

# STATE OF COLORADO

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

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

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Colorado Department  
of Public Health  
and Environment

April 13, 2009

PWSID#CO-0111300

Certified Mail Number: 7007 0220 0001 0160 6143

Rossi Duran

Conejos Water and Sanitation Association (Conejos Water System)

PO Box 86

Antonito, CO 81120

**RE: Service of Amendment to Enforcement Order Number: DC-081118-1**

Dear Mr. Duran:

Conejos Water and Sanitation Association is hereby issued the enclosed amendment to the Enforcement Order (Number: DC-081118-1) that was issued to Conejos Water and Sanitation Association on November 18, 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](mailto: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  
Compliance Monitor / Drinking Water File
- ec: Tim Vrudny, 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**

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**AMENDMENT NUMBER ONE TO ENFORCEMENT ORDER NUMBER: DC-081118-1**

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**IN THE MATTER OF: CONEJOS WATER AND SANITATION ASSOCIATION  
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0111300  
CONEJOS 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 has been delegated to the Department's Water Quality Control Division (the "Division"), the Division hereby amends Enforcement Order Number: DC-081118-1 issued to Conejos Water and Sanitation Association.

**GENERAL FINDINGS**

1. On November 18, 2008, the Division issued an Enforcement Order Number: DC-081118-1 to Conejos Water and Sanitation Association citing violations of the Colorado Primary Drinking Water Regulations for failure to monitor for total trihalomethanes ("TTHM") and haloacetic acids (five)("HAA5") during calendar years 2007 and 2008. The Enforcement Order is attached hereto as Exhibit A and is incorporated herein by reference.
2. In response to the Enforcement Order DC-081118-1, Conejos Water and Sanitation Association provided documentation that the system sampled for TTHM and HAA5 during calendar years 2007 and 2008, but failed to report to the Division in a timely manner.
3. After re-evaluating the facts associated with the issuance of the Enforcement Order Number: DC-081118-1 the Division has determined that the following amendments to the enforcement order and the corrected amount for the associated administrative penalty assessment are appropriate.

**AMENDMENT NUMBER ONE**

4. Effective as of the issued date of this Amendment, Enforcement Order Number: DC-081118-1 is therefore amended to revise the Enforcement Order as follows:
  - a. Since Conejos Water and Sanitation Association provided documentation to the Division establishing that the system sampled for TTHM and HAA5 during the calendars year 2007 and 2008 monitoring periods, but failed to report to the Division in a timely manner, the Order for

Administrative Penalty Section, paragraphs 21-23, are superseded and replaced with the following new paragraphs:

**ORDER FOR ADMINISTRATIVE PENALTY**

21. 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.
  
22. 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 one hundred twenty-five dollars (\$125.00) 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**

23. If Conejos Water and Sanitation Association 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 Conejos Water and Sanitation Association of its obligation to perform the activities required by this action.

Administrative Penalty Section, paragraphs 21-23, are superseded and replaced with the following new paragraphs:

**ORDER FOR ADMINISTRATIVE PENALTY**

21. 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.
  
22. 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 one hundred twenty-five dollars (\$125.00) 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**

23. If Conejos Water and Sanitation Association 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

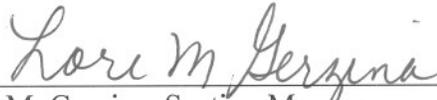
Payment or appeal of the administrative penalty in this manner does not relieve Conejos Water and Sanitation Association of its obligation to perform the activities required by this action.

**SCOPE OF AMENDMENT NUMBER ONE**

The scope of this Amendment Number One to Enforcement Order Number DC-081118-1 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 13<sup>th</sup> day of April, 2009.

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



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

Exhibit B

CONEJOS WATER AND SANITATION ASSOCIATION  
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0111300  
CONEJOS COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET  
(November 18, 2008)

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Penalty Summary

Penalty Calculation -Violation Number 1 (Count 1-2007) ..... \$50.00  
(Count 2-2008) ..... \$75.00

**Violation** Failure to Report for Total Trihalomethanes and Haloacetic Acids (five)  
**Regulation Violated:** 5 CCR 1003-1, §7.6

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**TOTAL PENALTY**.....**\$125.00**

Exhibit B

**ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET**

**VIOLATION NUMBER: 1 (Count 1-2007)**

<b>System Name:</b> Conejos Water System	<b>PWSID Number:</b> CO-0111300
<b>Date of Enforcement Order:</b> November 18, 2008	<b>Number:</b> DC-081118-1
<b>Regulation Violated:</b> Failure to Report for TTHM and HAA5, 5 CCR 1003-1, §7.6	<b>Population Served:</b> 200

**Part I – Base Penalty Calculation**

	<b>Violation Type</b>	<b>Population Range</b>	<b>Amount in Dollars</b>
Line 1	Failure to Report for TTHM and HAA5 – Calendar Year 2007	< 500 Served	<b>\$50.00</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

Exhibit B

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
<b>Line 10</b>	<b>Adjusted Base Penalty</b> (Sum of Line 1 + Line 9)		<b>\$50.00</b>

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	<b>1</b>
	<i>Justification: The Division has chosen to consider the 2007 failure to report for TTHM and HAA5 violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	<b>\$50.00</b>
	Calculations:	
	Day 1 (\$50.00) = \$50.00	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	<b>\$50.00</b>
	<i>Justification: n/a</i>	

Exhibit B

**Part VI – Violation Penalty Total**

			Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)		\$50.00

**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 the Conejos Water and Sanitation Association 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)		\$50.00

Exhibit B

**ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET**  
**VIOLATION NUMBER: 2 (Count 1-2008)**

<b>System Name: Conejos Water and Sanitation System</b>	<b>PWSID Number: CO-0111300</b>
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<b>Date of Enforcement Order: November 18, 2008</b>	<b>Number: DC-081118-1</b>
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<b>Regulation Violated: Failure to Report for TTHM and HAA5, 5 CCR 1003-1, §7.6</b>	<b>Population Served: 200</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 Report for TTHM and HAA5 – Calendar Year 2008	< 500 Served	<b>\$50.00</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: The Conejos Water and Sanitation Association also failed to report for TTHM and HAA5 during the compliance period of January 1, 2007 through December 31, 2007. Therefore, the Conejos Water and Sanitation Association has demonstrated a history/pattern of not obeying or complying with their regulatory obligations, thereby revealing a level of disregard for regulatory programs. The Conejos Water and Sanitation Association's continued noncompliance with the same violation supports an upward adjustment of 50%.</i>	+50%	\$25.00
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		\$0.00

**Exhibit B**

	<b>Aggravating / Mitigating Factors</b>	<b>% Base Penalty Increase or Decrease</b>	<b>Amount in Dollars</b>
	<i>Justification: n/a</i>		
Line 8	Factor G: Other Aggravating or Mitigating Circumstances		\$0.00
	<i>Justification: n/a</i>		
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>\$75.00</b>

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

		<b>Days of Violation</b>
Line 11	Total Days of Violation	<b>1</b>
	<i>Justification: The Division has chosen to consider the 2008 failure to report for TTHM and HAA5 violation as a single day violation.</i>	

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

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

**Part V – Economic Benefit Consideration**

		<b>Amount in Dollars</b>
Line 13	Economic Benefit:	<b>\$0.00</b>
	<i>Justification: n/a</i>	

Exhibit B

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$75.00

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 the Conejos Water and Sanitation Association 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)	\$75.00