

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

April 11, 2007

Certified Mail Number: 7006 0100 0004 5684 5608

PWSID# CO-0121200
Tina and Kim Oliver, Owners
Elephant Rock Mobile Home Park
720 Westward Road
Palmer Lake, CO 80133

RE: Service of Drinking Water Enforcement Order, Number: DC-070410-1

Dear Tina and Kim Oliver:

You are hereby issued the enclosed Enforcement Order (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that you have violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order you may request a formal hearing to contest the Order in accordance with the Regulations, 5 CCR 1003-1, §1.6.7(g). Requests for such a hearing must be filed in writing with the Department within thirty (30) calendar days after service of the Order. Hearings on enforcement orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

This action could result in the imposition of administrative or civil penalties. The Department or a State District Court is authorized pursuant to §25-1-114.1, C.R.S. to impose a penalty of up to \$1,000 per violation per day. Please be advised that the Department is continuing its investigation into this matter and the Department may identify supplementary violations that warrant amendments to this Order or the issuance of additional enforcement actions.

Should you desire to informally discuss this matter with the Department or if you have any questions regarding the Order, please don't hesitate to contact Scott Klarich at (303) 692-3564 or by electronic mail at scott.klarich@state.co.us.

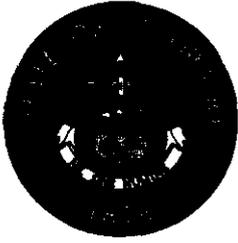
Sincerely,



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

Enclosure

- cc: El Paso County Department of Health and Environment
Compliance Monitor / Drinking Water File
- ec: Tim Vrudny, Engineering Section, CDPHE
Dave Knope, Engineering Section, CDPHE
Dick Parachini, Outreach and Assistance Unit, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Melanie Wasco, EPA Region VIII
Patricia Klocker, Assistant Division Director, Consumer Protection Division, CDPHE



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

**ENFORCEMENT ORDER &
ADMINISTRATIVE PENALTY ASSESSMENT**

NUMBER: DC-070410-1

**IN THE MATTER OF: TINA AND KIM OLIVER
d/b/a ELEPHANT ROCK MOBILE HOME PARK
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0121200
EL PASO COUNTY 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. Tina and Kim Oliver own and/or operate a drinking water system, known as Elephant Rock Mobile Home Park, located at or near 720 Westward Lane #1, in or near the Town of Palmer Lake, El Paso County, Colorado (the "System").
2. Tina and Kim Oliver are suppliers of water within the meaning of §25-1.5-201(2), C.R.S.
3. The System is a public water system as defined by §25-1.5-201(1), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(87).
4. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID # CO-0121200.
5. 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.
6. Tina and Kim Oliver provide piped water for human consumption from the System to at least fifteen (15) service connections used by year-round residents of the area served by the System and/or regularly serve at least twenty-five (25) year-round residents. The System is therefore classified as a "community water system" as defined by 5 CCR 1003-1, §1.5.2(10).

First Violation
(Failure to Prepare, Certify and/or Deliver a Consumer Confidence Report)

7. Section 9.1, 5 CCR 1003-1 establishes the minimum requirements for the content of the Consumer Confidence Report, annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.
8. Pursuant to 5 CCR 1003-1, §§9.1.2(a) and 9.1.5(a), each community water system must mail or otherwise directly deliver one copy of the System's Consumer Confidence Report to each customer served by the System by July 1 of each calendar year. Each Consumer Confidence Report must contain system information, sampling results, and violation data collected during, or prior to, the previous calendar year.
9. Pursuant to 5 CCR 1003-1, §§9.1.2(d) and 9.1.5(c), each community water system must mail a copy of the System's Consumer Confidence Report to the Department and a certification that the Consumer Confidence Report has been distributed to customers and that the information is correct and consistent with the compliance monitoring data previously submitted to the Department by July 1 of each calendar year.
10. Division records show that Tina and Kim Oliver have failed to provide the Department with a copy of the System's 2005 Consumer Confidence Report, due by July 1, 2006, and have failed to provide the Department with the required certification that this report was distributed.
11. Division records further establish that Tina and Kim Oliver failed to comply with the 2004 Consumer Confidence Report requirements and were therefore issued an Enforcement Order (number DC-060208-2) on February 8, 2006 for such failure.
12. Tina and Kim Oliver's failure to provide the Department with a copy of the System's 2005 Consumer Confidence Report and required certification constitutes ongoing violations of 5 CCR 1003-1, §§9.1.2(d) and 9.1.5(c). Additionally, if Tina and Kim Oliver failed to provide each customer served by the System with a copy of the System's 2005 Consumer Confidence Report, such failure constitutes a violation of 5 CCR 1003-1, §§9.1.2(a) and 9.1.5(a).

COMPLIANCE ORDER

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

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

Further, the Division hereby orders Tina and Kim Oliver to comply with the following specific terms and conditions of this Order.

14. Within fourteen (14) calendar days after receipt of this Order, Tina and Kim Oliver shall provide the Division with a copy of the System's 2005 Consumer Confidence Report and required delivery certification. If Tina and Kim Oliver have not prepared the 2005 Consumer Confidence Report, Tina and Kim Oliver shall prepare, mail or otherwise directly deliver one copy of the report to each customer served by the System and provide the Division with a copy of the report along with the required delivery certification within thirty (30) calendar days of receipt of this Order. At a minimum, the report shall contain the information specified in 5 CCR 1003-1, §9.1. (*Consumer Confidence Report templates are available in an electronic format at the following Internet location: http://www.cdph.state.co.us/wq/Drinking_Water/Regulatory_Guidance.htm*)
15. Within thirty (30) calendar days after receipt of this Order, Tina and Kim Oliver shall provide a written statement describing those actions that have been or will be taken to ensure that future Consumer Confidence Reports are prepared, certified and distributed as required by 5 CCR 1003-1, §9.1.

ORDER FOR ADMINISTRATIVE PENALTY

16. Pursuant to §25-1-114.1(2.5)(a), C.R.S. any person who violates the *Colorado Primary Drinking Water Regulations* or any final Enforcement Order issued by the Division, shall be subject to an administrative penalty as follows:
 - a. For systems that serve a population of more than ten thousand people, an amount not to exceed one thousand dollars per violation per day; or
 - b. For systems that serve a population of ten thousand people or less, an amount not to exceed one thousand dollars per violation per day, but only in an amount, as determined by the division, that is necessary to ensure compliance.
17. Based upon the facts described in this action the Department has determined that an administrative penalty is appropriate in this matter and therefore assesses an administrative penalty of three hundred seventy-five dollars (\$375.00) for the specific violation identified in this action. The reasoning behind this penalty number is detailed in the administrative penalty methodology/calculation worksheet, which is incorporated herein by reference and enclosed as Exhibit A.

Terms of Administrative Penalty Payment

18. If Tina and Kim Oliver do not contest the findings and penalty assessment set out above, payment of the administrative penalty for the violations shall be forwarded to the Colorado Department of Public Health and Environment within sixty (60) calendar days of the date of issue of this action. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Scott Klarich, Enforcement Team Leader
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CADM-B2

4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Payment of the civil penalty in this manner does not relieve the Tina and Kim Oliver of their obligation to perform the activities required by this action.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this order, Tina and Kim Oliver 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-WQP-B2
Compliance Assurance and Data Management Unit / Enforcement Team
Attention: Ms. Emily Clark
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-3502
Email: emily.clark@state.co.us

NOTICE OF COMPLETION

Tina and Kim Oliver 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 Tina and Kim Oliver wish to dispute the Division's rejection of their Notice of Completion, they shall, within fifteen (15) days of receipt of the Division's rejection, submit a written statement as to their belief of full compliance, addressing in detail all concerns the Division raised in the rejection letter to the System's Notice of Completion.

POTENTIAL CRIMINAL PENALTIES

You are also advised, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an enforcement order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. In the event that Tina and Kim Oliver do not achieve complete and timely compliance with all of the terms and conditions outlined herein, including full and timely payment of administrative penalties, the Department reserves, in addition to any other remedies allowed by law, its right under §25-1-114(4), C.R.S., to pursue an action for additional penalties.

REQUEST FOR HEARING

You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an enforcement order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests shall state the grounds upon which the order is contested and state the amount of time the recipient estimates will be required for the hearing. Hearings on enforcement orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S.

Pursuant to §25-1-114.1(2.5)(b), C.R.S. the final penalty decision of the Department's executive director or the executive director's designee may be appealed to the State Board of Health. Requests for such an appeal shall be filed in writing with the State Board of Health within thirty (30) calendar days after service of the 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 10 day of April, 2007.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

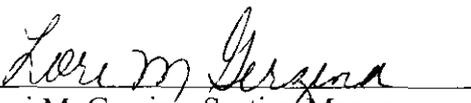

Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
Water Quality Control Division

Exhibit A

TINA AND KIM OLIVER d/b/a ELEPHANT ROCK MOBILE HOME PARK
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0121200
EL PASO COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(April 10, 2007)

Penalty Summary

Penalty Calculation -Violation Number 1.....\$375.00

Violation: Failure to Prepare Consumer Confidence Report
Regulation Violated: 5 CCR 1003-1, §9.1.2

Penalty Calculation -Violation Number 2.....\$0.00

Violation:
Regulation Violated:

Penalty Calculation -Violation Number 3.....\$0.00

Violation:
Regulation Violated:

Penalty Calculation -Violation Number 4.....\$0.00

Violation:
Regulation Violated:

Penalty Calculation -Violation Number 5.....\$0.00

Violation:
Regulation Violated:

TOTAL PENALTY.....\$375.00

Exhibit A

**ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1**

System Name: Tina and Kim Oliver d/b/a Elephant Rock Mobile Home Park	PWSID Number: CO-0121200
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Date of Enforcement Order: April 10, 2007	Number: DC-070410-1
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Regulation Violated: Failure to Prepare Consumer Confidence Report, 5 CCR 1003-1, §9.1.2	Population Served: 65
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Prepare Consumer Confidence Report	< 500 Served	\$250.00

Part II – Application of Aggravating or Mitigating Factors

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 2	Factor A: Threat to Public Health and Welfare <i>Justification: n/a</i>	+ or – X %	+ or – \$00.00
Line 3	Factor B: Intentional, Reckless, or Negligent Actions <i>Justification:</i>	+ X %	+ \$00.00
Line 4	Factor C: Recalcitrance or Recidivism <i>Justification: Tina and Kim Oliver were issued an Enforcement Order (number DC-060208-2) on February 8, 2006 for their failure to comply with the 2004 Consumer Confidence Report requirements. Therefore, Tina and Kim Oliver have demonstrated a history/pattern of not obeying or complying with its regulatory obligations, thereby revealing a level of disregard for regulatory programs. Tina and Kim Oliver's continued noncompliance for the same violation in 2005 supports an upward adjustment of 50%.</i>	+ 50 %	+ \$125.00
Line 5	Factor D: Voluntary and Complete Disclosure of Violations	– X %	– \$00.00

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
	<i>Justification:</i>		
Line 6	Factor E: Full and Prompt Cooperation	+ or - X %	+ or - \$00.00
	<i>Justification:</i>		
Line 7	Factor F: Environmental Compliance Program	- X %	- \$00.00
	<i>Justification:</i>		
Line 8	Factor G: Other Aggravating or Mitigating Circumstances	+ or - X %	+ or - \$00.00
	<i>Justification:</i>		
Line 9	Sum of Lines 2 through Line 9		+ \$125.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$375.00

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification:</i> The Division has chosen to consider this Consumer Confidence Reporting violation to be a single day violation.	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$375.00
	<i>Calculations:</i>	
	<i>Day 1</i> (\$375.00)	= \$375.00

Exhibit A

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$00.00
	<i>Justification:</i> The Division does not believe that Tina and Kim Oliver will realize a significant economic benefit from the delayed cost of preparing and distributing the Consumer Confidence Report.	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$375.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$00.00
	<i>Justification:</i> Not Applicable – The Division does not have any information suggesting that Tina and Kim Oliver have an inability to pay the assessed penalty amount.	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$375.00