



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

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**ENFORCEMENT ORDER &  
ADMINISTRATIVE PENALTY ASSESSMENT**

**NUMBER: DN-091222-1**

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**IN THE MATTER OF: MOUNTAIN AIR RANCH, INCORPORATED**  
**PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0230518**  
**JEFFERSON COUNTY, COLORADO**

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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. Mountain Air Ranch, Incorporated owns and/or operates a drinking water system, known as Mountain Air Ranch, located at or near 8796 S. Mica Mine Gulch Road, in unincorporated Jefferson County, Colorado (the "System").
2. Mountain Air Ranch, Incorporated is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Mountain Air Ranch, Incorporated is 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 #: CO0230518.
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. Mountain Air Ranch, Incorporated provides piped water for human consumption from the System to at least twenty-five (25) of the same persons over six (6) months per year. The System is therefore classified as a "non-transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(94).

8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).
9. On April 15, 2009, a Division representative conducted a compliance inspection of the System, pursuant to the Division's authority under §25-1.5-204, C.R.S. and 5 CCR 1003-1, §1.7, to determine the System's compliance with the Regulations.

**First Violation**  
**(Exceedance of the Maximum Contaminant Level for Microbiological Contaminants)**

10. Pursuant to 5 CCR 1003-1, 5.7(a), the maximum contaminant level for microbiological contaminants is based on the presence or absence of total coliforms in a sample, rather than coliform density.
11. Pursuant to 5 CCR 1003-1, §2.3 and 5.7(a)(2), the System, which collects fewer than 40 total coliform samples per month, exceeds the maximum contaminant level for microbiological contaminants if more than one sample collected during a month is total coliform-positive.
12. Pursuant to 5 CCR 1003-1, §2.3 and §5.7(b), any fecal coliform-positive repeat sample or E. coli-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or E. coli-positive routine sample constitutes a violation of the maximum contaminant level for total coliforms.
13. Pursuant to 5 CCR 1003-1, §5.1.1(b) and §5.1.2(i), the System is required to submit the results of all routine and repeat total coliform sampling and analyses to the Department for review.
14. Division records establish that the System reported total coliform-positive and E. coli-positive routine and repeat results for the following sample dates.

<b>Sample Date</b>	<b>Type of Sample</b>	<b>Total Coliform Result</b>	<b><i>E. coli</i> Result</b>
June 14, 2009	Routine Sample	<b>Positive</b>	<b>Positive</b>
June 17, 2009	Repeat Sample	<b>Positive</b>	Absent
June 17, 2009	Repeat at Original Site	<b>Positive</b>	<b>Positive</b>
June 17, 2009	Repeat Sample	<b>Positive</b>	Absent
June 17, 2009	Repeat Sample	<b>Positive</b>	Absent
June 28, 2009	Repeat at Original Site	<b>Positive</b>	Absent
July 19, 2009	Routine Sample	<b>Positive</b>	Absent
July 22, 2009	Repeat Sample	<b>Positive</b>	Absent

15. Mountain Air Ranch, Incorporated's failure to maintain compliance with the maximum contaminant level for microbiological contaminants during the above described monitoring periods constitutes violations of 5 CCR 1003-1, §2.3 and §5.7(a).

**Second Violation**  
**(Failure to Conduct Routine Monitoring and/or Reporting**  
**For Microbiological Contaminants)**

16. Pursuant to 5 CCR 1003-1, §5.1.1(a), the System must collect total coliform samples at sites, which are representative of water throughout the distribution system according to a written sample-siting plan.
17. Pursuant to 5 CCR 1003-1, §5.1.1(e)(1), a non-community water system using only groundwater and serving 1,000 persons or fewer must monitor in each calendar quarter that the system provides water to the public.
18. Pursuant to 5 CCR 1003-1, §1.6.2, to establish compliance with the Regulations, the Department may require suppliers to conduct performance tests and monitoring, as the Department deems necessary to protect the public health. Due to the lack of approved disinfectant treatment, the Water Quality Control Division established that Mountain Air Ranch, Incorporated shall monitor for total coliform at a frequency based on the population served by the System pursuant to 5 CCR 1003-1, §5.1.1(d). The System, which serves less than 1,000 persons, is therefore required to collect one routine total coliform sample once per month. On March 20, 2009 the Division notified the System of this increased monitoring requirement.
19. Pursuant to 5 CCR 1003-1, §§1.6.4(a) and 5.1.1(b), the System is required to submit the results of all routine total coliform sampling and analyses to the Department for review within (a) the first ten (10) days following the month in which the result is received, or (b) the first ten (10) days following the end of the required monitoring period as stipulated by the Department, whichever of these is soonest.
20. Division records establish that the System has failed to provide the Department with the results of its routine total coliform analyses for the following monitoring periods:

<b>Month</b>	<b>Year</b>	<b>Number of Samples Required</b>	<b>Number of Samples Received</b>
April	2009	1	0

21. Mountain Air Ranch, Incorporated's failure to submit the results of the routine total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a) and §5.1.1(b). Additionally, if Mountain Air Ranch, Incorporated failed to perform routine total coliform monitoring during the identified period, such failure to perform the monitoring further constitutes violation(s) of 5 CCR 1003-1, §1.6.2.

**Third Violation**  
**(Failure to Conduct Follow-Up Monitoring and/or Reporting**  
**for Microbiological Contaminants)**

22. Pursuant to 5 CCR 1003-1, §5.1.2(f), when a system collecting fewer than five (5) routine samples per month has one or more total coliform-positive samples, the system must collect at least five (5) routine (follow-up) total coliform samples during the next month the system provides water to the public.

23. A review of total coliform monitoring data provided to the Department by the System, shows that on August 2, 2009 the System collected a total coliform sample that was determined to be total coliform-positive. As a result of the unsafe sample, the System was required to collect five (5) routine (follow-up) total coliform samples during the month of September 2009.
24. Pursuant to 5 CCR 1003-1, §§1.6.4(a) and 5.1.2(i), the System is required to submit the results of all routine (follow-up) microbiological sampling and analyses to the Department for review.
25. Division records establish that the System did not report to the Division the results of the five (5) required routine (follow-up) total coliform samples for the month of September 2009 as follows:

Month	Year	Number of Samples Required	Number of Samples Received
September	2009	5	1

26. Mountain Air Ranch, Incorporated's failure to submit the results of the System's September routine (follow-up) total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §§1.6.4(a) and 5.1.2(i).. Additionally, if Mountain Air Ranch, Incorporated failed to perform the follow-up total coliform monitoring during the identified period, such failure to perform the monitoring further constitutes violation(s) of 5 CCR 1003-1, §5.1.2(f).

**Fourth Violation**  
**(Failure to Provide or Certify Repeat Public Notifications)**

27. On or about June 18, 2009, the System returned positive total coliform and E. coli sample results that established a total coliform maximum contaminant level violation.
28. Pursuant to 5 CCR 1003-1, §9.2.1(a), the owner or operator of a public water system must give notice to persons served by the water system for all violations of the Colorado Primary Drinking Water Regulations. The term "violations" includes violations of the maximum contaminant level, maximum residual disinfection level, treatment technique, monitoring requirements, and testing procedures.
29. Pursuant to 5 CCR 1003-1, §9.2.2(a) a violation of the maximum contaminant level for total coliforms that is associated with positive fecal coliform or E. coli results requires a Tier 1 public notice.
30. Pursuant to 5 CCR 1003-1, §9.2.2(b), the System must perform the following for a Tier 1 public notice; (1) Provide a public notice as soon as practical but no later than 24 hours after the system learns of the violation; (2) Initiate consultation with the Department as soon as practical, but no later than 24 hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and (3) Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the Department. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.

31. On June 18, 2009, the Division issued a Boil Water Order to the System that outlined the Division's specific expectations for the System's Tier 1 public notice. Further, the Boil Water Order required the System to reissue (repeat) the public notice every two weeks until the Division has determined that the System is operating properly and providing safe drinking water to the public and has provided the System with written correspondence lifting the order.
32. Pursuant to 5 CCR 1003-1, §§9.2.1(c)(3) and 1.6.4(d), the System must send a copy of the public notice to the Department within ten (10) calendar days of completing the public notification requirements for the initial public notice and for any repeat notices. In addition, the System must submit to the Department a certification that it has fully complied with the public notification regulations.
33. Division records establish that the System has not submitted copies of its repeat public notice nor its repeat public notice certifications to the Division.
34. Mountain Air Ranch Incorporated's failure to submit copies to the Department of its required repeat public notifications/certifications constitutes violations of 5 CCR 1003-1, §§9.2.1(c)(3) and 1.6.4(d). If Mountain Air Ranch, Incorporated failed to perform its repeat public notification pursuant to the June 18, 2009 Boil Water Order, this failure constitutes violations of 5 CCR 1003-1, §§9.2.1 and 9.2.2.

**Fifth Violation**  
**(Failure to Develop and Implement a Monitoring Plan)**

35. Pursuant to 5 CCR 1003-1, § 1.12, each public water system shall develop and implement a monitoring plan. Each public water system shall maintain the plan and make it available for inspection by the Department. The monitoring plan shall be designed and implemented to ensure that the water quality monitoring performed by the system is representative of the water distributed to consumers and is consistent with regulatory requirements of the Colorado Primary Drinking Water Regulations.
36. Pursuant to 5 CCR 1003-1, §1.12.1, the System's monitoring plan shall include the information specified in 5 CCR 1003-1, §§1.12.1(a) - (e) as outlined below.
  - a) Part 1 - System Summary: Identify the public water system and provide all of the following: (1) The Colorado public water system identification number (PWSID); (2) The full name of the legal entity (that is, the owner of the system. For example, the name of a corporation, LLC, partnership, sole proprietor, HOA, etc.); (3) The legal entity's address; (4) The name of the legal entity's authorized contact person(s) responsible for the development and implementation of the monitoring plan (if other than the owner); (5) The telephone number of the legal entity or the legal entity's authorized monitoring plan contact person; (6) The system's classification (that is, community, non-transient, non-community, or transient, non-community); (7) The total population-served by the system, by population type (that is, the total of resident, non-transient, and transient consumers); (8) The physical addresses of all system facilities (including master meters) and the latitude and longitude of all facilities, and (9) The physical location of all records required by section 1.6.3.
  - b) Part 2 - Water Sources Details: Identify all water sources capable of being used by the system, (i.e., those connected by conveyances, whether currently producing or not) and a schematic, diagram, or

sketch depicting how the flow from each source is connected to the treatment processes and the distribution system.

- c) Part 3 - Water Treatment Details: Provide a summary of the system's operating characteristics, including a schematic of all treatment processes and their associated temporal utilization that was assumed in the design of the monitoring plan (e.g., use of peaking facilities, alternative water sources, maintenance schedules that take facilities off line, etc.).
  - d) Part 4 - Distribution System Details: Provide a schematic of the distribution system identifying: (1) All entry points to the distribution system; (2) All post entry point treatment facilities; (3) All storage facilities and other finished water reservoirs; (4) All distribution system monitoring points; (5) Any master meters; and (6) All pump stations.
  - e) Part 5 - Individual Rule Sampling Plans: Each sampling plan shall meet all requirements of the respective provision, including: (1) Frequency and approximate time of collection; (2) Sample site location identification and associated identification number; (3) If appropriate, justification for the site selection; (4) Sample preservation, quality assurance, and quality control procedures, including procedures for equipment calibration; (5) Analysis procedure (certified laboratory or on-site by a party approved by the Department); (6) Monitoring results presentation format; (7) Procedures to assess and report compliance status for MCLs, ALs, MRDLs, TTs and, if applicable, disinfection byproduct precursor removal efficiency; (8) The rationale used by the system to identify the sampling locations selected to represent the distribution system, and (9) A process to review and update the selected distribution system sampling locations to account for changes due to growth or other significant changes to the distribution system.
37. During the April 15, 2009 Department inspection, the Division Representative noted that Mountain Air Ranch, Incorporated was unable to produce a copy of the System's monitoring plan, demonstrating to the Division Representative that the System has not developed and implemented a monitoring plan meeting the requirements of 5 CCR 1003-1, §1.12.1.
38. Mountain Air Ranch, Incorporated's failure to develop and implement a monitoring plan constitutes violation(s) of 5 CCR 1003-1, §1.12.

**Sixth Violation**  
**(Failure to Implement a Cross-Connection Control Program)**

39. Pursuant to 5 CCR 1003-1, §12.1, a public water system shall control hazardous cross-connections and protect the public water system from contamination by implementing a cross-connection control program in the following manner:
- a) Identifying potentially uncontrolled hazardous service cross-connections.
  - b) Requiring system users to install and maintain containment devices on any uncontrolled hazardous service cross connections, provided the Department has determined that the device is consistent with the degree of hazard posed by the uncontrolled cross connection.
  - c) Installation of containment devices shall be approved by the public water system upon installation.

- d) All containment devices shall be tested and maintained as necessary on installation and at least annually thereafter, by a Certified Cross-Connection Control Technician.
40. In addition, pursuant to 5 CCR 1003-1, §12.1(c), each public water system shall retain maintenance records for three years for all containment devices and these records shall be available for Department inspection.
41. During the April 15, 2009 inspection, the Division Representative noted that there was no evidence available to demonstrate that the System was implementing a cross-connection control program.
42. Department records to date establish that the System has failed to provide the Department with any information demonstrating that the System has implemented a cross-connection control program.
43. Mountain Air Ranch, Incorporated's failure to implement a cross-connection control program for the System constitutes violation(s) of 5 CCR 1003-1, §12.1.

**Seventh Violation**  
**(Failure to Provide Disinfection Treatment)**

44. Pursuant to 5 CCR 1003-1, §13.2(b), A public water system that uses only groundwater sources which have been determined to not be under the direct influence of surface water shall be disinfected by means or methods which are approved by the Department and are affective in the killing or removal of pathogenic organisms. Disinfection may include physical as well as chemical treatment. When chlorination methods are employed, a sufficient amount of chlorine shall be added to the water to destroy any pathogenic organisms potentially present and to maintain a detectable residual in at least 95 percent of the samples taken at the extremities of the distribution system from which water may be withdrawn.
45. Pursuant to 5 CCR 1003-1, §13.2(d), the Department may waive the requirement for disinfection upon written application by a supplier. Waivers may be granted when competent evidence is submitted by the supplier to establish that the water being supplied to the public is from a protected groundwater source, determined safe and free from contamination. An application for a waiver shall include information regarding the source, distribution and quality of the system's water.
46. Division records establish that the System has not requested or received a disinfection waiver from the Department.
47. Division records to-date establish that the System has not installed Division approved disinfection treatment for the System's distributed water.
48. Mountain Air Ranch, Incorporated's failure to provide Division-approved disinfection treatment and to maintain a detectable disinfectant residual in the System's distributed water constitutes violation(s) of 5 CCR 1003-1, §13.2(b).

**Eighth Violation**  
**(Failure to Obtain Plans and Specifications Approval Prior to Construction, Improvements or Modifications)**

49. Pursuant to 5 CCR 1003-1, §1.11.2(b), 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 design criteria as stated above, and with all applicable laws, standards, rules and regulations.
50. During the April 15, 2009 Department inspection, the Division Representative determined/verified that the plans and specifications for the original System design have not been submitted to and approved by the Department.
51. Division records establish that Mountain Air Ranch, Incorporated has not received plans and specifications approval from the Department for the original System.
52. In a sanitary survey inspection follow-up letter, dated September 3, 2009, addressed to Ron Earthman, the Division Representative advised Mountain Air Ranch, Incorporated of the requirement for the plans and specifications approval for the System and requested Mountain Air Ranch, Incorporated to take immediate action to submit plans and specifications for the System to the Division Representative. The letter requested a written response to the Division representative by October 18, 2009 with the action taken to address this deficiency.
53. Division records to-date establish that the System did not respond to the Division's September 3, 2009 letter and submit plans and specifications of the System for Department approval.
54. Mountain Air Ranch, Incorporated's failure to submit and/or obtain Department approval of the System's plans and specifications prior to construction, improvements or modifications to the System constitutes violation(s) of 5 CCR 1003-1, §1.11.2(b).

**Ninth Violation**  
**(Failure to Retain System Records)**

55. Pursuant to 5 CCR 1003-1, §1.6.3, each supplier shall retain on its premises or at a convenient location near its premises the following records:
  - a) Records of bacteriological analyses made pursuant to Articles 5 and 7 of the Colorado Primary Drinking Water Regulations, for not less than five (5) years. Records of chemical analyses for not less than ten (10) years. The actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:
    - i. The date, place, and time of sampling, and the name of the person who collected the sample;

- ii. Identification of the sample as to whether it was a routine distribution system sample, routine entry-point-to-the-distribution sample (EPTDS), confirmation sample, raw or processed water sample or a special purpose sample;
  - iii. Date of analysis;
  - iv. Laboratory and person responsible for performing analysis;
  - v. The analytical technique/method used, and
  - vi. The results of the analyses.
- b) For each violation of the Colorado Primary Drinking Water Regulations, the records of action taken by the public water system to correct the violation shall be kept for not less than three (3) years after the date on which the last action was taken with respect to the particular violation involved.
- c) Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, a private consultant, or a local, state or federal agency shall be kept for not less than ten (10) years after completion of the sanitary survey.
- d) Records concerning a variance or exemption granted to the system shall be kept for not less than five (5) years following the expiration of such variance or exemption.
- e) Copies of public notices and consumer confidence reports issued pursuant to Article 9 and certifications made to the Department must be kept for not less than three (3) years after issuance.
- f) All records pertaining to the operation and water quality of a public water system are public information and shall be made available to the public by the Department, at request, during normal working hours.
- g) Upon request of the Department the public water system shall submit copies of any records required to be maintained for public notification or copies of any documents in existence, which the Department is entitled to inspect pursuant to the authority of the Colorado Primary Drinking Water Regulations.
56. During the April 15, 2009 Division inspection, the Division representative determined that no analytical data or results were available.
57. In a sanitary survey inspection follow-up letter, dated September 3, 2009, addressed to Ron Earthman, the Division Representative advised Mountain Air Ranch, Incorporated of the requirement for the System to retain and make available monitoring records for review and requested Mountain Air Ranch, Incorporated to respond in writing to the Division representative by October 18, 2009 with the action taken to address the System's record keeping deficiencies.
58. Department records to date establish that the System failed to provide the Department with any information indicating the action taken to address the System's record keeping deficiencies.
59. Mountain Air Ranch, Incorporated's failure to retain System records on the premises, or at a convenient location near its premises, constitutes violations of 5 CCR 1003-1, §1.6.3.

## COMPLIANCE REQUIREMENTS

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Mountain Air Ranch, Incorporated is hereby ordered to:

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

Further, the Division hereby orders Mountain Air Ranch, Incorporated to comply with the following specific terms and conditions of this Enforcement Order.

61. In order to ensure long-term compliance with the Colorado Primary Drinking Water Regulations, specifically including the groundwater disinfection treatment requirements (Article 13) and the microbiological contaminant maximum contaminant level (Article 2 and 5) for public water supplies, Mountain Air Ranch, Incorporated shall evaluate and upgrade, as needed, the System's water sources and/or treatment processes in accordance with the following schedule:

- a) Within fifteen (15) days from the date of this order, retain a qualified individual or entity (experienced in drinking water treatment technologies and operational practices) to evaluate and recommend System improvements to Mountain Air Ranch, Incorporated to ensure compliance with the groundwater disinfection treatment requirements and the microbiological contaminant maximum contaminant level.
- b) Within sixty (60) days from the date of this order, submit Final Design Plans and Specifications for the proposed System improvements and/or the historical or recently constructed system components (e.g. filtration treatment and groundwater source well) for Department review and approval in accordance with 5 CCR 1003-1, §1.11.2 and the State of Colorado Design Criteria for Potable Water Systems.
- c) Within ninety (90) days from the date of the Division's approval of Final Design Plans and Specifications, complete construction/implementation of the Department approved System improvements to ensure long-term compliance with the compliance with the groundwater disinfection treatment requirements and the microbiological contaminant maximum contaminant level.
- d) Within fifteen (15) days of completion, submit a written certification from the design firm (or person) stating that the System improvements were constructed/installed as approved by the Department.

62. Within 24 hours after receipt of this Order, if it has not already done so, Mountain Air Ranch, Incorporated shall reissue (repeat) its tier one public notice (boil water advisory) required by the Division's June 18, 2009 Boil Water Order in accordance with 5 CCR 1003-1, §9.2. Additionally and consistent with the terms of the Division's June 18, 2009 Boil Water Order, Mountain Air Ranch, Incorporated shall reissue (repeat) its tier one public notice (boil water advisory) every two (2) weeks until the Division has provided written correspondence lifting the order. Within ten (10) calendar days of completion of each repeat public notice, Mountain Air Ranch, Incorporated shall submit to the Division, 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 in accordance with 5 CCR 1003-1, §9.2.1(c)(3) and §1.6.4(d).

63. In addition to or in conjunction with paragraph 62 and within thirty (30) calendar days after receipt of this Order, if it has not already done so, Mountain Air Ranch, Incorporated shall issue a public notice in

accordance with 5 CCR 1003-1, §9.2.1 for each violation identified in this Order. Within ten (10) calendar days of completion of each required public notification, Mountain Air Ranch, Incorporated, shall submit to the Division, 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 in accordance with 5 CCR 1003-1, §9.2.1(c)(3) and §1.6.4(d).

*Additional guidance for proper public notification can be viewed at the following Internet location:  
[http://www.cdphe.state.co.us/wq/drinkingwater/pdf/PublicNotice/PN\\_Guidance\\_Mar2003.pdf](http://www.cdphe.state.co.us/wq/drinkingwater/pdf/PublicNotice/PN_Guidance_Mar2003.pdf)*

- 64. Immediately take steps to comply with the microbiological contaminant monitoring/reporting obligations as required by 5 CCR 1003-1, Article 5.
- 65. Within sixty (60) calendar days after receipt of this Order, Mountain Air Ranch, Incorporated shall develop and provide a written records retention policy or procedure outlining how the System will retain System records on the premises, or at a convenient location near its premises, in accordance with 5 CCR 1003-1, §1.6.3.
- 66. Within thirty (30) calendar days after receipt of this Order, Mountain Air Ranch shall submit the results of any microbiological contaminant (total coliform) monitoring performed for the following monitoring periods:

Sample Month	Year	Sample Type
April	2009	Routine
September	2009	Routine Follow-up

- 67. Within forty five (45) calendar days after receipt of this Order, Mountain Air Ranch, Incorporated shall develop and implement a monitoring plan pursuant to 5 CCR 1003-1, §1.12, which includes a microbiological contaminant sampling-siting plan, 5 CCR 1003-1, §5.1.1(a), to reflect the System’s current configuration, treatment and operation. The plan shall specifically outline how Mountain Air Ranch, Incorporated will ensure that samples collected are representative of water quality throughout the distribution system(s), that samples should be taken both with temporal and spatial separation to ensure representative samples are obtained of water quality throughout the distribution system and throughout the month of service and that samples are not to be taken all on the same day. By no later than January 1, 2010, Mountain Air Ranch, Incorporated shall provide the Division with a copy of its written monitoring plan.

*A guidance document on how to prepare a monitoring plan can be viewed at the following internet location:  
<http://www.cdphe.state.co.us/wq/drinkingwater/pdf/MonitoringPlanTemplate.pdf>*

*A guidance document on how to prepare a small system microbiological rule sampling plan can be viewed at the following internet location: [http://www.cdphe.state.co.us/wq/drinkingwater/pdf/Bulletin02\\_01BactSamplingPlanguidanceDoc.pdf](http://www.cdphe.state.co.us/wq/drinkingwater/pdf/Bulletin02_01BactSamplingPlanguidanceDoc.pdf)*

- 68. Within thirty (30) calendar days after receipt of this Order and pursuant to 5 CCR 1003-1, §12.1, Mountain Air Ranch, Incorporated shall provide a written description of how the System’s Cross-Connection Control Program is being implemented.

*A Sample Cross-Connection Control Program for Small Systems guidance document can be viewed at the following internet location: [http://www.cdphe.state.co.us/wq/drinkingwater/pdf/cross\\_connection\\_control.pdf](http://www.cdphe.state.co.us/wq/drinkingwater/pdf/cross_connection_control.pdf)*

69. Within forty five (45) calendar days after receipt of this Order and pursuant to §25-9-110(2)(a), C.R.S. (2008) and 5 CCR 1003-2, §§ 100.1 and 100.21.1, Mountain Air Ranch, Incorporated shall provide a written certification stating that the System is under the direct supervision of an operator in responsible charge, certified at a classification equivalent to or higher than the classification of the System.

*For a list of contract operators or for specific questions regarding the operator certification requirements, please contact Betsy Beaver at 303.692.3503 or by electronic mail at [betsy.beaver@state.co.us](mailto:betsy.beaver@state.co.us).*

### **ORDER FOR ADMINISTRATIVE PENALTY**

70. 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 Department, 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.
71. 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 and sixteen dollars and twenty five cents (\$316.25) for the specific violations identified in this action. The reasoning behind this penalty amount 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**

72. If Mountain Air Ranch, Incorporated does 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:

Bryan Pickle, Drinking Water Enforcement Specialist  
Compliance Assurance Section, Enforcement Unit  
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

*(To facilitate payment processing, please ensure that Mr. Bryan Pickle's name is on the outside of the envelope.)*

73. Payment or appeal of the administrative penalty in this manner does not relieve Mountain Air Ranch, Incorporated of its obligation to perform the activities required by this enforcement action.

### **NOTICES AND SUBMITTALS**

74. For all documents, plans, records, reports and replies required to be submitted by this order, Mountain Air Ranch, Incorporated 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 Section  
Attention: Bryan Pickle  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Email: lauren.worley@state.co.us  
Fax: (303) 692-3547

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

75. 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**

76. Mountain Air Ranch, Incorporated 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 Mountain Air Ranch, Incorporated wishes 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**

77. 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**

78. 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 Mountain Air Ranch, Incorporated does 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 OR APPEAL**

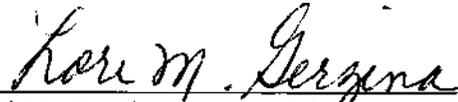
79. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests, 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.
80. Pursuant to §25-1-114.1(2.5)(b) C.R.S. an Administrative Penalty Assessment may be appealed to the Water Quality Control Commission. Requests for such an appeal should be filed in writing with the Water Quality Control Commission within thirty (30) calendar days after service of the penalty assessment. Such requests, at a minimum, shall contain the information specified in 5 CCR 1002-21, §21.4(B)(2). Hearings on Administrative Penalty Assessments 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**

81. 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.
82. 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 22<sup>nd</sup> day of December, 2009.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**



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

**Exhibit A**

**MOUNTAIN AIR RANCH, INCORPORATED  
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0230518  
UNINCORPORATED JEFFERSON COUNTY, COLORADO**

**ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET  
DECEMBER 22, 2009**

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**Penalty Summary**

**Penalty Calculation -Violation Number 2 .....\$120.25**

**Violation** Failure to perform performance tests and monitoring for Microbiological Contaminants  
**Regulation Violated:** 5 CCR 1003-1, §1.6.2

**Penalty Calculation -Violation Number 3 .....\$196.00**

**Violation** Failure to perform routine (follow-up) Microbiological Contaminants monitoring  
**Regulation Violated:** 5 CCR 1003-1, §5.1.2(f)

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**TOTAL PENALTY.....\$316.25**

**ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET**  
**VIOLATION NUMBER: 2**

<b>System Name: Mountain Air Ranch, Incorporated</b>	<b>PWSID Number: CO-0230518</b>
<b>Date of Enforcement Order: December 22, 2009</b>	<b>Number: DN-091222-1</b>
<b>Regulation Violated: 5 CCR 1003-1, §1.6.2</b>	<b>Population Served: 32</b>

**Part I – Base Penalty Calculation**

	<b>Violation Type</b>	<b>Population Range</b>	<b>Amount in Dollars</b>
Line 1	Failure to perform performance tests and monitoring for Microbiological Contaminants (April 2009)	< 500 Served	<b>\$60.00</b>

**Part II – Application of Aggravating or Mitigating Factors**

	<b>Aggravating / Mitigating Factors</b>	<b>% Base Penalty Increase or Decrease</b>	<b>Amount in Dollars</b>
Line 2	Factor A: Threat to Public Health and Welfare <i>Justification: n/a</i>		\$0.00
Line 3	Factor B: Intentional, Reckless, or Negligent Actions <i>Justification: n/a</i>		\$0.00
Line 4	Factor C: Recalcitrance or Recidivism <i>Justification: n/a</i>		\$0.00
Line 5	Factor D: Voluntary and Complete Disclosure of Violations <i>Justification: n/a</i>		\$0.00
Line 6	Factor E: Full and Prompt Cooperation <i>Justification: n/a</i>		\$0.00
Line 7	Factor F: Environmental Compliance Program <i>Justification: n/a</i>		\$0.00
Line 8	Factor G: Other Aggravating or Mitigating Circumstances <i>Justification: n/a</i>		\$0.00
Line 9	Sum of Lines 2 through Line 8		\$0.00
<b>Line 10</b>	<b>Adjusted Base Penalty (Sum of Line 1 + Line 9)</b>		<b>\$60.00</b>

**Exhibit A****Part III – Determination of Days of Violation**

		<b>Days of Violation</b>
Line 11	Total Days of Violation	1
	Justification: The Division has chosen to consider the failure to monitor for April 2009 Microbiological Contaminants violation as a single day violation.	

**Part IV – Determination of Multi-Day Penalty Amount**

		<b>Amount in Dollars</b>
Line 12	Multi-Day Penalty Amount	\$60.00
	Calculations: 1(Day) x (\$60.00) = \$60.00	

**Part V – Economic Benefit Consideration**

		<b>Amount in Dollars</b>
Line 13	Economic Benefit:	\$60.25
	Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has avoided its cost for the tests itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.	

**Part VI – Violation Penalty Total**

		<b>Amount in Dollars</b>
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$120.25

**Part VII – Ability to Pay Adjustment**

		<b>Amount in Dollars</b>
Line 15	Ability to Pay Reduction:	\$0.00
	Justification: Not Applicable. The Division does not have any documented information suggesting that the Mountain Air Ranch, Incorporated has an inability to pay the assessed penalty amount.	

**Part VIII – Final Adjusted Penalty**

		<b>Amount in Dollars</b>
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$120.25

**ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET**  
**VIOLATION NUMBER: 3**

<b>System Name: Mountain Air Ranch, Incorporated</b>	<b>PWSID Number: CO-0230518</b>
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<b>Date of Enforcement Order: December 22, 2009</b>	<b>Number: DN-091222-1</b>
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<b>Regulation Violated: 5 CCR 1003-1, §5.1.2(f).</b>	<b>Population Served: 32</b>
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**Part I – Base Penalty Calculation**

	<b>Violation Type</b>	<b>Population Range</b>	<b>Amount in Dollars</b>
Line 1	Failure to perform routine (follow-up) Microbiological Contaminants monitoring (Sept 2009)	< 500 Served	\$75.00

**Part II – Application of Aggravating or Mitigating Factors**

	<b>Aggravating / Mitigating Factors</b>	<b>% Base Penalty Increase or Decrease</b>	<b>Amount in Dollars</b>
Line 2	Factor A: Threat to Public Health and Welfare <i>Justification: n/a</i>		\$0.00
Line 3	Factor B: Intentional, Reckless, or Negligent Actions <i>Justification: n/a</i>		\$0.00
Line 4	Factor C: Recalcitrance or Recidivism <i>Justification: n/a</i>		\$0.00
Line 5	Factor D: Voluntary and Complete Disclosure of Violations <i>Justification: n/a</i>		\$0.00
Line 6	Factor E: Full and Prompt Cooperation <i>Justification: n/a</i>		\$0.00
Line 7	Factor F: Environmental Compliance Program <i>Justification: n/a</i>		\$0.00
Line 8	Factor G: Other Aggravating or Mitigating Circumstances <i>Justification: n/a</i>		\$0.00
Line 9	Sum of Lines 2 through Line 8		\$0.00

**Exhibit A**

	<b>Aggravating / Mitigating Factors</b>	<b>% Base Penalty Increase or Decrease</b>	<b>Amount in Dollars</b>
<b>Line 10</b>	<b>Adjusted Base Penalty (Sum of Line 1 + Line 9)</b>		<b>\$75.00</b>

**Part III – Determination of Days of Violation**

		<b>Days of Violation</b>
<b>Line 11</b>	<b>Total Days of Violation</b>	<b>1</b>
	Justification: The Division has chosen to consider the September 2009 failure to monitor for Microbiological Contaminants violation as a single day violation.	

**Part IV – Determination of Multi-Day Penalty Amount**

		<b>Amount in Dollars</b>
<b>Line 12</b>	<b>Multi-Day Penalty Amount</b>	<b>\$75.00</b>
	Calculations: 1 (Day) x (\$75.00) 1 = \$75.00	

**Part V – Economic Benefit Consideration**

		<b>Amount in Dollars</b>
<b>Line 13</b>	<b>Economic Benefit:</b>	<b>\$121.00</b>
	Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has avoided its cost for the tests itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.	

**Part VI – Violation Penalty Total**

		<b>Amount in Dollars</b>
<b>Line 14</b>	<b>Total Administrative Penalty: (Line 12 + Line 13)</b>	<b>\$196.00</b>

**Part VII – Ability to Pay Adjustment**

		<b>Amount in Dollars</b>
<b>Line 15</b>	<b>Ability to Pay Reduction:</b>	<b>\$0.00</b>
	Justification: Not Applicable. The Division does not have any documented information suggesting that the Mountain Air Ranch Incorporated has an inability to pay the assessed penalty amount.	

**Part VIII – Final Adjusted Penalty**

		<b>Amount in Dollars</b>
<b>Line 16</b>	<b>Total Administrative Penalty: (Line 14 - Line 15)</b>	<b>\$196.00</b>