

STATE OF COLORADO

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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

January 29, 2010

Certified Mail Number: 7007 0220 0001 0162 1535

PWSID# CO0135538
Larry Pearson
Newell-Warnock Water Association
498 Green Wood Drive
Loveland, CO 80537

RE: Service of Drinking Water Enforcement Order, Number: DC-100129

Dear Mr. Larry Pearson:

Newell-Warnock Water Association 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 you have violated the Colorado Primary Drinking Water Regulations (the "Regulations") as described in the enclosed Order.

As a recipient of an Order Newell-Warnock Water Association 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 shall be filed in writing with the Department within thirty (30) calendar days after service of the Order. Such requests, at a minimum shall contain the information specified in 5 CCR 1003-1, §1.6.7(g), and 5CCR 1002-21, §21.4(B)(2). Hearings on Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S. and the procedural rules promulgated in 5 CCR 1002-21.

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 Newell-Warnock Water Association desire to informally discuss this matter with the Department or if there are any questions regarding the Order, please do not hesitate to contact Lauren Worley at (303) 692-3547 or by electronic mail at lauren.worley@state.co.us.

Sincerely,



Lauren Worley, Enforcement Specialist
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

Enclosure

- cc: Larimer County Health Department
Wayne Ramey, Ramey Environmental
Drinking Water Enforcement File
- ec: Scott Klarich, Unit Manager Enforcement
Rick Koplitz, Unit Manager DW Compliance
David Kurz, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Carolyn Schachterle, Financial Solutions Unit, CDPHE



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

ENFORCEMENT ORDER

NUMBER: DC-100129

**IN THE MATTER OF: NEWELL-WARNOCK WATER ASSOCIATION
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0135538
LARIMER 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 is implemented through 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. Newell-Warnock Water Association owns and/or operates a drinking water system, known as Newell-Warnock Water Association, located in the vicinity of 498 Greenwood Drive, Loveland, CO 80537, Latitude 40.364667 Longitude -105.282500, in Larimer County, Colorado (the "System").
2. Newell-Warnock Water Association is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Newell-Warnock Water Association 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 # CO0135538.
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 Newell-Warnock Water Association 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 surface water as defined by 5 CCR 1003-1, §1.5.2(129).

First Violation
(Failure to Comply with the Maximum Contaminant Levels for
Total Trihalomethanes and Haloacetic Acids (five))

9. Pursuant to 5 CCR 1003-1, §2.4, Table 2-5(1) and (2), the maximum contaminant levels of 0.080 mg/L for total trihalomethanes ("TTHM") and 0.060 mg/L for haloacetic acids (five) ("HAA5") are applicable to all community and non-transient, non-community public water systems.
10. Pursuant to 5 CCR 1003-1, §7.6.3(b)(1), the System must monitor for TTHM and HAA5 at the following frequency and locations:

Type of System	Minimum Monitoring Frequency	Sample Location in the Distribution System
Surface water or groundwater under the direct influence of surface water system serving fewer than 500 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.

11. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(i) compliance with the maximum contaminant levels for TTHM and HAA5 must be based on a running annual arithmetic average ("RAA"), computed quarterly, of quarterly arithmetic averages of all samples collected by the System as prescribed by 5 CCR 1003-1, §7.6.3(b)(1).
12. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(ii), for systems monitoring less frequently than quarterly, systems demonstrate maximum contaminant level compliance if the average of samples taken that year under the provisions of §7.6.3(b)(1) do not exceed the maximum contaminant level in 5 CCR 1003-1, §2.4, Table 2-5. If the average of these samples exceeds the maximum contaminant level, the system must increase monitoring to once per quarter per treatment plant and such a system is not in violation of the maximum contaminant level until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average ("RAA") to exceed the maximum contaminant level, in which case the system is in violation at the end of that quarter. Systems required to increase monitoring frequency to quarterly monitoring must calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.
13. Pursuant to 5 CCR 1003-1, §7.6.5(a), systems required to sample quarterly or more frequently must report to the Department within ten (10) days after the end of each quarter in which samples were collected, notwithstanding the provisions of 5 CCR 1003-1, §1.6.4. Systems required to sample less than quarterly must report to the Department within ten (10) days after the end of each monitoring period in which samples were collected.

14. From calendar year 2008 to present, monitoring data submitted to the Division from the System establish the following TTHM and HAA5 running annual arithmetic averages for the System:

Total Trihalomethanes in mg/L				Running Annual Average in mg/L
3 rd Q 2008 0.119	4 th Q 2008 0.085	1 st Q 2009 0.066	2 nd Q 2009 0.100	0.092
4 th Q 2008 0.085	1 st Q 2009 0.066	2 nd Q 2009 0.100	3 rd Q 2009 0.110	0.090
1 st Q 2009 0.066	2 nd Q 2009 0.100	3 rd Q 2009 0.110	4 th Q 2009 0.105	0.095

Haloacetic Acids (five) in mg/L				Running Annual Average in mg/L
2 nd Q 2008 Not applicable	3 rd Q 2008 0.079	4 th Q 2008 0.093	1 st Q 2009 0.070	0.061
3 rd Q 2008 0.079	4 th Q 2008 0.093	1 st Q 2009 0.070	2 nd Q 2009 0.123	0.091
4 th Q 2008 0.093	1 st Q 2009 0.070	2 nd Q 2009 0.123	3 rd Q 2009 0.089	0.094
1 st Q 2009 0.070	2 nd Q 2009 0.123	3 rd Q 2009 0.089	4 th Q 2009 0.069	0.089

15. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(iii), if the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the maximum contaminant level, the system is in violation of the maximum contaminant level and must notify the public pursuant to 5 CCR 1003-1, §9.2, in addition to reporting to the Department pursuant to §7.6.5.
16. Newell-Warnock Water Association's failure to comply with the maximum contaminant levels for total trihalomethanes and haloacetic acids (5) constitutes violations of 5 CCR 1003-1, §2.4.

COMPLIANCE REQUIREMENTS

17. Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Newell-Warnock Water Association is hereby ordered to:
18. Immediately comply with the Colorado Primary Drinking Water Regulations, 5 CCR 1003-1, Articles 1 through 13.

Further, the Division hereby orders Newell-Warnock Water Association to comply with the following specific terms and conditions of this Enforcement Order.

19. In order to ensure long-term compliance with the total trihalomethanes and the haloacetic acids (5) maximum contaminant levels outlined in 5 CCR 1003-1, §2.4, Table 2-5 for public water supplies, the Newell-Warnock Water Association shall evaluate and upgrade, as needed, the System's water sources, collection systems and/or treatment processes in accordance with the following schedule:
- a. Within thirty (30) calendar days of the receipt of this order, the Newell-Warnock Water Association shall retain a qualified entity (such as professional engineer experienced in drinking water systems) to evaluate and recommend disinfection byproduct reduction techniques or alternate water sources to achieve compliance with the total trihalomethanes and the haloacetic acids (5) maximum contaminant levels.
 - b. Within ninety (90) calendar days of the receipt of this order, the Newell-Warnock Water Association shall submit a written report outlining the findings of the evaluation and including an implementation schedule for any identified improvements to achieve compliance with the total trihalomethanes and the haloacetic acids (5) maximum contaminant levels. The identified improvements and implementation schedule submitted shall become a condition of this order and the Newell-Warnock Water Association shall implement the identified improvements as submitted 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 order.

The evaluation and submitted report shall include, at a minimum, the following elements:

- i. Specific schedule for disinfection profiling, if applicable.
- ii. Schedule to submit Final Design Plans and Specifications for System improvements, as applicable, for Department review and approval.
- iii. Commitment to a submittal of a written certification that the System has implemented all specified operational or treatment system improvements and the System has returned to compliance with the total trihalomethanes and the haloacetic acids (5) maximum contaminant levels outlined in 5 CCR 1003-1, §2.4, Table 2-5.

(Please note: A Professional Engineer registered in the State of Colorado must design all treatment systems serving a community water supply.)

20. The Newell-Warnock Water Association shall submit "System Evaluation/Improvement Project - Progress Reports" to the Division every ninety (90) calendar days. The first report shall be submitted to the Division within thirty (30) days after receipt of this Order. At a minimum, each report shall clearly indicate the status of the system improvement project at the time the report is filed and outline activities to be undertaken within the next ninety (90) calendar days. These reports shall be required until the System has demonstrated reliable and consistent compliance with the total trihalomethanes and the haloacetic acids (5) maximum contaminant levels outlined in 5 CCR 1003-1, §2.4, Table 2-5.

21. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, Newell-Warnock Water Association 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, Newell-Warnock Water Association 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

22. For all documents, plans, records, reports and replies required to be submitted by this order, Newell-Warnock Water Association 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-B2-CAS
Compliance Assurance Section
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 Lauren Worley)

23. 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

24. Newell-Warnock Water Association 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 Newell-Warnock Water Association 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

25. 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 service 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

26. 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

27. 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, at a minimum, shall contain the information specified in 5 CCR 1003-1, §1.6.7(g) and 5 CCR 1002-21, §21.4(B)(2). 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. and the procedural rules promulgated in 5 CCR 1002-21.

ADDITIONAL ACTION

28. 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.

29. 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 January, 2010.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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