

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

May 29, 2009

Certified Mail Number: 7005 1820 0000 3208 0633

PWSID#CO-0235506
Robert U. Vigil, Registered Agent
Harvest House For Women
5532 Highway 36
Estes Park, CO 80517

RE: Service of Drinking Water Enforcement Order, Number: DC-090529-1

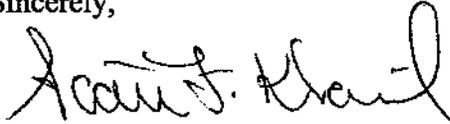
Dear Mr. Vigil:

Harvest House For Women is hereby issued the enclosed Enforcement Order and Administrative Penalty Assessment (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 and §25-1-114.1 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that Harvest House For Women has violated the Colorado Primary Drinking Water Regulations (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order and administrative penalty assessment Harvest House For Women may request a formal hearing to contest the action in accordance with 5 CCR 1003-1, §1.6.7(g) and/or §25-1-114.1(2.5)(b) C.R.S. Requests for such a hearing must be filed in writing with the Department and/or the Water Quality Control Commission within thirty (30) calendar days after service of the Order. Hearings on enforcement orders and penalty assessments shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

Should Harvest House For Women 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) 692-3564 or 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: Larimer County Environmental Health Department
Drinking Water Enforcement File

cc: David Kurz, 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 &
ADMINISTRATIVE PENALTY ASSESSMENT**

NUMBER: DC-090529-1

**IN THE MATTER OF: HARVEST HOUSE FOR WOMEN
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0235506
LARIMIER 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. Harvest House for Women ("Harvest House") owns and/or operates a drinking water system located at or near 5532 Highway 36, near the Town of Estes Park, Larimer County, Colorado (the "System").
2. Harvest House is a person(s) as defined by 5 CCR 1003-1, §1.5.2(98).
3. Harvest House 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 Division is PWSID #: CO-0235506.
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. Harvest House 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 System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).
9. On April 10, 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
(Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five))

10. Pursuant to 5 CCR 1003-1, §7.6.1(b)(1), all community water systems and non-transient, non-community water systems, unless otherwise noted, must comply with the total trihalomethanes ("TTHM") and haloacetic acids (five) ("HAA5") monitoring requirements of 5 CCR 1003-1, §7.6.
11. Division records establish that the System utilizes hypochlorination to achieve chemical disinfection.
12. Pursuant to 5 CCR 1003-1, §7.6.3(b)(1), the System must monitor for TTHM and HAA5 at the following frequency, time and location(s):

Type of System	Minimum Monitoring Frequency	Sample Location in the Distribution System
System using only groundwater not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons.	One sample per year per treatment plant during month of warmest water temperature.	Locations representing maximum residence time. If the sample (or average of annual samples, if more than one sample is taken) exceeds the MCL, the system must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in paragraph (b)(1)(iv) of this section.

13. The *Official 2008 Drinking Water Monitoring Schedule* provided to the System by the Department outlined that Harvest House was required to monitor for TTHM and HAA5 in the distribution system (monitoring point DS001) between July 1, 2008 and July 31, 2008 for the calendar year 2008 monitoring period.
14. Pursuant to 5 CCR 1003-1, §7.6.5(a), systems required to sample less frequently than quarterly must report to the Department within ten (10) days after the end of each monitoring period in which samples were collected.
15. Department records to-date establish that Harvest House failed to submit results to the Department of its annual TTHM and HAA5 monitoring for calendar year 2008.

16. Harvest House's failure to submit the results of its annual TTHM and HAA5 analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §7.6.5(a). Additionally, if Harvest House failed to perform its annual TTHM and HAA5 analyses during the identified period, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§7.6.1(b)(1) and 7.6.3(b)(1).

Second Violation

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

17. 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. 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 design criteria as stated above, and with all applicable laws, standards, rules and regulations.
18. During the April 10, 2009 Department inspection, the Division representative observed that an anion exchange treatment unit had been installed at the System. Harvest House representatives advised the Division representative that Harvest House had installed an anion exchange treatment unit on the System for the removal of uranium in approximately April of 2008.
19. Division records establish that Harvest House has not received plans and specifications approval from the Department for the installation of an anion exchange (uranium) treatment unit.
20. Harvest House'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 constitute violation(s) of 5 CCR 1003-1, §1.11.2(b).

Third Violation

(Failure to Prepare a Complete Microbiological Contaminants Sample-Siting Plan)

21. 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.
22. Pursuant to 5 CCR 1003-1, §1.12.1(e), each monitoring plan prepared by the System must contain Individual Rule Sampling Plans. Each sampling plan shall meet all requirements of the respective provision, including:

- a. Frequency and approximate time of collection;
 - b. Sample site location identification and associated identification number;
 - c. If appropriate, justification for the site selection;
 - d. Sample preservation, quality assurance, and quality control procedures, including procedures for equipment calibration;
 - e. Analysis procedure (certified laboratory or on-site by a party approved by the Department);
 - f. Monitoring results presentation format;
 - g. Procedures to assess and report compliance status for MCLs, ALs, MRDLs, TTs and, if applicable, disinfection byproduct precursor removal efficiency;
 - h. The rationale used by the system to identify the sampling locations selected to represent the distribution system, and
 - i. 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.
23. During the April 10, 2009 Department inspection, the Division representative determined that the System had an inadequate microbiological contaminants sample-siting plan. The Division Representative reviewed the system's microbiological contaminant sampling-siting plan and noted the following deficiencies:
- a. The plan did not outline the rationale used by the system to identify the sampling locations selected to represent the distribution system.
 - b. The plan did not contain analysis procedures.
 - c. The plan lacked procedures for sampling, quality assurance and quality control procedures.
24. Harvest House's failure to develop a complete written microbiological contaminants sample-siting plan constitutes violations of 5 CCR 1003-1, §5.1.1(a) and §1.12.1(e).

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

25. 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.

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.

26. During the April 10, 2009 Department inspection, the Division Representative noted that there was no evidence available to demonstrate that the System was continuing to implementing a cross-connection control program.
27. Harvest House's failure to implement a cross-connection control program for the System constitutes violation(s) of 5 CCR 1003-1, §12.1.

COMPLIANCE REQUIREMENTS

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Harvest House is hereby ordered to:

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

Further, the Division hereby orders Harvest House to comply with the following specific terms and conditions of this Order.

29. Immediately initiate efforts to comply with the TTHM and HAA5 monitoring/reporting obligations as required by 5 CCR 1003-1, §7.6.
30. Within fourteen (14) calendar days after receipt of this Order, Harvest House shall submit the results of any TTHM and HAA5 monitoring performed for calendar year 2008.
31. Harvest House shall perform TTHM and HAA5 monitoring in the distribution system between July 1, 2009 and July 31, 2009. The TTHM and HAA5 samples must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. Harvest House shall provide the Department with the results of the TTHM and HAA5 monitoring within ten (10) calendar days of receipt of the results from the laboratory.
32. Within sixty (60) calendar days after receipt of this Order, Harvest House shall submit for Department review and approval plans and specifications for the System's infrastructure and the recently constructed anion exchange (uranium) treatment unit. Upon review of the submitted plans and specifications, if the Department determines that the implemented system design and recent improvements are deficient, Harvest House shall within sixty (60) calendar days of the Department's notice certify in writing that the deficiencies have been corrected, as necessary, and that the System is now constructed in accordance with the Department approved design plans, specifications and the Regulations.

Please note: All systems serving a community water supply shall be designed by a Professional Engineer registered in the State of Colorado. The Division's application for Construction Approval can be found at the following internet location:

http://www.cdphe.state.co.us/wq/drinkingwater/pdf/CapacityDevelopment/Attachment2_NewSystem_Capacity.pdf

33. Within thirty (30) calendar days after receipt of this Order, Harvest House shall review and update its microbiological contaminant sampling-siting plan and its monitoring plan for conformance with 5 CCR 1003-1, §5.1.1(a) and §1.12.1(e). Within forty five (45) calendar days after receipt of this Order, Harvest House shall provide the Division with a copy of its current written microbiological contaminant sampling-siting plan / monitoring plan.

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

34. Within thirty (30) calendar days after receipt of this Order, Harvest House 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

35. Within thirty (30) calendar days after receipt of this Order, if Harvest House has not already done so, Harvest House 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, Harvest House shall submit to the Department, along with the mandatory certification, a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by Harvest House and/or to the media.

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

36. 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, Harvest House 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 besty.beaver@state.co.us.

ORDER FOR ADMINISTRATIVE PENALTY

37. 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 and 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.
38. 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 ninety dollars (\$390.00) for the specific violation(s) 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

39. If Harvest House 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:

Ms. Lauren Worley, Drinking Water Enforcement Specialist
Compliance Assurance Section
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 Ms. Worley's name is on the outside of the envelope.)

40. Payment or appeal of the administrative penalty in this manner does not relieve Harvest House of its obligation to perform the activities required by this enforcement action.

NOTICES AND SUBMITTALS

41. For all documents, plans, records, reports and replies required to be submitted by this order, Harvest House 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 / Enforcement Team
Attention: Lauren Worley
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: lauren.worley@state.co.us
Fax: (303) 782-0390

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

42. 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

43. Harvest House 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 Harvest House 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 Harvest House's Notice of Completion.

PRIOR APPROVAL REQUIRED

44. 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. 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

45. 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 Harvest House 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

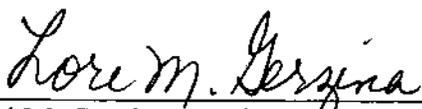
46. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests 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.
47. 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.

ADDITIONAL ACTION

48. 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.
49. 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

**HARVEST HOUSE FOR WOMEN
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0235506
LARIMER COUNTY, COLORADO**

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

5/29/2009

Penalty Summary

Penalty Calculation -Violation Number 1 \$390.00

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

Penalty Calculation -Violation Number 2 Reserved

**Violation: Failure to Obtain Plans and Specifications Approval Prior to Construction
Regulation Violated: 5 CCR 1003-1, §1.11.2(b)**

Penalty Calculation -Violation Number 3 Reserved

**Violation: Failure to Prepare a Complete Microbiological Sample-Siting Plan
Regulation Violated: 5 CCR 1003-1, §7.6**

Penalty Calculation -Violation Number 4 Reserved

**Violation: Failure to Implement a Cross-Connection Control Program
Regulation Violated: 5 CCR 1003-1, §12.1**

TOTAL PENALTY..... \$390.00

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1

System Name: Harvest House For Women	PWSID Number: CO-0235506
Date of Enforcement Order: 5/29/2009	Number: DC-090529-1
Regulation Violated: Failure to Monitor for TTHM and HAA5, 5 CCR 1003-1, §7.6	Population Served: 40

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for TTHM and HAA5 – Calendar Year 2008	< 40 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
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$100.00

