions and time schedule as submitted unless notified by the Department, in writing, that alternate actions and/or time schedule is appropriate. If the Department imposes alternate actions and/or time schedule, it shall also become a condition of this Order.

91. Within thirty (30) calendar days of receipt of this Order, WhiteStone shall conduct a closure evaluation of the Nursery A Facility to determine if the applicable HCSFO closure obligations have been achieved for this unpermitted HCSFO. Within fifteen (15) calendar days of completion of the closure evaluation, WhiteStone shall submit a report to the Division summarizing the findings of the evaluation and a time schedule to complete unperformed closure activities. The time schedule submitted shall not exceed ninety (90) calendar days from the effective date of this Order and shall become a condition of this Order and WhiteStone shall comply with the time schedule as submitted unless notified by the Division, in writing, that an alternate schedule is appropriate. If the Division imposes an alternate schedule, it shall also become a condition of this Order.

92. Within thirty (30) calendar days of receipt of this Order, WhiteStone shall prepare and submit a complete CDPS permit application in order to obtain permit coverage for the Nursery C Facility. The application shall be in accordance with the requirements of 5 CCR 1002-61, §61.13(3)(b), and include the completed HCSFO Water Permit Application. Application forms are available from the Department and at http://www.cdphe.state.co.us/el/eap/hcsfo.html.

93. Within forty five (45) calendar days of receipt of this Order, WhiteStone shall review and revise the Financial Assurance Plans pursuant to the Holly Permit and the Rocky Ridge & Dry Creek Permit, including revisions of existing cost estimates to account for inflation. Within seven (7) calendar days of WhiteStones completion of its Financial Assurance Plan reviews and revisions, Whitestone shall submit to the Division updated Financial Assurance Plans for the facilities covered by the Holly Permit and the Rocky Ridge & Dry Creek Permit.

94. The Division hereby grants partial approval of the submitted Financial Assurance Plans and WhiteStone shall establish financial assurance for the facilities covered by the Holly Permit and the Rocky Ridge & Dry Creek Permit in the amount identified in the updated and submitted Financial Assurance Plans within ninety (90) calendar days of WhiteStones submittal of the updated Financial Assurance Plans identified in paragraph 93 above. The financial assurance instruments utilized shall be as specified in the Holly Permit and the Rocky Ridge & Dry Creek Permit.

95. If the Division does not ultimately give full approval to the updated Financial Assurance Plans for the facilities covered by the Holly Permit and the Rocky Ridge & Dry Creek Permit, the Division will provide WhiteStone written notice of the deficiencies and WhiteStone will have the opportunity to cure those deficiencies within ninety (90) calendar days of the written notice. If the period to cure expires without WhiteStone resolving the deficiencies, and an extension of time has not been granted by the Division, the amount of interim financial assurance required shall be established by the Division in writing to WhiteStone. Whitestone shall establish the required financial assurance within thirty (30) calendar days of the written notice from the Division of interim financial assurance.

96. If Whitestone is either not working in good faith to submit an approvable Financial Assurance Plan or if WhiteStone does not respond to the Division's comments regarding the plan within ten (10) calendar days of receipt of Division comments, the Division may require that interim financial assurance be provided until such time as the financial assurance plan is fully approved. Whitestone shall establish the required financial assurance within thirty (30) calendar days of written notice from the Division of interim financial assurance.

CIVIL PENALTIES

Pursuant to 25-8-608(1) C.R.S. any person who violates any provision of any permit issued under the Water Quality Control Act shall be subject to a civil penalty of not more than ten thousand dollars ($10,000) per day for each day during which such violation occurs.

Based upon the facts described in this Order, the Division has determined that a civil penalty is appropriate in this matter and therefore makes a civil penalty claim of ten thousand dollars ($10,000) per day for each day during which each violation identified in this Order occurred. The specific civil penalty amount, along with payment terms, will be determined by the Division following Whitestone's response this action and in consideration of the factors identified in 25-8-608(1) C.R.S.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, WhiteStone shall submit an original and one copy to the Department at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-B2
Compliance Assurance / Enforcement Program
Attention: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order/ and Clean-Up Order, that person shall make the following certification with each submittal:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11(A) you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding.

Both the answer and the request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 703, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. In the event that Whitestone does not achieve complete and timely compliance with all of the terms and conditions outlined herein, the Department reserves, in addition to any other remedies allowed by law, its right under §25-8-608 and 609, C.R.S., to pursue an action for additional penalties.

RELEASE OR DISCHARGE NOTIFICATION

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Department of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

EFFECT OF ORDER

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this16th day of May, 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