

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
Martha E. Rudolph, 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 25, 2010

**Certified Mail Number: 7009 1680 0000 2094 4725**

PWSID# CO-0135883

Scott Pope, Registered Agent  
YMCA of the Rockies  
YMCA Rockies Wind River  
P.O. Box 20800  
Estes Park, CO 80511

**RE: Service of Drinking Water Enforcement Order, Number: DC-100525-1**

Dear Mr. Pope:

YMCA of the Rockies 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 YMCA of the Rockies 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 YMCA of the Rockies 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 YMCA of the Rockies desire to informally discuss this matter with the Department or if you have any questions regarding the Order, please don't hesitate to contact Lauren Worley at (303) 692-3547 or by electronic mail at [lauren.worley@state.co.us](mailto:lauren.worley@state.co.us).

Sincerely,

*Russell Zigler*  
Russell Zigler, Legal Assistant

Compliance Assurance Section, Enforcement Unit  
WATER QUALITY CONTROL DIVISION

Enclosure

cc: Larimer County Health Department

Jon Landkamer  
YMCA Rockies Wind River  
P.O. Box 20550  
Estes Park, CO 80511-2550

Jon Landkamer  
YMCA Rockies Wind River  
2515 Tunnel Rd.  
Estes Park, CO 80511

cc: David Kurz, Engineering Section, CDPHE  
Dick Parachini, Watershed Program, CDPHE  
Betsy Beaver, Facility Operators Program, CDPHE  
Shawn McCaffrey, EPA Region VIII  
Jeff Lawrence, Director Consumer Protection Division, CDPHE  
Michael Beck, OPA



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

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**ENFORCEMENT ORDER &  
ADMINISTRATIVE PENALTY ASSESSMENT**

**NUMBER: DC-100525-1**

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**IN THE MATTER OF: YMCA OF THE ROCKIES  
YMCA ROCKIES WIND RIVER  
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0135883  
LARIMER COUNTY, COLORADO**

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority 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. YMCA of the Rockies owns and/or operates a drinking water system, known as YMCA Rockies Wind River, located in the vicinity of 2515 Tunnel Road, near the Town of Estes Park, in Larimer County, Colorado (the "System").
2. YMCA of the Rockies is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. YMCA of the Rockies 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-0135883.
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. YMCA of the Rockies 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 Level for**  
**Haloacetic Acids)**

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

<b>Type of System</b>	<b>Minimum Monitoring Frequency</b>	<b>Sample Location in the Distribution System</b>
Surface water or groundwater under the direct influence of surface water system serving from 500 to 9,999 persons.	One water sample per quarter per treatment plant.	Locations representing maximum residence time.

11. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(i), compliance with the maximum contaminant level for 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, §7.6.5(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.
13. From calendar year 2008 to present, monitoring data submitted to the Division from the System establish the following HAA5 RAA averages for the System:

<b>Haloacetic Acids (five) Results in mg/L</b>				<b>Running Annual Average mg/L</b>
3 <sup>rd</sup> Q 2008 0.0747	4 <sup>th</sup> Q 2008 0.0395	1 <sup>st</sup> Q 2009 0.0335	2 <sup>nd</sup> Q 2009 0.15878	<b>0.077</b>
4 <sup>th</sup> Q 2008 0.0395	1 <sup>st</sup> Q 2009 0.0335	2 <sup>nd</sup> Q 2009 0.15878	3 <sup>rd</sup> Q 2009 0.05402	<b>0.071</b>
1 <sup>st</sup> Q 2009 0.0335	2 <sup>nd</sup> Q 2009 0.15878	3 <sup>rd</sup> Q 2009 0.05402	4 <sup>th</sup> Q 2009 0.043	<b>0.072</b>

14. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(iii), if the RAA 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 5 CCR 1003-1, §7.6.5.
15. YMCA of the Rockies' failure to comply with the maximum contaminant levels for HAA5 constitutes violations of 5 CCR 1003-1, §2.4.

**Second Violation**  
**(Failure Install and Operate Optimal Corrosion Control)**

16. Pursuant to 5 CCR 1003-1, §8.1(b)(1), all systems shall install and operate optimal corrosion control treatment as defined in 5 CCR 1003-1, §1.5.2.
17. Pursuant to 5 CCR 1003-1, §8.1(i), failure to comply with the applicable requirements of sections 8.1-8.12 shall constitute a violation of the Colorado Primary Drinking Water Regulations.
18. Pursuant to 5 CCR 1003-1, §§8.2(d)(1)(ii)(A)-(B), Table 8-1, the System must monitor during each six-month period at five (5) distribution tap sites until the System either exceeds the lead or copper action level and is therefore required to implement corrosion control treatment requirements and continue 6-month monitoring, or the system meets the lead and copper action levels for two consecutive six-month periods and is eligible for reduced monitoring.
19. Pursuant to 5 CCR 1003-1, §8.2(d)(4)(i), systems serving a population less than or equal to ( $\leq$ ) 50,000 that meet the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of lead and copper tap water sites, in accordance with section 8.2(c), and may reduce the frequency of lead and copper tap water sampling to once per year.
20. Pursuant to 5 CCR 1003-1, §8.2(d)(4)(iii), systems serving a population less than or equal to ( $\leq$ ) 50,000 that meet the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of lead and copper tap sampling from annually to once every three years.

21. Pursuant to 5 CCR 1003-1, §8.2(d)(4)(vi)(A), systems serving a population less than or equal to ( $\leq$ ) 50,000 subject to reduced monitoring that exceed the lead or copper action level shall resume sampling in accordance with section 8.2(d)(3) and collect the number of samples specified for standard monitoring under section 8.2(c).
22. Pursuant to 5 CCR 1003-1, §§8.1(a)(1)-(2), the action levels for lead or copper have been exceeded if more than 10% of the tap water samples collected during any monitoring period have a lead level that is greater than 0.015 mg/L or a copper level that is greater than 1.3 mg/L.
23. Pursuant to 5 CCR 1003-1, §§8.3 and 8.6, exceeding the lead or copper action level triggers additional monitoring requirements and a review of the system's corrosion control treatment.
24. Department records show that YMCA of the Rockies completed two six-month initial monitoring periods during the monitoring periods of July 1, 1993, through December 31, 1993, and January 1, 1994, through June 31, 1994. The System met the action levels during the initial monitoring periods and the lead and copper tap water sampling frequency was reduced to an annual schedule.
25. Department records show that YMCA of the Rockies completed three annual monitoring periods during the years 1995, 1996 and 1997. The System met the action levels during the annual monitoring periods and the lead and copper tap water sampling frequency was reduced to a triennial schedule.
26. The Department's records show that in the year 2003 the YMCA of the Rockies exceeded the action level for lead. In a letter dated October 28, 2003, the Division gave notice to the System that it exceeded the lead action level indicated in the data table below and required both public education and additional monitoring for water quality parameters and lead and copper.

Contaminant	90 <sup>th</sup> Percentile	Action Level
Lead	0.029 mg/l	0.015 mg/l
Copper	1.2 mg/l	1.3 mg/l

27. In a letter dated December 29, 2006, the Division acknowledged YMCA of the Rockies' new water plant under construction and placed the system in a Corrosion Control Study. The study required YMCA of the Rockies to monitor water quality parameters, to monitor lead and copper tap water samples, to compile quarterly progress reports and to submit a final treatment recommendation by January 15, 2008.
28. On July 17, 2008, the Division placed YMCA of the Rockies on a second Corrosion Control Study to be conducted from June 1, 2008, to December 2008. The study required monthly monitoring for water quality parameters and quarterly monitoring for lead and copper tap water samples. In addition, the study required YMCA of the Rockies to submit a final revised-corrosion control treatment recommendation by January 10, 2009, for approval by the Division.
29. Department records to-date establish that YMCA of the Rockies has failed to complete the Corrosion Control Study outlined in the Division's letter of July 17, 2008, and has not submitted a final revised-corrosion control treatment recommendation to the Division.

30. Department records establish that sampling results received for periods January 1, 2009, through June 30, 2009, and July 1, 2009, through December 31, 2009, exhibit high lead levels.
31. YMCA of the Rockies' failure to complete the corrosion control treatment steps and develop an optimal corrosion control treatment plan constitute violations of 5 CCR 1003-1, §8.1(b)(1) and §8.1(i).

**Third Violation**  
**(Failure to Prepare/Submit a Monitoring Plan)**

32. Pursuant to 5 CCR 1003-1, §1.12, each public water system shall develop and implement a monitoring plan. The public water system shall maintain the plan and make it available for inspection by the Department.
33. Pursuant to 5 CCR 1003-1, §1.12.2(a)(2), the System was required to submit a monitoring plan to the Department by April 10, 2004.
34. In a letter dated June 2, 2008, from the Department to the System, the Department reported the results of the May 6, 2008, inspection of the System. The Department noted in the letter that, at the time of inspection, a monitoring plan was not available for review. The Department also noted that a monitoring plan was required to be submitted to the Division by April 2006, and that, as of the date of the letter, YMCA of the Rockies had not yet submitted a monitoring plan to the Division. The Department requested that YMCA of the Rockies provide a written response addressing these issues by July 17, 2008.
35. Division records establish that YMCA of the Rockies has neither developed nor submitted a monitoring plan to the Division.
36. YMCA of the Rockies' failure to develop, maintain, and/or submit a copy of the monitoring plan for the System constitutes violation(s) of 5 CCR 1003-1, §1.12.

**Fourth Violation**  
**(Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five))**

37. 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.
38. Division records establish that the System utilizes sodium hypochlorite to achieve chemical disinfection.

39. Pursuant to 5 CCR 1003-1, §7.6.3(b)(1), the System must monitor for TTHM and HAA5 at least one sample per quarter at a location in the distribution system that represents maximum residence time.
40. 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.
41. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System is required to report to the Department the results of the System's TTHM and HAA5 analyses within (1) the first ten calendar days following the month in which a result is received, or (2) the first ten calendar days following the end of the required monitoring period, as stipulated by Department, whichever of these is shorter.
42. The *Official 2010 Drinking Water Monitoring Schedule* provided to the System by the Department outlined that the System was required to monitor for TTHM and HAA5 between the January 1, 2010, and March 31, 2010, monitoring period.
43. Department records establish that the YMCA of the Rockies failed to submit results to the Department of its quarterly TTHM and HAA5 monitoring for the first quarter of calendar year 2010.
44. YMCA of the Rockies' failure to submit the results of its quarterly TTHM and HAA5 analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §7.6.5(a) and §1.6.4(a). Additionally, if YMCA of the Rockies failed to perform its annual TTHM and HAA5 analyses during the identified period, such failure to perform the monitoring constitute violations of 5 CCR 1003-1, §7.6.1(b)(1) and §7.6.3(b)(1).

### COMPLIANCE REQUIREMENTS

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

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

Further, the Division hereby orders YMCA of the Rockies to comply with the following specific terms and conditions of this Enforcement Order.

46. In order to ensure long-term compliance with the HAA5 maximum contaminant level outlined in 5 CCR 1003-1, §2.4, Table 2-5, for public water supplies, YMCA of the Rockies shall evaluate and upgrade, as needed, the System's water sources, collection systems and/or treatment processes in accordance with the following schedule:
  - a. By June 30, 2010, YMCA of the Rockies 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 HAA5 maximum contaminant levels.

- b. By August 30, 2010, YMCA of the Rockies 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 HAA5 maximum contaminant levels. The identified improvements and implementation schedule submitted shall become a condition of this order and YMCA of the Rockies 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 HAA5 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.)*

47. YMCA of the Rockies 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 by November 28, 2010. 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 HAA5 maximum contaminant levels outlined in 5 CCR 1003-1, §2.4, Table 2-5.
48. Immediately comply with the lead and copper monitoring/reporting obligations as required by 5 CCR 1003-1, Article 8.
49. In order to ensure long-term compliance with 5 CCR 1003-1, §8.1(b)(1), YMCA of the Rockies shall evaluate and upgrade, as needed, the System's corrosion control treatment plan in accordance with the following schedule:
  - a. By June 30, 2010, YMCA of the Rockies shall retain a qualified entity (such as a professional engineer experienced in drinking water systems) to evaluate and recommend a corrosion control treatment process to achieve compliance with lead and copper action levels.

- b. By August 30, 2010, YMCA of the Rockies shall submit a written report outlining the findings of the evaluation and including an implementation schedule for any identified improvements to achieve compliance with lead and copper action levels. The identified improvements and implementation schedule submitted shall become a condition of this order and YMCA of the Rockies 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.
50. By June 30, 2010, perform lead and copper public education pursuant to 5 CCR 1003-1, §8.9. Thereafter, YMCA of the Rockies must continue the lead and copper public education requirement annually until the Division has approved that an optimal corrosion control treatment plan is installed and operating properly.
51. By July 10, 2010, and pursuant to 5 CCR 1003-1, §8.10(f), YMCA of the Rockies shall submit written documentation that demonstrates that the system has delivered the lead and copper public education materials that meet the content requirement in section 8.9(a), and a list of all the newspapers, radio stations, television stations and facilities and organizations to which the system delivered public education materials.
52. By no later than June 30, 2010, YMCA of the Rockies shall develop and implement a monitoring plan pursuant to 5 CCR 1003-1, §1.12, which includes a microbiological contaminant sample-siting plan, 5 CCR 1003-1, §5.1.1(a), to reflect the System's current configuration, treatment and operation. The plan shall specifically outline how YMCA of the Rockies will ensure that samples collected are representative of water quality throughout the distribution system(s), that samples should be taken both with temporal and spatial separation to ensure representative samples are obtained of water quality throughout the distribution system and throughout the month of service and that samples are not to be taken all on the same day. By no later than July 15, 2010, YMCA of the Rockies shall provide the Division with a copy of its written monitoring plan.

*A guidance document on how to prepare a monitoring plan can be viewed at the following internet location:*

<http://www.cdphe.state.co.us/wq/drinkingwater/pdf/MonitoringPlanTemplate.pdf>

*A Community Surface Water and GWUDI Systems monitoring plan template including instructions can be viewed at the following internet location:*

[http://www.cdphe.state.co.us/wq/drinkingwater/pdf/MPTCSWtr\\_GWUDISys.pdf](http://www.cdphe.state.co.us/wq/drinkingwater/pdf/MPTCSWtr_GWUDISys.pdf)

53. 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.
54. Immediately initiate efforts to comply with the TTHM and HAA5 monitoring/reporting obligations as required by 5 CCR 1003-1, Article 7.
55. By June 15, 2010, YMCA of the Rockies shall submit the results of any TTHM and HAA5 monitoring performed for the first quarter of 2010, January 1, 2010, through March 31, 2010. If the monitoring was not performed, the YMCA of the Rockies shall provide a written explanation indicating the reason(s) why the System did not perform the required monitoring.
56. If the first quarter 2010 monitoring has not been conducted by the System, YMCA of the Rockies shall perform TTHM and HAA5 monitoring during the second quarter of 2010, April 1, 2010, through June 30, 2010. The TTHM and HAA5 samples must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. YMCA of the Rockies 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.
57. By June 30, 2010, if it has not already done so, YMCA of the Rockies 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, YMCA of the Rockies 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](http://www.cdphe.state.co.us/wq/drinkingwater/pdf/PublicNotice/PN_Guidance_Mar2003.pdf)*

## **ORDER FOR ADMINISTRATIVE PENALTY**

58. 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 Department, shall be subject to an administrative penalty as follows:
- a. For systems that serve a population of more than ten thousand people, an amount not to exceed one thousand dollars per violation per day; or
  - b. For systems that serve a population of ten thousand people or less, an amount not to exceed one thousand dollars per violation per day, but only in an amount, as determined by the Division, that is necessary to ensure compliance.
59. 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 four hundred forty dollars (\$440.00) for the specific violations identified in this action. The reasoning behind this penalty amount is detailed in the administrative penalty methodology/calculation worksheet, which is incorporated herein by reference and enclosed as Attachment A.

### **Terms of Administrative Penalty Payment**

60. If YMCA of the Rockies 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, Enforcement Unit  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-B2-CAS  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

*(To facilitate payment processing, please ensure that Ms. Lauren Worley's name is on the outside of the envelope.)*

61. Payment or appeal of the administrative penalty in this manner does not relieve YMCA of the Rockies of its obligation to perform the activities required by this enforcement action.

### **NOTICES AND SUBMITTALS**

62. For all documents, plans, records, reports and replies required to be submitted by this order, YMCA of the Rockies 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)*

63. 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**

64. YMCA of the Rockies 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 YMCA of the Rockies 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**

65. 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 that serve 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**

66. 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 YMCA of the Rockies 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**

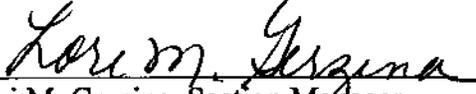
67. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests, 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.
68. 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. Such requests, at a minimum, shall contain the information specified in 5 CCR 1002-21, §21.4(B)(2). Hearings on Administrative Penalty Assessments 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**

69. 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.
70. 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 25<sup>th</sup> day of May, 2010.

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

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

*Attachment A*  
**YMCA OF THE ROCKIES**  
**PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0135883**  
**LARIMER COUNTY, COLORADO**

**ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET**  
**(May 25, 2010)**

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**Penalty Summary**

**Penalty Calculation -Violation Number 1..... \$440.00**

**Violation:** Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five).

**Regulation Violated:** 5 CCR 1003-1, §§7.6.1(b)(1) and 7.6.3(b)(1)

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**TOTAL PENALTY.....\$440.00**

*These calculations were completed in accordance with the WQCD's Public Water System Administrative Penalty Policy, which can be found at the following Internet location:*

*<http://www.cdphe.state.co.us/wq/enforcement/index.html>*

Attachment A

**PENALTY COMPUTATION WORKSHEET**  
**VIOLATION NUMBER: 1**

<b>System Name:</b> YMCA of the Rockies - Wind River	<b>PWSID Number:</b> CO-0135883
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<b>Date of Enforcement Order:</b> May 25, 2010	<b>Number:</b> DC-100525-1
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<b>Regulation Violated:</b> Failure to monitor for total trihalomethanes and haloacetic acids (five), 5 CCR 1003-1, §§7.6.1(b)(1) and 7.6.3(b)(1)	<b>Population Served:</b> 4,040
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**Part I – Base Penalty Calculation**

	<b>Violation Type</b>	<b>Population Range</b>	<b>Amount in Dollars</b>
Line 1	Failure to Monitor for Total Trihalomethanes and Haloacetic Acids (five)	3,301 – 10,000 Served	\$150.00

**Part II – Application of Aggravating or Mitigating Factors**

	<b>Aggravating / Mitigating Factors</b>	<b>% Base Penalty Increase or Decrease</b>	<b>Amount in Dollars</b>
Line 2	Factor A: Threat to Public Health and Welfare <i>Justification:</i>	+ or – 0 %	+ or – \$00.00
Line 3	Factor B: Intentional, Reckless, or Negligent Actions <i>Justification:</i>	+ 0 %	+ \$00.00
Line 4	Factor C: Recalcitrance or Recidivism <i>Justification:</i>	+ 0 %	+ \$00.00
Line 5	Factor D: Voluntary and Complete Disclosure of Violations <i>Justification:</i>	– 0 %	– \$00.00
Line 6	Factor E: Full and Prompt Cooperation <i>Justification:</i>	+ or – 0 %	+ or – \$00.00
Line 7	Factor F: Environmental Compliance Program	– 0 %	– \$00.00

Attachment A

	<b>Aggravating / Mitigating Factors</b>	<b>% Base Penalty Increase or Decrease</b>	<b>Amount in Dollars</b>
	<i>Justification:</i>		
Line 8	Factor G: Other Aggravating or Mitigating Circumstances	+ or - 0 %	+ or - \$00.00
	<i>Justification:</i>		
Line 9	Sum of Lines 2 through Line 9	0	+ or - \$00.00
Line 10	<b>Adjusted Base Penalty (Sum of Line 1 + Line 9)</b>		<b>\$150.00</b>

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

		<b>Days of Violation</b>
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the first quarter 2010 failure to monitor for Total Trihalomethanes and Haloacetic Acids (five) as a single day violation.</i>	

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

		<b>Amount in Dollars</b>
Line 12	Multi-Day Penalty Amount	\$150.00
	<i>Calculations:</i> <i>Total Days of Violation (1) x (\$150.00) = \$150.00</i>	

**Part V – Economic Benefit Consideration**

		<b>Amount in Dollars</b>
Line 13	Economic Benefit:	\$290.00
	<i>Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has avoided its cost for the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to the lab.</i>	

**Part VI – Violation Penalty Total**

		<b>Amount in Dollars</b>
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$440.00

Attachment A

**Part VII – Ability to Pay Adjustment**

		<b>Amount in Dollars</b>
<b>Line 15</b>	<b>Ability to Pay Reduction:</b>	<b>\$00.00</b>
	<i>Justification: Not Applicable – The Division has not been provided any information demonstrating an inability to pay by YMCA of the Rockies.</i>	

**Part VIII – Final Adjusted Penalty**

		<b>Amount in Dollars</b>
<b>Line 16</b>	<b>Total Administrative Penalty: (Line 14 - Line 15)</b>	<b>\$440.00</b>