

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

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
TDD Line (303) 691-7700
Located in Glendale, Colorado

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

May 4, 2009

Permit Number CO-0020745

Certified Mail Number: 7007 0220 0001 0160 6433

Edith Sheldon, Mayor
City of Walsenburg
525 South Albert Street
Walsenburg, CO

RE: Service of Amendment to Order Number: MO-070418-1

Dear Mayor Sheldon:

The City of Walsenburg is hereby issued the enclosed amendment to the Order (Number MO-070418-1) that was issued to the City of Walsenburg on April 18, 2007. This order amendment is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §25-1.5-203 of the Colorado Revised Statutes.

Should you desire to discuss this matter with the Division or if you have any questions regarding the order amendment(s), please don't hesitate to contact me at (303) 692-3612 or by electronic mail at ginny.torrez@state.co.us.

Sincerely,

Ginny Torrez
Compliance Assurance Section
Enforcement Unit

WATER QUALITY CONTROL DIVISION

cc: Las Animas-Huerfano Counties District Health Department

ec: David Knope, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Aaron Urdiales, EPA Region VIII
Carolyn Schachterle, OPA



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

AMENDMENT NO. 1

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: MO-070418-1

IN THE MATTER OF: CITY OF WALSENBURG
CDPS PERMIT NO. CO-0020745
HUERFANO COUNTY, 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 Director of the Department's Water Quality Control Division (the "Division"), and pursuant to §25-8-605, C.R.S., the Division hereby issues the following Amendment Number 1 to Notice of Violation/Cease and Desist Order, Number: MO-070418-1. (*See attached copy marked as "Exhibit A" for reference.*)

AMENDMENT NUMBER ONE

1. On April 18, 2007, the Division issued a Notice of Violation/Cease and Desist Order, Number MO-070418-1, (the "NOV/CDO") to the City of Walsenburg ("Walsenburg"). The NOV/CDO contained a schedule for Walsenburg to construct a facility capable of complying with the permit effluent limits for total ammonia and BOD₅ (the "compliance schedule").
2. Walsenburg has failed to comply with the compliance schedule including the requirement that Walsenburg begin construction by May 1, 2008. The compliance schedule also requires that Walsenburg complete construction and obtain operational status by July 1, 2009. Via letter dated March 16, 2009, Walsenburg requested that the compliance schedule deadlines contained in the NOV/CDO be extended. On April 8, 2009, the Division received a complete set of plans and specifications for the project from Walsenburg for review. Given the degree of progress, the Division agrees that that Walsenburg will be unable to meet the current deadlines in the compliance schedule and that an amendment extending the deadlines for the outstanding items in the compliance schedule is appropriate. Additionally, monthly Discharge Monitoring Reports (the "DMRs") submitted by Walsenburg subsequent to issuance of the NOV/CDO reflect additional instances of violation of permit effluent limits. The NOV/CDO is amended as shown below to extend the compliance schedule and to include violative effluent data submitted subsequent to issuance of the NOV/CDO:

A. Paragraph 17 is amended to read as follows:

17. The DMRs for the months of June 2005 through February 2009 include, in addition to other data not subject of this action, the following effluent concentration data for BOD₅, fecal coliform, total residual chlorine and total ammonia as nitrogen in exceedance of Permit effluent limits. BOD₅ removal data is also reflected:

DMR Reporting Period and Parameter	30-Day Average	7-Day Average	Instantaneous Minimum
BOD₅ (in mg/l)	Limit= 30 mg/l	Limit= 45 mg/l	N/A
June 1-June 30, 2005	35.6	-	-
July 1-July 31, 2005	36	-	-
April 1-April 30, 2006	35.6	-	-
July 1-July 31, 2006	33	-	-
March 1-March 31, 2008	36	-	-
May 1-May 31, 2008	34	-	-
June 1-June 30, 2008	38	48	-
July 1-July 31, 2008	32	-	-
BOD₅ Removal (in %)	Limit = 85 % (minimum)	N/A	N/A
June 1-June 30, 2008	81	-	-
August 1-August 31, 2008	80	-	-
Total Ammonia as Nitrogen (in mg/l)	Limit in mg/l shown in parenthesis	N/A	Limit in mg/l shown in parenthesis
July 1-July 31, 2006	28 (2.0)	-	36 (10)
August 1-August 31, 2006	31 (1.8)	-	36 (8.8)
September 1-September 30, 2006	29 (2.5)	-	36 (9.5)
October 1-October 31, 2006	20 (5.1)	-	24 (13)
November 1-November 30, 2006	21 (5.4)	-	24 (11)
December 1-December 31, 2006	30 (9.2)	-	36 (13)
January 1-January 31, 2007	28 (13)	-	42 (15)
February 1-February 28, 2007	26 (9.0)	-	30 (14)

DWR Reporting Period and Parameter	30-Day Average	7-Day Average	Instantaneous Minimum
Total Ammonia as Nitrogen (in mg/l)	Limit in mg/l shown in parenthesis	N/A	Limit in mg/l shown in parenthesis
March 1-March 31, 2007	29 (8.0)	-	46 (17)
April 1-April 30, 2007	20 (7.1)	-	21.5 (17)
May 1-May 31, 2007	25 (4.5)	-	49 (15)
June 1-June 30, 2007	24 (2.7)	-	36 (12)
July 1-July 31, 2007	30 (2.0)	-	42 (10)
August 1-August 31, 2007	35 (1.8)	-	42 (8.8)
September 1-September 30, 2007	28 (2.5)	-	42 (9.5)
October 1-October 31, 2007	19 (5.1)	-	36 (13)
November 1-November 30, 2007	32 (5.4)	-	36 (11)
December 1-December 31, 2007	30 (9.2)	-	42 (13)
January 1-January 31, 2008	33 (13)	-	37 (15)
February 1-February 29, 2008	37 (9.0)	-	58 (14)
March 1-March 31, 2008	34 (8.0)	-	35 (17)
April 1-April 30, 2008	24 (7.1)	-	28 (17)
May 1-May 31, 2008	18 (4.5)	-	19 (15)
June 1-June 30, 2008	19 (2.7)	-	22.5 (12)
July 1-July 31, 2008	20 (2.0)	-	22.6 (10)
August 1-August 31, 2008	22.5 (1.8)	-	28 (8.8)
September 1-September 30, 2008	23 (2.5)	-	24 (9.5)
October 1-October 31, 2008	24 (5.1)	-	29 (13)
November 1-November 30, 2008	19 (5.4)	-	24 (11)
December 1-December 31, 2008	25 (9.2)	-	30.5 (13)
January 1-January 31, 2009	24 (13)	-	30 (15)
February 1-February 28, 2009	19 (9.0)	-	24 (14)
Fecal Coliform (#/100ml)	Limit = 2,800/100ml	Limit = 5,600/100ml	N/A
November 1-November 30, 2005	2,889	-	-
Total Residual Chlorine (in mg/l)	N/A	Limit = 0.006 mg/l	Limit = 0.0075 mg/l
December 1-December 31, 2005	-	-	0.01
May 1-May 31, 2006	-	-	0.03

DMR Reporting Period and Parameter	30-Day Average	7-Day Average	Instantaneous Minimum
Total Residual Chlorine (in mg/l)	N/A	Limit = 0.006 mg/l	Limit = 0.0075 mg/l
October 1-October 31, 2006	-	-	0.03
February 1-February 28, 2007	-	-	0.02
March 1-March 31, 2007	-	-	0.07
June 1-June 30, 2007	-	-	0.04
July 1-July 31, 2007	-	0.06	0.06
August 1-August 31, 2007	-	-	0.08
February 1-February 29, 2008	-	-	0.03
March 1-March 31, 2008	-	-	0.05
May 1-May 31, 2008	-	-	0.03

B. Paragraph 22 is amended to read as follows:

22. The 30-day average effluent total ammonia as nitrogen concentrations listed in paragraph 17 of the Findings of Fact for July, August, September, October, November and December, 2006 and January, February, March, April, May, June July, August, September, October, November and December of 2007 and 2008; and, January and February 2009 constitute violations of the respective 30-day average effluent concentration limits of 13 mg/l (January), 9.0 mg/l (February), 8.0 mg/l (March), 7.1 mg/l (April), 4.5 mg/l (May), 2.7 mg/l (June), 2.0 mg/l (July), 1.8 mg/l (August), 2.5 mg/l (September), 5.1 mg/l (October), 5.4 mg/l (November), 9.2 mg/l (December) established by Part I.A.5 of the Permit.

C. Paragraph 23 is amended to read as follows:

23. The daily maximum effluent total ammonia as nitrogen concentrations listed in paragraph 17 of the Findings of Fact for July, August, September, October, November and December, 2006 and January, February, March, April, May, June July, August, September, October, November and December of 2007 and 2008; and, January and February 2009 constitute violations of the respective daily maximum effluent concentration limits of 15 mg/l (January), 14 mg/l (February), 17 mg/l (March), 17 mg/l (April), 15 mg/l (May), 12 mg/l (June), 10 mg/l (July), 8.8 mg/l (August), 9.5 mg/l (September), 13 mg/l (October), 11 mg/l (November), 13 mg/l (December) established by Part I.A.5 of the Permit.

D. The following is added as paragraph 25.a:

- 25.a The 30-day average total residual chlorine concentration listed in paragraph 17 of the Findings of Fact and Conclusions of Law constitutes violation of the 30-day average maximum effluent concentration limit of 0.0006 mg/l established by Part I.A.5 of the Permit.

E. The following is added as paragraph 25.b:

25.b The 30-day average BOD₅ removal percentages listed in paragraph 17 of the Findings of Fact and Conclusions of Law constitute violations of the minimum monthly removal requirement of 85 percent established by Part I, Section A.6 of the Permit.

F. Paragraph 28 is amended to read as follows:

28. Comply with the following schedule for construction of a facility capable of complying with the permit effluent limits for total ammonia as nitrogen and BOD₅.
- a. Submit a request for Preliminary Effluent Limits (in accordance with the guidance found at <http://www.cdphe.state.co.us/wq/PermitsUnit/PELBrochure.PDF>) to the Division by April 30, 2007; *(completed April 23, 2007)*
 - b. Submit a complete site approval application by August 1, 2007; *(completed February 28, 2008)*
 - c. Submit final plans and specifications to the Division for approval by January 1, 2008; *(completed April 8, 2009)*
 - d. Begin construction within forty-five (45) calendar days following Division approval of final plans and specifications.
 - e. Complete construction and attain operational status within three hundred and sixty five (365) calendar days following initiation of construction. For the purpose of this Amendment initiation of construction means groundbreaking for the project.

NOTICE OF EFFECTIVE DATE OF AMENDMENT

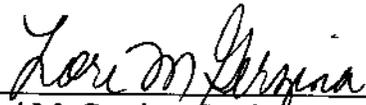
3. This amendment shall be fully effective and enforceable upon issuance.

SCOPE OF AMENDMENT NO. 1

4. The scope of this Amendment Number 1 to the Notice of Violation/Cease and Desist Order, Number MO-070418-1 is limited to the provisions and/or conditions outlined above. All other terms, conditions or requirements of the NOV/CDO remain unchanged and in effect. This Amendment does not modify or alter any requirement or condition of the Permit.

Issued at Denver, Colorado, this 4th day of May, 2009.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Lori M. Gerzina, Section Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: MO-070418-1

**IN THE MATTER OF: CITY OF WALSENBURG
 CDPS PERMIT NO. CO-0020745
 HUERFANO COUNTY, 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 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the violations cited herein, the City of Walsenburg was a municipality as defined by §31-1-101(6), C.R.S.
2. Walsenburg is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
3. Walsenburg owns and operates a wastewater treatment facility located in the Northwest 1/4, Section 2, Township 28 South, Range 66 West, 6th Principal Meridian, Huerfano County, Colorado (the "Facility").
4. The Facility is a "domestic wastewater treatment works" as defined by §25-8-103(5), C.R.S.
5. The Facility is the subject of Colorado Discharge Permit System Permit, Permit No. CO-0020745 (the "Permit") became effective August 1, 2001 and was due to expire July 31, 2006 at which time it was administratively extended until a renewed permit is issued.
6. The Permit specifies that Walsenburg is authorized to discharge effluent wastewater from the Facility at Outfall 001A into the Cucharas River. The discharge is subject to the specific effluent limitations and other conditions of the Permit.
7. Outfall 001A is a "point source" as defined by §25-8-103(14), C.R.S.

8. The Cucharas River is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (101).
9. Section 61.8, 5 CCR 1002-61, states in part that "A permittee must comply with all the terms and conditions of the permit."

Compliance Schedule

10. The Permit contains a compliance schedule for providing treatment to meet total ammonia effluent limits. Initially, ammonia limits were to become effective July 31, 2005 and the compliance schedule contained the following deadlines:
 - a. Obtain site application approval and plans and specifications approval for construction by January 31, 2003;
 - b. Open bids for construction by April 30, 2003;
 - c. Begin construction by July 31, 2003;
 - d. Attain operational level of new ammonia treatment facilities by May 31, 2005; and,
 - e. Obtain final compliance with ammonia limits by July 31, 2005.
11. In response to an April 1, 2004 request for a compliance schedule extension from Walsenburg, the Division issued an amendment to the Permit on August 23, 2004 (the "Permit Amendment") revising the compliance schedule. The Permit Amendment also revised the effective date of the ammonia limits to July 15, 2006. The revised schedule deadlines contained in the Permit Amendment are shown below:
 - a. Obtain site application approval by August 31, 2004;
 - b. Obtain plans and specifications approval by December 31, 2004;
 - c. Open bids for construction by January 31, 2005;
 - d. Begin construction by March 31, 2005;
 - e. Attain operational level of new ammonia treatment facilities by May 31, 2006; and,
 - f. Obtain final compliance with effluent ammonia limits by July 15, 2006.
12. Walsenburg submitted a site approval application on July 26, 2004. On August 26, 2004, the Division sent a letter to Walsenburg identifying a number of items that were required to be addressed by Walsenburg before the site approval application could be processed. The Division advised Walsenburg that the site approval application was put on hold pending receipt of the required information.
13. On January 23, 2007, the Division notified Walsenburg that because an adequate response to the issues outlined in the August 26, 2004 correspondence had not been received, the site approval application was inactivated and previously submitted information was being returned to Walsenburg. The Division further advised Walsenburg that, due to the amount of time that passed since the site approval application was initially submitted, a new site application with updated information would have to be presented to the Division for consideration should Walsenburg choose to pursue site application approval at a later time.
14. Walsenburg has not complied with the dates contained in the Permit Amendment nor has it obtained compliance with effluent ammonia limits.

Quality of the Discharge

15. Pursuant to the requirements of the Permit, to provide an indication of the quality of the wastewater discharged into the Cucharas River, Walsenburg collects specific samples of the effluent.
16. The analytical results of the effluent samples are summarized and reported to the Division via monthly discharge monitoring reports ("DMRs") which include a certification by Walsenburg that the information provided therein is true, accurate and complete, to the knowledge and belief of Walsenburg.
17. The DMRs for the months of June 2005 through January 2007 include, in addition to other data not subject of this action, the following effluent concentration data for BOD, total residual chlorine and total ammonia as nitrogen in exceedance of Permit effluent limits:

EFFLUENT SELF-MONITORING DATA – OUTFALL 001A		
DMR REPORTING PERIOD		
BOD (in mg/l)	30-DAY AVERAGE (Limit = 30 mg/l)	-
June 1-June 30, 2005	35.6	-
July 1-July 31, 2005	36	
April 1-April 30, 2006	35.6	-
July 1-July 31, 2006	33	-
TOTAL AMMONIA AS NITROGEN (in mg/l)	30-DAY AVERAGE (limit in mg/l shown in parenthesis)	DAILY MAXIMUM (Limit in mg/l shown in parenthesis)
July 1-July 31, 2006	28 (2.0)	36 (10)
August 1-August 31, 2006	31 (1.8)	36 (8.8)
September 1-September 30, 2006	29 (2.5)	36 (9.5)
October 1-October 31, 2006	20 (5.1)	24 (13)
November 1-November 30, 2006	21 (5.4)	24 (11)
December 1-December 31, 2006	30 (9.2)	36 (13)
January 1-January 31, 2007	28 (13)	42 (15)
FECAL COLIFORM (#/100ml)	30-DAY AVERAGE (Limit =2,800/100ml)	-
November 1-November 30, 2005	2,889	-

TOTAL RESIDUAL CHLORINE (in mg/l)	-	DAILY MAXIMUM (Limit = 0.0075 mg/l)
December 1-December 31, 2005	-	0.01
May 1-May 31, 2006	-	0.03
October 1-October 31, 2006	-	0.03

18. BOD, total residual chlorine, fecal coliform and total ammonia as nitrogen are each a "pollutant" as defined by §25-8-103(15), C.R.S.

NOTICE OF VIOLATION

19. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Walsenburg has violated the Permit as noted below.
20. Failure to comply with the compliance schedule deadlines as described in paragraphs 10 through 14 of the Findings of Fact constitutes violation of Part I.A.7 of the Permit
21. The 30-day average effluent BOD concentrations listed in paragraph 17 of the Findings of Fact constitute violations of the 30-day average effluent concentration limit of 30 mg/l established by Part I.A.5 of the Permit.
22. The 30-day average effluent total ammonia as nitrogen concentrations listed in paragraph 17 of the Findings of Fact for July, August, September, October, November and December, 2006 and January 2007 constitute violations of the respective 30-day average effluent concentration limits of 2.0 mg/l (July), 1.8 mg/l (August), 2.5 mg/l (September), 5.1 mg/l (October), 5.4 mg/l (November), 9.2 mg/l (December) and 13 mg/l (January) established by Part I.A.5 of the Permit.
23. The daily maximum effluent total ammonia as nitrogen concentrations listed in paragraph 17 of the Findings of Fact for July, August, September, October, November and December, 2006 and January 2007 constitute violations of the respective daily maximum effluent concentration limits of 10 mg/l (July), 8.8 mg/l (August), 9.5 mg/l (September), 13 mg/l (October), 11 mg/l (November), 13 mg/l (December) and 15 mg/l (January) established by Part I.A.5 of the Permit.
24. The 30-day average effluent fecal coliform concentration listed in paragraph 17 of the Findings of Fact constitutes a violation of the 30-day average effluent concentration limit of 2,800/100ml established by Part I.A.5 of the Permit.
25. The daily maximum effluent total residual chlorine concentrations listed in paragraph 17 of the Findings of Fact constitute violations of the daily maximum effluent concentration limit of 0.0075 mg/l established by Part I.A.5 of the Permit.

CEASE AND DESIST ORDER

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

26. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-703, C.R.S., permit regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Walsenburg to comply with the following specific terms and conditions of this Order:

27. Comply with the following schedule for installation of dechlorination capability for the current hydraulic capacity of 0.70 MGD such that the effluent total residual chlorine limits can be consistently met while providing adequate disinfection to comply with the effluent fecal coliform limits.
- a. By July 1, 2007, submit a complete site approval amendment application accompanied by a preliminary engineering design for the method of dechlorination that is proposed;
 - b. Within thirty (30) calendar days of the Division issuing a site amendment approval, submit final plans and specifications to the Division for review and approval;
 - c. Within sixty (60) calendar days [or ninety (90) calendar days if the project has to be bid] of the Division approving Walsenburg's plans and specifications, begin construction; and,
 - d. Within sixty (60) calendar days of initiating construction, Walsenburg shall complete construction and attain operational status of the dechlorination system.
28. Comply with the following schedule for construction of a facility capable of complying with the permit effluent limits for total ammonia as nitrogen and BOD.
- a. Submit a request for Preliminary Effluent Limits (in accordance with the guidance found at <http://www.cdphe.state.co.us/wq/PermitsUnit/PELBrochure.PDF>) to the Division by April 30, 2007;
 - b. Submit a complete site approval application by August 1, 2007;
 - c. Submit final plans and specifications to the Division for approval by January 1, 2008;
 - d. Begin construction by May 1, 2008; and,
 - e. Complete construction and attain operational status by July 1, 2009.
29. Submit quarterly progress reports, signed by Walsenburg, to the Division outlining efforts taken within the previous ninety (90) days to achieve compliance with this Order. The reports shall also list activities that are to be completed within the upcoming ninety (90) days. For any activity identified in a progress report and which is not completed within the identified ninety (90) day timeframe, Walsenburg shall explain the reason for the delay in the progress report for the respective period and shall further outline how it will complete the activity in such a manner that the deadlines identified in paragraphs 27 and/or 28 will be met. The first report shall be submitted to the Division such that it is received by June 30, 2007. Subsequent reports are to be submitted such that they are received by the Division by September 30, 2007; December 31, 2007; March 31, 2008; June 30, 2008; September 30, 2008; December 31, 2008; March 31, 2009; and, June 30, 2009.

30. If Walsenburg becomes aware of any situation or circumstance that causes Walsenburg to become unable to comply with any condition or time schedules set forth by this Order, Walsenburg shall provide written notice to the Division within five (5) calendar days of Walsenburg becoming aware of such circumstance. Walsenburg's notice shall describe what, if any, impacts will occur on Walsenburg's ability to comply with the Colorado Water Quality Control Act and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.
31. All documents submitted under this Order shall use the same titles as stated in this Order, and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required. Within thirty (30) calendar days of receiving Division comments on submitted documents, Walsenburg shall revise the submitted document(s) to properly address the Division's comments and resubmit the document(s) for Division review.

NOTICES AND SUBMITTALS

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

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-B2
Compliance Assurance and Data Management Section
Attention: Ginny Torrez
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, 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. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

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 Division 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

City of Walsenburg

Notice of Violation/Cease and Desist Order

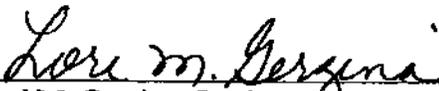
Page 7 of 8

subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by 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, this 18th day of April, 2007.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION