

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

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
TDD Line (303) 691-7700
Located in Glendale, Colorado

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

May 29, 2009

Certified Mail Number: 7005 1820 0000 3208 0640

PWSID#CO-0134840

J. Douglas Shand, Registered Agent
The Glacier Club, Inc.
150 E. 9th Street, Ste. 400
Durango, CO 81301

RE: Service of Drinking Water Enforcement Order, Number: DX-090529-3

Dear Mr Shand:

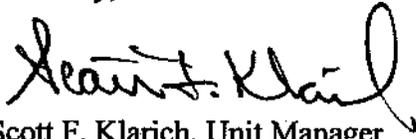
The Glacier Club, Inc. is hereby issued the enclosed Enforcement Order (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that The Glacier Club Inc. has violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order The Glacier Club, Inc. may request a formal hearing to contest the Order in accordance with the Regulations, 5 CCR 1003-1, §1.6.7(g). Requests for such a hearing must be filed in writing with the Department within thirty (30) calendar days after service of the Order. Hearings on enforcement orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

This action could result in the imposition of administrative or civil penalties. The Department or a State District Court is authorized pursuant to §25-1-114.1, C.R.S. to impose a penalty of up to \$1,000 per violation per day. Please be advised that the Department is continuing its investigation into this matter and the Department may identify supplementary violations that warrant amendments to this Order or the issuance of additional enforcement actions.

Should The Glacier Club, Inc. desire to informally discuss this matter with the Department or if you have any questions regarding the Order, please don't hesitate to contact Scott Klarich at (303) 692-356 by electronic mail at scott.klarich@state.co.us.

Sincerely,



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

Enclosures:

Enforcement Order & Administrative Penalty
Exhibit A – Administrative Penalty Computation Worksheets

cc: La Plata County Environmental Health Department
Bill Kroeker, ORC/Administrative Contact – 40290 Hwy 550 N., Durango, CO 81301
Drinking Water Enforcement File

cc: Greg Brand, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Carolyn Schachterle, OPA



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION

ENFORCEMENT ORDER

NUMBER: DC-090529-3

IN THE MATTER OF: THE GLACIER CLUB, INC.
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0134840
LA PLATA 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 makes the following findings and issues the following Enforcement Order:

GENERAL FINDINGS

1. The Glacier Club, Inc., owns and/or operates a drinking water system, known as the Glacier Club, located in the vicinity of 40290 US Highway 550 N, near the City of Durango, in La Plata County, Colorado (the "System").
2. The Glacier Club, Inc. is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. The Glacier Club, Inc. 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 #: CO-0134840.
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. The Glacier Club, Inc. provides piped water for human consumption from the System to at least fifteen (15) service connections used by year-round residents of the area served by the System and/or regularly serves at least twenty-five (25) year-round residents. The System is therefore classified as a "community water system" as defined by 5 CCR 1003-1, §1.5.2(15).

8. The source of the water served by the System originates from both ground water (2 wells) and surface water (Animas River and Elbert Creek). Systems that utilize both groundwater and surface water sources are classified as surface water as defined by 5 CCR 1003-1, §1.5.2(129).

First Violation
(Inadequate Disinfection Byproduct Precursor Removal)

9. Division records establish that the System utilizes conventional filtration treatment, as defined by 5 CCR 1003-1, §1.5.2(27), to achieve the filtration treatment requirements of 5 CCR 1003-1, §7.1.3.
10. Division records establish that the System utilizes hypochlorination to achieve the disinfection treatment requirements of 5 CCR 1003-1, §7.1.2.
11. Pursuant to 5 CCR 1003-1, §7.6.1(a), the regulations in 5 CCR 1003-1, §7.6 establish criteria under which community water systems and non-transient, non-community water systems which add a chemical disinfectant to the water in any part of the drinking water treatment process must modify their practices to meet the treatment technique requirements for disinfection byproduct precursors in section 5 CCR 1003-1, §7.6.4(d).
12. Pursuant to 5 CCR 1003-1, §7.6.6(a)(1), surface water systems using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the total organic carbon ("TOC") percent removal levels specified in 5 CCR 1003-1, §7.6.6(b) unless the system meets at least one of the alternative compliance criteria listed in 5 CCR 1003-1, §7.6.6(a)(2) or (a)(3).
13. Pursuant to 5 CCR 1003-1, §7.6.6(b)(1), the System must achieve the percent reduction of total organic carbon specified in 5 CCR 1003-1, §7.6.6(b)(2) between the source water and the combined filter effluent, unless the Department approves a system's request for alternate minimum total organic carbon removal (Step 2) requirements under 5 CCR 1003-1, §7.6.6(b)(3).
14. Division records establish that the water quality data supplied to the Department from the System does not demonstrate that any of the alternative compliance criteria listed in 5 CCR 1003-1, §7.6.6(a)(2) or (a)(3) are currently applicable.
15. Therefore, pursuant to 5 CCR 1003-1, §7.6.6(b)(2), the System is required to achieve the Step 1 total organic carbon reductions, indicated in the following table (5 CCR 1003-1, Table 2-11 or Table 7.23), based upon specified source water parameters measured in accordance with 5 CCR 1003-1, §10.7.4. Systems practicing softening are required to meet the Step 1 total organic carbon reductions in the far-right column (source water alkalinity 120 mg/L) for the specified source water total organic carbon:

Source water TOC, mg/L	Source water alkalinity, mg/L as CaCO ₃		
	0-60	>60-120	>120
	TOC Required Removal (in percentages)		
>2.0-4.0	35.0	25.0	15.0
>4.0-8.0	45.0	35.0	25.0
>8.0	50.0	45.0	30.0

16. Pursuant to 5 CCR 1003-1, §7.6.6(c), the System must calculate compliance quarterly, beginning after the system has collected 12 months of data, by determining a running annual average using the following method:
- For each month, determine actual monthly total organic carbon percent removal, equal to: $(1 - (\text{treated water total organic carbon} / \text{source water total organic carbon})) \times 100$;
 - For each month, determine the required monthly total organic carbon percent removal from 5 CCR 1003-1, Table 7-23 or from 5 CCR 1003-1, §7.6.6(b)(3);
 - Divide the percent removal value from "a" above by required monthly total organic carbon percent removal from "b" above;
 - Add together the results from "c" for the last 12 months and divide by 12;
 - If the value calculated in "d" above is less than 1.00, the system is not in compliance with the total organic carbon percent removal requirement.
17. Pursuant to 5 CCR 1003-1, §7.6(d), systems monitoring monthly or quarterly for total organic carbon under the requirements of 5 CCR 1003-1, §7.6.3(d) and required to meet the enhanced coagulation or enhanced softening requirements in 5 CCR 1003-1, §7.6.6(b)(2) or (3) must report the following information to the Department within 10 days after the end of each quarter in which samples were collected, notwithstanding the provisions of 5 CCR 1003-1, §1.6.4:
- The number of paired (source water and treated water) samples taken during the last quarter.
 - The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.
 - For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of total organic carbon for each paired sample and the required total organic carbon percent removal.
 - Calculations for determining compliance with the total organic carbon percent removal requirements, as provided in 5 CCR 1003-1, §7.6.6(c)(1).
 - Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in 5 CCR 1003-1, §7.6.6(b) for the last four quarters.

(Note: The Department may perform calculations and determine whether the treatment technique was met, in lieu of having the system report that information.)

18. A review of the total organic carbon monitoring data, provided to the Department by the System, identifies the following instances in which the total organic carbon removal ratio requirements were not met:

Compliance Period	Running Annual Average (RAA) TOC Removal Ratio	Required TOC Removal Ratio (as RAA)	Alternative Compliance Criteria Met
3 rd Quarter 2008	0.58	≥ 1.00	None
1 st Quarter 2009	0.95	≥ 1.00	None

19. Pursuant to 5 CCR 1003-1, §7.6.6(b)(3), surface water conventional treatment systems that cannot achieve the Step 1 total organic carbon removals required by 5 CCR 1003-1, §7.6.6(b)(2) due to water quality parameters or operational constraints must apply to the Department, within three months of failure to achieve the total organic carbon removals required by 5 CCR 1003-1, §7.6.6(b)(2), for approval of alternative minimum total organic carbon (Step 2) removal requirements submitted by the system. If the Department approves the alternative minimum total organic carbon removal (Step 2) requirements, the Department may make those requirements retroactive for the purposes of determining compliance. Until the Department approves the alternate minimum total organic carbon removal (Step 2) requirements, the system must meet the Step 1 total organic carbon removals contained in 5 CCR 1003-1, §7.6.6(b)(2).
20. Department records establish that the System has not applied to the Department for approval of alternative minimum total organic carbon removal (Step 2) requirements.
21. The Department sent out Compliance Advisories on November 11, 2008 and April 29, 2009 regarding the alleged violations of the treatment technique for control of disinfection byproducts precursors (inadequate disinfection byproduct precursor removal).
22. The Glacier Club, Inc.'s failure to comply with the Step 1 total organic carbon removal ratio requirements constitutes violations of 5 CCR 1003-1, §7.6.6(b)(2).

COMPLIANCE REQUIREMENTS

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, The Glacier Club, Inc. is hereby ordered to:

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

Further, the Division hereby orders The Glacier Club, Inc. to comply with the following specific terms and conditions of this Enforcement Order.

24. In order to ensure long-term compliance with the disinfection byproduct precursor removal requirements outlined in 5 CCR 1003-1, §7.6.6, The Glacier Club, Inc. shall evaluate and modify or upgrade, as needed, the System's water sources, collection systems, operational practices and/or treatment processes including the enhanced coagulation process in accordance with the following schedule:
 - a. Within thirty (30) calendar days of receipt of this Enforcement Order, The Glacier Club, Inc. shall retain a qualified Professional Engineer (experienced in enhanced coagulation treatment for drinking water supplies) to evaluate the System's water sources, collection systems, operational practices and treatment processes, specifically including the System's enhanced coagulation treatment process.

- b. Within ninety (90) calendar days of the receipt of this Enforcement Order, The Glacier Club, Inc. shall submit a written report identifying the Professional Engineer's recommended strategy to achieve compliance with the disinfection byproduct precursor removal requirements (5 CCR 1003-1, §7.6.6). The submitted report shall include, at a minimum, the following elements:
- i. An outline of all corrective actions for the disinfection byproduct precursor removal requirements that the System has evaluated and/or implemented prior to the receipt of this Enforcement Order.
 - ii. An outline of the findings of the Professional Engineer's evaluation.
 - iii. A description of the proposed compliance strategy and/or any modifications or upgrades.
 - iv. An implementation schedule for the compliance strategy, modifications or upgrades.
 - v. Schedule to submit Final Design Plans and Specifications for system modifications or upgrades, as applicable, for Department review and approval.
 - vi. Commitment to a submittal of a written certification that the System has implemented all specified compliance strategies, modifications or upgrades and the System has returned to compliance with the disinfection byproduct precursor removal requirements outlined in 5 CCR 1003-1, §7.6.6.

The schedules submitted shall become a condition of this Enforcement Order and The Glacier Club, Inc. shall implement the identified compliance strategy, modifications or upgrades in accordance with the submitted schedule(s) unless notified by the Division, in writing, that alternate activities or improvements and/or time schedule(s) are appropriate. If the Division imposes alternate activities or improvements and/or time schedule(s), they shall also become a condition of this Enforcement Order.

- c. Within sixty (60) calendar days of the Department approval of the above report, The Glacier Club, Inc. shall submit Final Design Plans and Specifications for any System improvements for Department review and approval in accordance with the State of Colorado Design Criteria for Potable Water Systems.

(Note: For specific questions regarding the disinfection byproduct precursor removal requirements or the Division's expectations of The Glacier Club, Inc. outlined above, please don't hesitate to contact the Division's Disinfection Byproducts Rule Manager, Ms. Emily Clark, at (303) 692-3502 or by electronic mail at emily.clark@state.co.us.)

25. The Glacier Club, Inc. shall submit "System Evaluation/Improvement Project - Progress Reports" to the Department every sixty (60) calendar days. The first report shall be submitted to the Department within thirty (30) calendar days after receipt of this Enforcement Order. At a minimum, each report shall clearly indicate the status of the system evaluation/improvement project at the time the report is filed and outline activities to be undertaken within the next sixty (60) calendar days. These reports shall be required until the System has demonstrated reliable and consistent compliance with the disinfection byproduct precursor removal requirements outlined in 5 CCR 1003-1, §7.6.6.

26. Within thirty (30) calendar days after receipt of this Enforcement Order, if it has not already done so, The Glacier Club, Inc. shall issue a public notice in accordance with 5 CCR 1003-1, §9.2 for each violation identified in this Order. Within ten (10) calendar days of completion of each required public notification, The Glacier Club, Inc., 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.

*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*

NOTICES AND SUBMITTALS

27. For all documents, plans, records, reports and replies required to be submitted by this Enforcement Order, The Glacier Club, Inc. shall submit an original and one copy (electronic is preferred) to the Division at the following address:

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

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

28. 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

29. The Glacier Club, Inc. 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 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

30. 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. A Professional Engineer registered in the State of Colorado shall design all treatment systems serving a community water supply. 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

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

REQUEST FOR HEARING OR APPEAL

32. 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 shall state the grounds upon which the order is contested and state the amount of time the recipient estimates will be required for the hearing. 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.

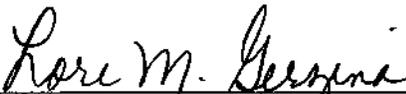
ADDITIONAL ACTION

33. 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.

34. 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 29th day of May, 2009.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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