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Movant shall serve copies of this ORDER on any pro se parties, pursuant to CRCP 5, and file a certificate of service with the Court within 10 days.

Michael Schiferl

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<p>DISTRICT COURT, OTERO COUNTY, COLORADO</p> <p>13 W. 3RD STREET, ROOM 207 LA JUNTA, CO 81050</p> <hr/> <p>COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DIVISION OF ADMINISTRATION, WATER QUALITY CONTROL DIVISION</p> <p>Plaintiff,</p> <p>v.</p> <p>Pyramid Holdings LLC</p> <p>Defendant(s).</p>	<p>▲ COURT USE ONLY ▲</p>
<p>JOHN W. SUTHERS, Attorney General TRISHA L. CULP, Assistant Attorney General* 1525 Sherman Street, 5th Floor Denver, CO 80203 (303) 866-6107 Registration Number: 35833 *Counsel of Record</p>	<p>Case No.: 2009CV97</p>
<p>ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT</p>	

This Court, having reviewed the Colorado Department of Public Health and Environment, Water Quality Control Division's ("Department") Motion for Default Judgment filed pursuant to Colo.R.Civ.P. 55 and 121, § 1-14, and the responses to it, and it appearing from the record that:

1. The Department filed a Complaint in this matter on August 10, 2009.
2. Defendant was served with a copy of the Summons and Complaint on September 2, 2009.
3. Defendant failed to file an Answer or responsive pleading within twenty (20) days of service as required by Colo.R.Civ.P. 12(a).
4. The Court has considered venue in this case and has determined that venue is proper in Otero County pursuant to Colo.R.Civ.P. 98(b)(1) because the Department seeks

injunctive relief and a penalty imposed by statute and the claims arose in Otero County, and pursuant to COLO. REV. STAT. § 25-1-114.1(4) because the Department seeks an injunction to prevent or abate any violation of a minimum general sanitary standard or regulation adopted pursuant to section 25-1.5-202 and the violations occurred in Otero County.

IT IS HEREBY ORDERED that the Department's Motion for Default Judgment is granted and judgment is entered against Pyramid Holdings LLC and in favor of the Department as follows:

1. The Court hereby enters a permanent mandatory injunction requiring Defendant to immediately comply with the Colorado Primary Drinking Water Regulations, 5 CCR 1003-1, Articles 1 through 13.

2. The Court hereby enters an order for a permanent mandatory injunction requiring Defendants to comply with the terms of Enforcement Order Nos. DC-051130-1, DC-060224-2, DC-161130-5, DC-070215-6, DC-070831-13¹, and to complete the following activities designed to ensure long-term compliance with the Department's drinking water laws, standards, regulations, and terms, within thirty (30) days of issuance of the injunction unless otherwise specified, including but not limited to:

a. Radionuclide Maximum Contaminant Levels

i) By December 31, 2009, retain a qualified Professional Engineer (experienced in drinking water systems) to evaluate and recommend radionuclide treatment technologies or alternate water sources to Defendant to ensure compliance with the radionuclide maximum contaminant levels.

ii) By March 30, 2010, submit for Department review and comment a finalized Preliminary Design Report for Hillside Trailer Park system improvements to comply with the radionuclide maximum contaminant levels. If an alternate water source is proposed, submit for Department review and comment a detailed description of the alternate water source along with a copy of the laboratory analyses supporting that the alternate water source is suitable.

¹ The dates below are adjusted from the applicable dates in Enforcement Order Nos. DC-051130-1, DC-060224-2, DC-061130-5, DC-070215-6, DC-070831-13 due to the timing of this Order. The reporting requirements and sampling tests that are the subject of those sections are time-sensitive, and must be performed during certain months of the year. If this Order contained the same dates as in the Enforcement Orders, it would be impossible for the Defendant to comply with certain requirements. In those cases, the deadlines have been modified to ensure compliance with the subsequent compliance period.

iii) The Preliminary Design Report must clearly identify the specific treatment technology Defendant will use to ensure compliance with the radionuclide maximum contaminant levels.

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

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

vi) By June 30, 2010, submit for Department review and comment the final Design Report for Defendant's system improvements to comply with the radionuclide maximum contaminant levels.

vii) By October 31, 2010, submit Final Design Plans and Specifications for the System improvements for Department review and approval.

viii) By June 30, 2011, complete construction/implementation of the Department approved system improvements to ensure long-term compliance with the radionuclide maximum contaminant levels. If the Department requires a pilot study of the selected treatment technology prior to approval, then the pilot study and approval must be completed before the June 30, 2011 construction/implementation deadline.

ix) Within sixty (60) calendar days after the entry of the Court's Order, Defendant shall complete an evaluation to determine appropriate interim measures to ensure that the System is providing the best possible quality of water available until the System implements improvements to ensure long-term compliance with the radionuclide maximum contaminant levels. Defendant shall submit a written report of the results of this evaluation to the Department for review and comment. Implementation of the interim measures identified by Defendant shall become a condition of the Court's Order unless notified by the Department, in writing, that alternate or additional interim measures are appropriate. If the Department imposes alternate or additional interim measures, they shall also become a condition of the Court's Order unless the Defendant challenges the Department's alternate or additional interim measures, in writing

within thirty (30) calendars of receipt of the Department's alternate or additional interim measures, in which case the Department shall apply to this Court for a hearing to determine the appropriate interim measures to be included in the Court's Order.

x) Within fourteen (14) calendar days after entry of the Court's Order, Defendant shall submit the results of any radionuclide monitoring performed on the System's distributed water during the following periods: 1st, 2nd, and 3rd calendar quarters of 2003; 1st, 2nd, and 4th calendar quarters of 2004; and 1st, 2nd, and 3rd calendar quarters of 2005.

xi) Within thirty (30) calendar days after entry of the Court's Order, Defendant shall provide a written statement describing those actions that have been or will be taken to ensure that future radionuclide monitoring (gross alpha particle activity, radium-226, radium-228, and uranium) is performed in accordance with the Monitoring Schedule.

xii) Within thirty (30) calendar days after entry of the Court's Order and every ninety (90) calendar days thereafter, Defendant shall issue a public notice in accordance with 5 CCR 1003-1, §9.2 for each radionuclide maximum contaminant level violation identified in the Court's Order until Defendant has effectively addressed and returned to compliance with the radionuclide maximum contaminant level outlined in 5 CCR 1003-1, §2.6 and Table 2-7. Within ten (10) calendar days of completion of each required public notification, Defendant shall submit to the Department, along with the mandatory certification, a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by the system and/or to the media.

xiii) Defendant shall submit "System Improvement Project-Progress Reports" to the Department every ninety (90) calendar days. The first report shall be submitted to the Department by December 31, 2009. At a minimum, each report shall clearly indicate the status of the system improvement project at the time the report is filed and outline activities to be undertaken within the next ninety (90) calendar days. Each report shall also detail any public notification provided during that period. These reports shall be required until the System has effectively addressed and returned to compliance with the radionuclide maximum contaminant levels outlined in 5 CCR 1003-1, §2.6 and Table 2-7.

b. Consumer Confidence Reports

i) Defendant shall initiate efforts to comply with the Consumer Confidence Report requirements in the future, beginning in but not limited to the Consumer Confidence Report requirements for calendar year 2008. The System shall prepare and distribute to the public and submit to the Department its calendar year 2008 CCR that includes violations from 2004 through 2008 within thirty (30) days after entry of the Court's Order. At a minimum, the 2008 CCR and all future reports shall contain the information specified in 5 CCR 1003-1, §9.1.

ii) Within thirty (30) calendar days after entry of the Court's Order, Defendant 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.

c. Total Trihalomethanes and Haloacetic Acids (five)

i) Within fourteen (14) calendar days after entry of the Court's Order, Defendant shall submit the results of any TTHM and HAA5 monitoring performed for calendar years 2004, 2005, 2006, 2007, and 2008.

ii) Defendant shall perform TTHM and HAA5 monitoring between July 1, 2010 and July 31, 2010. The TTHM and HAA5 sample(s) must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. Defendants shall provide the Department with the results of the TTHM and HAA5 monitoring within ten (10) calendar days of receipt of the results from the laboratory.

d. Defendant shall immediately begin monitoring and/or reporting residual disinfection concentration in accordance with 5 CCR 1003-1, §7.6.3(c)(1)(i) by measuring and reporting chlorine residual disinfection concentrations along with each total coliform sample result.

e. Defendant shall place the System under the direct supervision of an operator certified at or above the "Small Water System" level.

f. Defendant shall immediately initiate efforts to make a chemical feed pump system operational. Within thirty (30) days of the issuance of the injunction, Defendant shall submit plans and specifications, prepared by and under seal of a Professional Engineer registered in the State of Colorado, for the construction, improvements, or modifications necessary to install and operate the chemical feed pump

system. If any of the water system components will come into direct contact with drinking water, such components must carry certification from appropriate independent, third-party testing agencies.

g. Nitrates

i) Within fourteen (14) calendar days after entry of the Court's Order, Defendant shall submit the results of any nitrate monitoring performed in 2004, 2006, 2007 and 2008. If the monitoring has not been performed, Defendant shall provide a written explanation indicating the reason why the System did not perform the monitoring.

ii) Defendant shall perform Nitrate monitoring at each entry point to the distribution system (after treatment) in accordance with 5 CCR 1003-1, § 6.1.5 within thirty (30) calendar days. Within ten (10) calendar days of receipt of the analytical results from a Department certified laboratory Defendants shall report the results of the monitoring to the Department in accordance with 5 CCR 1003-1, 1.6.4(a).

h. Lead and Copper annual monitoring:

i) Within fourteen (14) calendar days after entry of the Court's Order, Defendant shall submit the results of any lead and copper monitoring performed for calendar years 2004, 2005, 2006, 2007, and 2008.

ii) Defendant shall collect and analyze lead and copper samples, from the appropriate number of locations (*5 for a system that serves less than 100 people*), between June 1, 2010 and September 30, 2010. Within ten (10) calendar days of receipt of the analytical results from a Department certified laboratory, Defendant shall report the results of the monitoring to the Department in accordance with 5 CCR 1003-1, §8.10(a)(1).

i. Within sixty (60) calendar days after entry of the Court's Order, Defendant shall develop, implement, and submit a Monitoring Plan to the Department, which Monitoring Plan shall include a Bacteriological Sampling-Siting Plan.

j. Within sixty (60) calendar days after entry of the Court's Order, Defendant shall develop, implement and maintain a cross connection control program. A copy of the cross connection control program's records must be available for inspection by the Department upon request for a minimum of three years. The System shall submit to the Department within the aforementioned time period above a written description of how the System's Cross-Connection Control Program is being implemented.

k. Defendant shall develop and implement a record-keeping system in compliance with the requirements of 5 CCR 1003-1, §1.6.3, which shall include but not be limited to the retention of microbiological analyses for at least five (5) years, chemical analyses and sanitary survey summaries, reports, or communications for at least ten (10) years, records of corrective actions for each violation of the Primary Drinking Water Regulations the system incurred for at least three (3) years and copies of public notices and Consumer Confidence Reports and certifications made to the Department for at least three (3) years after issuance. Within thirty (30) calendar days after entry of the Court's Order, Defendant shall provide to the Department a description of and a written certification that it has developed and implemented a record-keeping system in compliance with the requirements of 5 CCR 1003-1, § 1.6.3.

3. The Court hereby assesses penalties against Defendant for a total penalty amount of \$100,000.

DONE AND ORDERED this ____ day of _____, 20__.

District Court Judge

This document constitutes a ruling of the court and should be treated as such.

Current Date: Nov 19, 2009

Case Number: 2009CV97

Case Name: COLORADO DEPARTMENT OF PUBLIC HEALTH AND vs. PYRAMID HOLDINGS
LLC

Court Authorizer

Comments:

Order Granting Plaintiff's Motion for Default Judgment Executed November 19, 2009

/s/ **Judge Michael Schiferl**