

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

September 9, 2009

Z.O. Hamilton, Chair
Prairie Center Metropolitan District No. 9
141 Union Boulevard, Suite 150
Lakewood, CO 80228

Certified Mail Number: 7005 1820 0000 3212 8298

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-090909-2

Dear Mr. Hamilton:

Prairie Center Metropolitan District No. 9 is hereby served with the enclosed Notice of Violation/ Cease and Desist Order (the "NOV/CDO"). This NOV/CDO 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 §§25-8-602 and 25-8-605, C.R.S. of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases this NOV/CDO upon findings that Prairie Center Metropolitan District No. 9 has violated the Act, and/or Permit regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Prairie Center Metropolitan District No. 9 is required, within thirty (30) calendar days of issuance of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S. to impose a penalty of \$10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.

Should you or representatives of Prairie Center Metropolitan District No. 9 desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact Kelly Morgan of this office by phone at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,



Kelly Morgan
Compliance Assurance Section
Enforcement Unit
WATER QUALITY CONTROL DIVISION

cc: Park County Environmental Health Department
MS-3 File

ec: Aaron Urdiales, EPA Region VIII
Paul Kirn, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Gary Beers, Permits Unit, CDPHE
Carolyn Schachterle, OPA
Barry Cress, DOLA

Enclosure(s)



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: IO-090909-2

IN THE MATTER OF: PRAIRIE CENTER METROPOLITAN DISTRICT NO. 9
LONDON MINE EXTENSION TUNNEL
CDPS PERMIT NUMBER: CO-0045209
PARK COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority has been delegated to the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the alleged violations identified herein, Prairie Center Metropolitan District No. 9 ("Prairie Center") was a "Special District" formed in Adams County pursuant to the Colorado Special District Act, §§32-1-101 to 32-19-115 C.R.S.
2. Prairie Center is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
3. Prairie Center owns and/or operates the London Mine Extension Tunnel wastewater treatment works (the "Facility"), located approximately twelve (12) miles northwest of Fairplay, Park County, Colorado.
4. The Facility is part of an underground gold mining operation which has ceased operation. The principal ores at this mine included gold and a small amount of silver. The contributing wastewater sources at the Facility include mine related process water and mining impacted groundwater from the Extension Tunnel. The Facility's wastewater treatment process consists of a collection system inside the mine adit, followed by lime addition equipment, and a lined settling pond. The mine adit includes a partial bulkhead seal with a relief valve at the bottom and a collection pipe two feet above the floor of the mine. The relief valve is to flush sediments that accumulate behind the partial bulkhead into the settling pond outside of the adit. The collected water flows out of the mine, into a flash tank where lime is added to the water by a rotary valve. The lime/water mixture then flows through a static mixer into a corrugated plastic line into the settling pond. The amount of lime added is controlled by a pH probe and control unit, which is located

below the static mixer. Overflow from the settling pond discharges to No Name Creek, while the residual lime and precipitated metals settle out in the pond. Settled solids are periodically removed (about twice a year) from the pond by a slide gate and pipeline, which convey the settled solids to a drying basin.

5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO-0045209 (the "Permit"). The current Permit became effective on February 1, 2006 and is due to expire January 31, 2011.
6. The Permit authorizes Prairie Center to discharge treated wastewater from the Facility through Outfall 001A and MON 1, which are identified as the discharge point from the final sedimentation pond prior to mixing with No Name Creek. MON1 is located at the same physical location as outfall 001A and is a database distinction assigned to outfall 001A for monitoring only effluent parameters.
7. No Name Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
8. Pursuant to 5 CCR 1002-61, §61.8, Prairie Center must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

Failure to Comply with Permit Effluent Limitations

9. Pursuant to Part I.A.1. of the Permit, Prairie Center's permitted discharge shall not exceed the effluent limitations specified below:

Outfall 001A			
<u>Effluent Parameter</u>	Discharge Limitations		
	30-Day Average	7-Day Average	Daily Maximum
Flow, MGD	0.202	0.202	N/A
Total Suspended Solids, mg/l	30	45	N/A
pH, s.u. (minimum-maximum)	N/A	N/A	6.5-9.0
Oil and Grease, mg/l	N/A	N/A	10
Zinc (Potentially Dissolved), µg/l Through 2/28/2007 Beginning 3/1/07	5,000 500	N/A	N/A
Cadmium (Potentially Dissolved), µg/l Through 2/28/2007 Beginning 3/01/2007	4 3.2	N/A N/A	N/A N/A
Whole Effluent Toxicity, Chronic	N/A	N/A	Statistical Difference

10. Pursuant to Part I.B.1 of the Permit, Prairie Center is required to monitor defined effluent parameters at specified frequencies to provide an indication of compliance or non-compliance with the effluent limitations identified in the Permit.
11. Pursuant to Part I.E.1 of the Permit, Prairie Center is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly discharge monitoring reports (“DMRs”). Each discharge monitoring report is to include a certification by Prairie Center that the information provided therein is true, accurate and complete to the knowledge and belief of Prairie Center.
12. Prairie Center’s DMRs submitted to the Division include, among other information and data, the following effluent concentration summary data for total suspended solids, pH, potentially dissolved cadmium, and potentially dissolved zinc, which exceeded the effluent limitations imposed by Part I.A.1. of the Permit as specified below:

Prairie Center Metropolitan District No. 9			
EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
TOTAL SUSPENDED SOLIDS		7-DAY AVG. LIMIT = 45 mg/l	30-DAY AVG. LIMIT = 30 mg/l
June 1-30, 2006	001A	--	36 mg/l
July 1-31, 2008	001A	190 mg/l	106 mg/l
September 1-30, 2008	001A	50 mg/l	36.5 mg/l
pH		MINIMUM LIMIT = 6.5 S.U.	MAXIMUM LIMIT = 9.0 S.U.
May 1-31, 2006	001A	4.0 s.u.	10.6 s.u.
June 1-30, 2006	001A	--	9.8 s.u.
July 1-31, 2006	001A	--	10.98 s.u.
August 1-31, 2006	001A	--	11.8 s.u.
September 1-30, 2006	001A	--	11.24 s.u.
October 1-31, 2006	001A	--	11.9 s.u.
November 1-30, 2006	001A	--	11.4 s.u.
March 1-31, 2007	001A	--	10.20 s.u.
May 1-31, 2007	001A	--	9.99 s.u.
June 30, 2007	001A	--	9.72 s.u.
July 31, 2007	001A	--	9.30 s.u.
August 1-31, 2007	001A	--	9.26 s.u.
September 1-30, 2007	001A	--	10.51 s.u.
October 1-31, 2007	001A	--	10.81 s.u.

Prairie Center Metropolitan District No. 9
EFFLUENT SELF-MONITORING DATA

DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
pH		MINIMUM LIMIT = 6.5 S.U.	MAXIMUM LIMIT = 9.0 S.U.
November 1-30, 2007	001A	--	10.17 s.u
December 1-31, 2007	001A	--	9.38 s.u
April 1-30, 2008	001A	--	9.33 s.u
May 1-31, 2008	001A	--	9.33 s.u
July 1-31, 2008	001A	--	11.68 s.u
August 1-31, 2008	001A	--	11.80 s.u
September 1-30, 2008	001A	--	11.10 s.u
October 1-31, 2008	001A	--	9.90 s.u
November 1-30, 2008	001A	--	11.80 s.u
CADMIUM (POTENTIALLY DISSOLVED)		--	30-DAY AVG. LIMIT = 4.0 µg/l Through 2/28/07
February 1-28, 2006	001A	--	190 µg/l
April 1-30, 2006	001A	--	53.6 µg/l
July 1-31, 2006	001A	--	27.25 µg/l
August 1-31, 2006	001A	--	7.6 µg/l
September 1-30, 2006	001A	--	20.6 µg/l
CADMIUM (POTENTIALLY DISSOLVED)			30-DAY AVG. LIMIT = 3.2 µg/l Beginning 3/1/07
May 1-31, 2007	001A	--	53.5 µg/l
July 1-31, 2007	001A	--	36.5 µg/l
August 1-31, 2007	001A	--	70.3 µg/l
October 1-31, 2008	001A	--	6.3 µg/l
November 1-30, 2008	001A	--	4.3 µg/l
ZINC (POTENTIALLY DISSOLVED)			30-DAY AVG. LIMIT = 5,000 µg/l (Through 2/28/07)
February 1-28, 2006	001A	--	22,000 µg/l
April 1-30, 2006	001A	--	9,666.7 µg/l
ZINC (POTENTIALLY DISSOLVED)			30-DAY AVG. LIMIT = 500 µg/l (Beginning 3/1/07)
May 1-31, 2007	001A	--	18,181 µg/l

Prairie Center Metropolitan District No. 9			
EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
ZINC (POTENTIALLY DISSOLVED)			30-DAY AVG. LIMIT = 500 µg/l (Beginning 3/1/07)
July 1-31, 2007	001A	--	6,190 µg/l
August 1-31, 2007	001A	--	12,500 µg/l
August 1-31, 2009	001A	--	579 µg/l
October 1-31, 2008	001A	--	1,000 µg/l
November 1-30, 2008	001A	--	1,300 µg/l

13. Total suspended solids, pH, potentially dissolved cadmium, and potentially dissolved zinc are "pollutants" as defined by §25-8-103(15), C.R.S. or indicators thereof.
14. Division records establish that the Permit does not authorize the pollutant discharge levels identified above in paragraph 12 and Prairie Center does not have any other permits authorizing such discharges into State Waters.
15. Prairie Center's failure to comply with the Permit effluent limitations, as identified above, constitutes violations of Part I.A.1 of the Permit.

Failure to Submit Complete DMRs

16. Pursuant to Part I.B.1 of the Permit, Prairie Center is required to monitor defined effluent parameters at specified frequencies to provide an indication of compliance or non-compliance with the effluent limitations identified in the Permit.
17. Pursuant to Part I.E.1 of the Permit, Prairie Center is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly discharge monitoring reports ("DMRs"). Each discharge monitoring report is to include a certification by Prairie Center that the information provided therein is true, accurate and complete to the knowledge and belief of Prairie Center.
18. Division records, as provided by Prairie Center and supplemented by the DMRs, establish that Prairie Center failed to submit complete DMR data for the following monitoring periods and parameters:

Prairie Center Metropolitan District No. 9		
EFFLUENT SELF MONITORING DATA		
OUTFALL	PARAMETER	DISCHARGE MONITORING REPORT DATE
001A	Total Suspended Solids (30 Day Average)	October 1-31, 2006
001A	Cadmium, Potentially Dissolved (30 Day Average)	October 1-31, 2006
001A	Zinc, Potentially Dissolved (30 Day Average)	October 1-31, 2006
001A	Flow (30 Day Average)	November 1-30, 2006

Prairie Center Metropolitan District No. 9
EFFLUENT SELF MONITORING DATA

OUTFALL	PARAMETER	DISCHARGE MONITORING REPORT DATE
001A	Flow (Daily Max)	November 1-30, 2006
001A	Total Suspended Solids (30 Day Average)	April 1-30, 2007
001A	Total Suspended Solids (7 Day Average)	April 1-30, 2007
001A	Cadmium, Potentially Dissolved (30 Day Average)	April 1-30, 2007
001A	Zinc, Potentially Dissolved (30 Day Average)	April 1-30, 2007
001A	O.I and Grease (Instantaneous Max)	April 1-30, 2007
001A	O.I and Grease (Visual)	April 1-30, 2007
001A	pH (Maximum)	April 1-30, 2007
001A	Flow (30 Day Average)	April 1-30, 2007
001A	Flow (Daily Max)	April 1-30, 2007
001A	Total Suspended Solids (30 Day Average)	June 1-30, 2008
001A	Total Suspended Solids (7 Day Average)	June 1-30, 2008
001A	Cadmium, Potentially Dissolved (30 Day Average)	June 1-30, 2008
001A	Zinc, Potentially Dissolved (30 Day Average)	June 1-30, 2008
001A	Oil and Grease (Instantaneous Max)	June 1-30, 2008
001A	Oil and Grease (Visual)	June 1-30, 2008
001A	pH (Maximum)	June 1-30, 2008
001A	Flow (30 Day Average)	June 1-30, 2008
001A	Flow (Daily Max)	June 1-30, 2008
001A	Total Suspended Solids (30 Day Average)	December 1-31, 2008
001A	Total Suspended Solids (7 Day Average)	December 1-31, 2008
001A	Cadmium, Potentially Dissolved (30 Day Average)	December 1-31, 2008
001A	Zinc, Potentially Dissolved (30 Day Average)	December 1-31, 2008
001A	Oil and Grease (Instantaneous Max)	December 1-31, 2008
001A	Oil and Grease (Visual)	December 1-31, 2008
001A	pH (Maximum)	December 1-31, 2008
001A	Flow (30 Day Average)	December 1-31, 2008
001A	Flow (Daily Max)	December 1-31, 2008
MON1	Mercury, Total (30 Day Average)	November 1-30, 2006
MON1	Chromium, Hexavalent, Potentially Dissolved (30 Day Average)	June 1-30, 2008
MON1	Chromium, Hexavalent, Potentially Dissolved (Daily Max)	June 1-30, 2008
MON1	Chromium, Trivalent, Total Recoverable (30 Day Average)	June 1-30, 2008
MON1	Copper, Potentially Dissolved (30 Day Average)	June 1-30, 2008
MON1	Copper, Potentially Dissolved (Daily Max)	June 1-30, 2008
MON1	Cyanide, Weak Acid, Dissociable (30 Day Average)	June 1-30, 2008
MON1	Cyanide, Weak Acid, Dissociable (Daily Max)	June 1-30, 2008
MON1	Iron, Total Recoverable (30 Day average)	June 1-30, 2008
MON1	Iron, Total Recoverable (Daily max)	June 1-30, 2008
MON1	Lead, Potentially Dissolved (30 Day Average)	June 1-30, 2008
MON1	Lead, Potentially Dissolved (Daily Max)	June 1-30, 2008
MON1	Manganese, Potentially Dissolved (30 Day Average)	June 1-30, 2008
MON1	Manganese, Potentially Dissolved (Daily Max)	June 1-30, 2008
MON1	Mercury, Total as Hg (30 Day Average)	June 1-30, 2008
MON1	Mercury, Total as Hg (Daily Max)	June 1-30, 2008
MON1	Nickel, Potentially Dissolved (30 Day Average)	June 1-30, 2008
MON1	Nickel, Potentially Dissolved (Daily Max)	June 1-30, 2008
MON1	Selenium, Potentially Dissolved (30 Day Average)	June 1-30, 2008
MON1	Selenium, Potentially Dissolved (Daily Max)	June 1-30, 2008

Prairie Center Metropolitan District No. 9
EFFLUENT SELF MONITORING DATA

OUTFALL	PARAMETER	DISCHARGE MONITORING REPORT DATE
MON1	Silver, Potentially Dissolved (30 day Average)	June 1-30, 2008
MON1	Silver, Potentially Dissolved (Daily Max)	June 1-30, 2008
MON1	Arsenic, Total (30 Day Average)	June 1-30, 2008
MON1	Chromium, Hexavalent, Potentially Dissolved (30 Day Average)	December 1-31, 2008
MON1	Chromium, Hexavalent, Potentially Dissolved (Daily Max)	December 1-31, 2008
MON1	Chromium, Trivalent, Total Recoverable (30 Day Average)	December 1-31, 2008
MON1	Copper, Potentially Dissolved (30 Day Average)	December 1-31, 2008
MON1	Copper, Potentially Dissolved (Daily Max)	December 1-31, 2008
MON1	Cyanide, Weak Acid, Dissociable (30 Day Average)	December 1-31, 2008
MON1	Cyanide, Weak Acid, Dissociable (Daily Max)	December 1-31, 2008
MON1	Iron, Total Recoverable (30 Day average)	December 1-31, 2008
MON1	Iron, Total Recoverable (Daily max)	December 1-31, 2008
MON1	Lead, Potentially Dissolved (30 Day Average)	December 1-31, 2008
MON1	Lead, Potentially Dissolved (Daily Max)	December 1-31, 2008
MON1	Manganese, Potentially Dissolved (30 Day Average)	December 1-31, 2008
MON1	Manganese, Potentially Dissolved (Daily Max)	December 1-31, 2008
MON1	Mercury, Total as Hg (30 Day Average)	December 1-31, 2008
MON1	Mercury, Total as Hg (Daily Max)	December 1-31, 2008
MON1	Nickel, Potentially Dissolved (30 Day Average)	December 1-31, 2008
MON1	Nickel, Potentially Dissolved (Daily Max)	December 1-31, 2008
MON1	Selenium, Potentially Dissolved (30 Day Average)	December 1-31, 2008
MON1	Selenium, Potentially Dissolved (Daily Max)	December 1-31, 2008
MON1	Silver, Potentially Dissolved (30 day Average)	December 1-31, 2008
MON1	Silver, Potentially Dissolved (Daily Max)	December 1-31, 2008
MON1	Arsenic, Total (30 Day Average)	December 1-31, 2008

19. Prairie Center's failure to report all required monthly monitoring results on the DMRs, as identified above in paragraph 18. constitutes violations of Part I.E.1 of the Permit. Alternatively, if Prairie Center failed to monitor as required by the Permit, such failure to perform the monitoring constitutes violations of Part I.B.1 of the Permit.

NOTICE OF VIOLATION

20. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Prairie Center has violated the following sections of the Permit.

Part I.A.1. of CDPS permit number CO-0045209 provides in part: "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), 5 C.C.R. 1002-61, the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations, discharge more than the mass pollutant loadings specified below, or exceed the specified flow limitation."

Part I.B.1 of CDPS permit number CO-0045209 sets in part “Frequency and Sample Type – Discharge Points 001A and MON1: In order to obtain an indication of the probable compliance or non-compliance with the effluent limitations specified in Section A, the permittee shall monitor all effluent parameters at the following frequencies:.....”

Part I.E.1 of CDPS permit number CO-0045209 sets in part “Routine Reporting of Data: Reporting of the data gathered in compliance with Part I.B.1 shall be on a monthly basis. Reporting of all data gathered shall comply with the requirements of Part I.E. (General Requirements). Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report.... The Discharge Monitoring Report forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms. Each discharge monitoring report is to include a certification by Prairie Center that the information provided therein is true, accurate and complete to the knowledge and belief of Prairie Center.”

REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Prairie Center is hereby ordered to:

21. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-703, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Prairie Center to comply with the following specific terms and conditions of this Order:

22. Within thirty (30) calendar days of receipt of this Order, Prairie Center shall retain the services of a qualified individual or entity, specifically experienced in mine-related wastewater treatment, to evaluate and recommend system improvements to ensure compliance with the terms and conditions of the Permit. The evaluation must consider in detail the following:
 - a. An evaluation of the personnel requirements and qualifications for the operation and management of the Facility, including an evaluation of each individual's role, duties, and responsibilities in ensuring the proper operation and maintenance of the Facility;
 - b. An evaluation of influent pollutant concentrations for all parameters/pollutants that could influence the treatment process, and what techniques or technologies may be utilized to produce effluent that is consistently in compliance with the Permit effluent limits;
 - c. An evaluation of whether the Facility's treatment system as a whole is adequate to properly treat the influent pollutants to a level that consistently complies with the effluent limitations of the Permit.

23. Within forty five (45) calendar days of receipt of this Order, Prairie Center shall provide documentation to the Division that it has retained the services of the qualified individual or entity identified in paragraph 22. This documentation shall include at, a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for such services, including a copy of the scope of services to be provided.
24. Within ninety (90) calendar days of receipt of this Order, Prairie Center shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 22 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures that will be taken by Prairie Center to rectify deficiencies identified by the evaluation so that the Facility consistently produces effluent in compliance with the limitations identified in Part I.A.1 of the Permit. For each short-term and long-term measure identified, Prairie Center shall also submit a time schedule for completion of each measure. The implementation time schedule submitted must identify completion of all measures by no later than March 31, 2010. The measures and time schedule submitted shall become a condition of this Order, and Prairie Center shall implement the measures and time schedule as submitted unless notified by the Division, in writing, that alternate measures and/or time schedules are appropriate. If the Division imposes alternate measures and/or time schedules, they shall also become a condition of this Order.
25. Beginning thirty (30) calendar days from receipt of this Order, and every thirty (30) calendar days thereafter, until such time as this Order is closed or the Division decrees so in writing, Prairie Center shall submit written progress reports to the Division. At a minimum, each report shall describe the activities undertaken in the previous thirty (30) calendar days and shall specify what activities will be undertaken within the next thirty (30) calendar days to comply with this Order.
26. If Prairie Center becomes aware of any situation or circumstances that cause Prairie Center to become unable to comply with any condition or time schedules set forth by this Order, Prairie Center shall provide written notice to the Division within five (5) calendar days of Prairie Center becoming aware of such circumstances. Prairie Center's notice shall describe what, if any, impacts will occur on Prairie Center's ability to comply with the Colorado Water Quality Control Act, its Permit and any impacts on the remaining conditions and/or time schedules specified by this Order and what steps Prairie Center is taking to mitigate such impacts.
27. Within thirty (30) calendar days of receipt of this Order, Prairie Center shall submit to the Division all supplemental Discharge Monitoring Report data that has not yet been received according to paragraph 18 above. If the supplemental data is not available, Prairie Center shall submit an explanation as to why the data is not available.
28. Within thirty (30) calendar days of receipt of this Order, Prairie Center shall submit to the Division a detailed written statement outlining the standard procedures that Prairie Center will undertake to ensure that the discharge monitoring reports will be submitted properly, complete, and on time. The statement should also specifically include a written certification that Prairie Center and its responsible individuals have reviewed, understand and are properly implementing the Monitoring and Reporting requirements of Part I.A.1, Part I.B.1, and Part I.E.1 of the Permit.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, Prairie Center shall submit an original and an electronic copy to the Division at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-B2
Compliance Assurance and Data Management Section
Attention: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: kelly.morgan@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11 you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 703, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S. and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

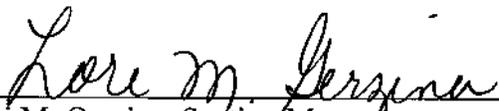
EFFECT OF ORDER

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 9th day of September, 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