

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

October 6, 2009

Certified Mail Number: 7005 1820 0000 3208 0916

PWSID# CO-0235221

Oliver O. Robertson

Janie M. Robertson

Dripping Springs Bed and Breakfast Inn

2551 East US Hwy 34

Drake, Colorado 80515

RE: Service of Drinking Water Enforcement Order, Number: DT-091006-1

Dear Mr. and Ms. Robertson:

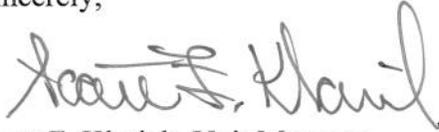
You are hereby issued the enclosed Enforcement Order (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). 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 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 shall be filed in writing with the Department within thirty (30) calendar days after service of the Order. Such requests, at a minimum shall contain the information specified in 5 CCR 1003-1, §1.6.7(g), and 5CCR 1002-21, §21.4(B)(2). Hearings on Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S. and the procedural rules promulgated in 5 CCR 1002-21.

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 Serenity Valdez at (303) 692-3519 or by electronic mail at serenity.valdez@state.co.us.

Sincerely,



Scott F. Klarich, Unit Manager
Enforcement Unit
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

Enclosure

- cc: Larimer County Health Department
Drinking Water Enforcement File
+
- cc: David Kruz, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Jeff Lawrence, Director Consumer Protection Division, CDPHE



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION

ENFORCEMENT ORDER

NUMBER: DT-091006-1

**IN THE MATTER OF: OLIVER O. ROBERTSON AND JANIE M. ROBERTSON
DRIPPING SPRINGS BED AND BREAKFAST INN
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0235221
LARIMER 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 is implemented through 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. Oliver O. Robertson and Janie M. Robertson own and/or operate a drinking water system, known as Dripping Spring Bed and Breakfast Inn, located in the vicinity of 2551 Highway 34, near the Town of Drake, in Larimer County, Colorado (the "System").
2. Oliver O. Robertson and Janie M. Robertson are each a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Oliver O. Robertson and Janie M. Robertson are each a supplier of water within the meaning of §25-1.5-201(2), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(128).
4. The System is a public water system as defined by §25-1.5-201(1), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(107).
5. The Public Water System Identification Number ("PWSID") assigned to the System by the Department is PWSID #: CO0235221.
6. Pursuant to 5 CCR 1003-1, §1.2, the System is subject to the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.
7. Oliver O. Robertson and Janie M. Robertson provide piped water for human consumption from the System to at least twenty-five (25) people, but the System does not serve twenty-five (25) or more of the same people, for sixty (60) or more days per year. The System is therefore classified as a "transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(137).

8. The source of the water served by the System originates from both ground water as defined by 5CCR 1003-1, §1.5.2(63) and ground water under the direct influence of surface water as defined by 5CCR 1003-1, §1.5.2(65). Pursuant to 5 CCR 1003-1, §1.5.2(129), groundwaters found to be under the direct influence of surface water will be classified as surface water.

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

9. Pursuant to 5 CCR 1003-1, §7.1.3(b), a public water system that uses a surface water source or a groundwater source under the direct influence of surface water and serves fewer than 10,000 people must provide treatment consisting of both disinfection, as specified in 5 CCR 1003-1, §7.1.2, and filtration treatment which complies with the requirements of 5 CCR 1003-1, §§7.1.3(f) or (g) or §§7.3.4(a), (b) or (c).
10. Pursuant to 5 CCR 1003-1, §7.1.3(d), once a groundwater source has been determined, through the results of a microscopic particulate analysis, visual well inspection or correlation of source water parameters with surface conditions, to be under the direct influence of surface water, the system must install filtration treatment designed to meet the turbidity requirements specified in 5 CCR 1003-1, §§7.1.3(e), (f), (g) or (h), or 5 CCR 1003-1, §§7.3.4(a), (b), or (c) within 18 months of written notice from the Department.
11. In a letter dated May 10, 2006, the Division notified the System that source water wells Lot 3 Shallow Well 1 (ID #: WL002) and Lot 3 Shallow Well 2 (ID #: WL003) were being reclassified as groundwater under the direct influence of surface water. In the letter the System was further advised, by no later than November 10, 2007 (18 month deadline), to either develop another source that is free of surface water influence, abandon the source and connect to another approved water system, or install Division approved surface water treatment.
12. In a letter dated October 10, 2007, the Division reminded the System of the requirement to complete improvements as soon as possible but no later than November 10, 2007. In the letter the System was reminded of the Division's request to submit a written response to the May 10, 2006 letter. The System was given 14 days after the October 10, 2007 letter to submit the System's written response and include which option the System chose to comply with the filtration treatment requirements as a result of the reclassification. Division records establish that the System did not respond as requested.
13. On June 16, 2008, the System submitted plans and specifications for the System's filtration treatment system pursuant to 5 CCR 1003-1, §1.11.2(b). Upon Division review the submitted plans and specifications were deemed incomplete and therefore could not be approved.
14. Division records to-date establish that the System has not submitted complete plans and specifications for the System's filtration treatment system and therefore the System has not received Division acceptance and approval of the existing filtration treatment to rectify the groundwater under the direct influence of surface water classification of the System's water sources.

15. Oliver O. Robertson and Janie M. Robertson's ongoing failure to provide approved filtration treatment on the System's groundwater under the direct influence of surface water sources constitutes ongoing violation(s) of 5 CCR 1003-1, §7.1.3(b).

COMPLIANCE REQUIREMENTS

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Oliver O. Robertson and Janie M. Robertson are hereby ordered to:

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

Further, the Division hereby orders Oliver O. Robertson and Janie M. Robertson to comply with the following specific terms and conditions of this Enforcement Order.

17. In order to ensure long-term compliance with the disinfection and filtration treatment requirements, , Oliver O. Robertson and Janie M. Robertson shall evaluate and upgrade, as needed, the System's water sources and/or treatment processes in accordance with the following schedule:
 - a. By no later than November 1, 2009, retain a qualified individual or entity (experienced in drinking water filtration treatment systems) to evaluate and recommend treatment technologies or alternate water sources to the System to ensure compliance with the disinfection and filtration treatment requirements of 5 CCR 1003-1, Article 7.
 - b. By no later than January 1, 2010, submit Final and complete Design Plans and Specifications for the proposed System improvements for Department review and approval.
 - c. Before opening for the 2010 season, complete construction/implementation of the Department approved system improvements to ensure long-term compliance with the disinfection and filtration treatment requirements of 5 CCR 1003-1, Article 7.

NOTICES AND SUBMITTALS

18. For all documents, plans, records, reports and replies required to be submitted by this order, Oliver O. Robertson and/or Janie M. Robertson shall submit an original and one copy (electronic is preferred) to the Division at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-WQP-B2
Compliance Assurance and Data Management Section
Attention: Serenity Valdez
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: serenity.valdez@state.co.us
Fax: (303) 782-0390

(For any facsimile transmittals, please include a cover sheet addressed to Ms. Valdez.)

19. Pursuant to 5 CCR 1003-1, §1.6.4(e), all reports, notices, summaries, and certifications required to be submitted to the Department by the public water system must bear the original signature of the owner or the owner's authorized representative.

NOTICE OF COMPLETION

20. Oliver O. Robertson and/or Janie M. Robertson 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 Oliver O. Robertson and/or Janie M. Robertson wish to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) calendar days of receipt of the Division's rejection, submit a written statement as to its belief of full compliance, addressing in detail all concerns the Division raised in the rejection letter to the System's Notice of Completion.

PRIOR APPROVAL REQUIRED

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

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

22. You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars (\$1,000) per violation per day, to be imposed by the Department or a State District Court. Further, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an Enforcement Order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

REQUEST FOR HEARING OR APPEAL

23. 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, at a minimum, shall contain the information specified in 5 CCR 1003-1, §1.6.7(g) and 5 CCR 1002-21, §21.4(B)(2). 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. and the procedural rules promulgated in 5 CCR 1002-21.

ADDITIONAL ACTION

24. 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.
25. 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 6th day of October, 2009.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Ron Falco, P.E., Program Manager
Safe Drinking Water Program
Water Quality Control Division