

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

March 27, 2009

PWSID# CO-0123679

Mr. Steven Boat, Registered Agent
Riverbend Water and Sewer Company
9433 335 Road
New Castle, CO 81647

Certified Mail Number: 7007 0220 0001 0160 7386

RE: Service of Amendment to Enforcement Order Number: DC-080227-1

Dear Mr. Boat:

Riverbend Water and Sewer Company is hereby issued the enclosed amendment to the Enforcement Order (Number: DC-080227-1) that was issued to Riverbend Water and Sewer Company on February 27, 2008. This order amendment is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §25-1.5-203 of the Colorado Revised Statutes.

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

Sincerely,

Kristi-Raye Beaudin, Legal Assistant
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

cc: Consumer Protection Division, CDPHE

ec: Mark Kadnuck, 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
Carolyn Schachterle, OPA

Enclosures



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

AMENDMENT NUMBER ONE TO ENFORCEMENT ORDER NUMBER: DC-080227-1

**IN THE MATTER OF: RIVERBEND WATER AND SEWER COMPANY
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0123679
GARFIELD 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 amends Enforcement Order Number: DC-080227-1 issued to Riverbend Water and Sewer Company.

GENERAL FINDINGS

1. On February 27, 2008, the Division issued an Enforcement Order: No. DC-080227-1 to Riverbend Water and Sewer Company citing violations of the Colorado Primary Drinking Water Regulations for failure to prepare, certify and/or deliver a consumer confidence report. The Enforcement Order is attached hereto as Exhibit A and is incorporated herein by reference.
2. In response to the Enforcement Order DC-080227-1, Riverbend Water and Sewer Company provided documentation for nitrite monitoring for calendar year 2007.
3. After re-evaluating the facts associated with the issuance of the Enforcement Order Number DC-080227-1 the Division has determined that the following amendments to the enforcement order and the associated administrative penalty assessment are appropriate.

AMENDMENT NUMBER ONE

4. Effective as of the issued date of this Amendment, Enforcement Order Number: DC-080227-1 is therefore amended to revise the Enforcement Order as follows:
 - a. Since Riverbend Water and Sewer Company provided documentation to the Division establishing that the monitoring for nitrite for calendar year 2007 had been conducted, the Order for Administrative Penalty Section, paragraphs 23-30, 36-38 are deleted, and paragraphs 40- 42 are superseded and replaced with the following new paragraphs:

ORDER FOR ADMINISTRATIVE PENALTY

40. 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.
41. 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 six hundred five dollars (\$605.00) 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 B.

TERMS OF ADMINISTRATIVE PENALTY PAYMENT

42. If Riverbend Water and Sewer Company 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:

Mr. Scott Klarich, Unit Manager
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

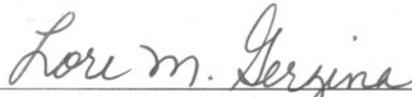
Payment or appeal of the administrative penalty in this manner does not relieve Riverbend Water and Sewer Company of its obligation to perform the activities required by this action.

SCOPE OF AMENDMENT NUMBER ONE

The scope of this Amendment Number One to Enforcement Order Number DC-080227-1 is limited to the revisions outlined above. All other terms and conditions of the Enforcement Order shall remain unchanged and in effect.

Issued at Denver, Colorado, this 27 day of March, 2009.

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 B

RIVERBEND WATER AND SEWER COMPANY
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0123679
GARFIELD COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(February 27, 2008)

Penalty Summary

Penalty Calculation -Violation Number 1 (Count 1) \$70.00
(Counts 2 and 3).....\$115.00

Violation: Failure to Report Residual Disinfection Concentration
Regulation Violated: 5 CCR 1003-1, §7.5

Penalty Calculation -Violation Number 2 \$420.00

Violation: Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five)
Regulation Violated: 5 CCR 1003-1, §7.5

Penalty Calculation -Violation Number 3 (Deleted) \$0.00

Violation Failure to Monitor for Nitrite
Regulation Violated: 5 CCR 1003-1, §6.1.5

TOTAL PENALTY.....\$605.00

Exhibit B

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 1 (Count 1)

System Name: Riverbend Water and Sewer Company	PWSID Number: CO-0123679
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Date of Enforcement Order: February XX, 2008	Number: DC-080227-1
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Regulation Violated: Failure to Report for Residual Disinfection Concentration, 5 CCR 1003-1, §7.5	Population Served: 156
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Part I – Base Penalty Calculation

	Violation Type	Population Type	Amount in Dollars
Line 1:	Failure to Report for Residual Disinfection Concentration – 1 st quarter 2007	< 500 Served	\$30.00

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>		\$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
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$30.00

Exhibit B

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the failure to report for residual disinfection concentration in the 1st quarter 2007 violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$30.00
	Calculations:	
	Day 1 (\$30.00)	= \$30.00

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$40.00
	<i>Justification: The Division believes that Riverbend Water and Sewer Company realized an economic benefit by failing to report since it avoided the cost of the labor involved in calculating and compiling the information into the required reports.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$70.00

Exhibit B

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division does not have any information suggesting that Riverbend Water and Sewer Company has an inability to pay the assessed penalty amount.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$70.00

Exhibit B

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 1 (Counts 2 and 3)

System Name: Riverbend Water and Sewer Company	PWSID Number: CO-0123679
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Date of Enforcement Order: February XX, 2008	Number: DC-080227-1
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Regulation Violated: Failure to Report for Residual Disinfection Concentration, 5 CCR 1003-1, §7.5	Population Served: 156
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Part I – Base Penalty Calculation

	Violation Type	Population Type	Amount in Dollars
Line 1:	Failure to Report for Residual Disinfection Concentration – 2 nd and 3 rd quarter 2007	< 500 Served	\$30.00

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>		\$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: Riverbend Water and Sewer Company failed to report for residual disinfection concentration in 2nd and 3rd quarter of 2007 even after the Division provided specific notice of its 1st quarter 2007 failure to report violation. In addition, the Division provided specific information on the Division's ongoing expectations on multiple occasions which the system disregarded.</i>	+25%	\$7.50
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

Exhibit B

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$115.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
<i>Justification: Not Applicable – The Division does not have any information suggesting that Riverbend Water and Sewer Company has an inability to pay the assessed penalty amount.</i>		

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$115.00

Exhibit B

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 2

System Name: Riverbend Water and Sewer Company	PWSID Number: CO-0123679
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Date of Enforcement Order: February XX, 2008	Number: DC-080227-1
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Regulation Violated: Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five), 5 CCR 1003-1, §7.5	Population Served: 156
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1:	Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five) – 2007	< 500 Served	\$100.00

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>		\$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 B

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$420.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
<i>Justification: Not Applicable – The Division does not have any information suggesting that Riverbend Water and Sewer Company have an inability to pay the assessed penalty amount.</i>		

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$420.00