

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
TDD Line (303) 691-7700 (303) 692-3090
Located in Glendale, Colorado
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

July 13, 2010

PWSID# CO-0234671

Riki Cordell
d/b/a Red Mesa Café and Bakery
6831 Highway 140
Hesperus, CO 81326

Certified Mail Number: 7007 0220 0001 0159 6260

RE: Service of Amendment Number One, to Enforcement Order Number: DT-080826-3

Dear Ms. Cordell:

You are hereby issued the enclosed amendment to the Enforcement Order (Number: DT-080826-3) that was issued to you on August 26, 2008. This order amendment 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 §25-1.5-203 of the Colorado Revised Statutes.

Should you desire to discuss this matter with the Division or if you have any questions regarding the order amendment(s), please don't hesitate to contact Ms. Lauren Worley of this office at (303) 692-3547 or by electronic mail at lauren.worley@state.co.us.

Sincerely,

Russell Zigler, Legal Assistant
Compliance Assurance Section
Enforcement Unit
Water Quality Protection Section
WATER QUALITY CONTROL DIVISION

cc: San Juan Basin Health Department

ec: 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**

**AMENDMENT NUMBER ONE
ENFORCEMENT ORDER NUMBER: DT-080826-3**

**IN THE MATTER OF: RIKI CORDELL
d/b/a RED MESA CAFÉ AND BAKERY
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0234671
LA PLATA COUNTY, COLORADO**

Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority 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. On August 26, 2008, the Division issued an Enforcement Order Number: DT-080826-3 ("Enforcement Order") to Riki Cordell citing violations of the Colorado Primary Drinking Water Regulations for failure to monitor and/or report for microbiological contaminants, failure to monitor and/or report for Nitrate, and failure to provide or certify public notification. The Enforcement Order is attached hereto as Exhibit A and is incorporated herein by reference.
2. Information provided to the Division in response to the Enforcement Order, establishes that the System installed disinfection treatment on February 16, 2006. Such disinfection treatment installation has been verified by the San Juan Basin Health Department. As a result of the installation of disinfection treatment, the System's microbiological contaminants monitoring frequency would change from monthly monitoring to quarterly monitoring. Therefore, after re-evaluating the facts associated with the microbiological contaminants monitoring violation (First Violation), the public notification violation (Third Violation) and the Administrative Penalty Assessment identified in the Enforcement Order, the Division has determined that the following revisions to the Enforcement Order are warranted.

AMENDMENT NUMBER ONE

3. Effective as of the issued date of this Amendment, Enforcement Order Number: DT-080826-3 is therefore amended to revise the Enforcement Order as follows:

a. Since Red Mesa Café and Bakery (“the System”) installed disinfection treatment on February 16, 2006, and is a non-community water system using only groundwater that serves 1,000 persons or fewer, paragraph 12 is deleted and paragraphs 13 and 30 are superseded and replaced with the following new paragraphs:

13. Division records establish that the System failed to provide the Department with the results of routine total coliform analysis for the following monitoring period:

Quarter	Year	Number of Samples Required	Number of Samples Received
2 nd	2008	1	0

30. Within thirty (30) calendar days after receipt of this Order, Riki Cordell shall submit the results of any microbiological contaminant (total coliform) monitoring performed for the following monitoring period:

Quarter	Year	Number of Samples Required	Number of Samples Received
2 nd	2008	1	0

b. Since Riki Cordell was only required to provide and certify public notification for failure to monitor and/or report for microbiological contaminants for the second quarter of calendar year 2008, paragraphs 24 and 26 are superseded and replaced with the following new paragraphs:

24. Division records establish that Riki Cordell has failed to monitor and/or report for microbiological contaminants during the second quarter, April 1 through June 30, in calendar year 2008. Such failure is a violation of 5 CCR 1003-1, §5.1.1.

26. Division records establish that the System has not submitted a certification to the Department certifying that it has fully complied with the public notification regulations relating to its failure to comply with the monitoring and/or reporting for microbiological contaminants violation for the second quarter, April 1 through June 30, in calendar year 2008.

c. The Order for Administrative Penalty Section, paragraphs 34-36, are superseded and replaced with the following new paragraphs:

ORDER FOR ADMINISTRATIVE PENALTY

34. 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 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.
35. 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 Six-Hundred Thirty-Eight dollars (\$638.00) 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 Exhibit B.

Terms of Administrative Penalty Payment

36. If Riki Cordell 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
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.)

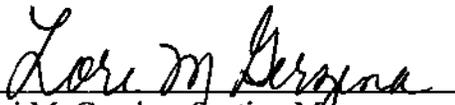
Payment or appeal of the administrative penalty in this manner does not relieve Riki Cordell of its obligation to perform the activities required by this enforcement action.

SCOPE OF AMENDMENT NUMBER ONE

The scope of this Amendment Number One to Enforcement Order Number DT-080826-3 is limited to the revisions outlined above. All other terms and conditions of the Enforcement Order shall remain unchanged and in effect.

Issued at Denver, Colorado, this 13th day of July, 2010.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT


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

STATE OF COLORADO

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



Colorado Department
of Public Health
and Environment

August 26, 2008

Certified Mail Number: 7007 0220 0001 0159 9179

PWSID# CO-0234671

Riki Cordell
d/b/a Red Mesa Café and Bakery
6831 Hwy 140,
Hesperus, CO 81326

RE: Service of Drinking Water Enforcement Order, Number: DT-080826-3

Dear Riki:

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

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

Exhibit A

Rld Cordell
d/b/a Red Mesa Café and Bakery
Drinking Water - Enforcement Order
Page 2 of 2

Should you desire to informally discuss this matter with the Department or if you have any questions regarding the Order, please don't hesitate to contact Cathy Heald at (303) 692-3254 or by electronic mail at catherine.heald@state.co.us.

Sincerely,



Kristi-Raye Beaudin, Legal Assistant
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

Enclosure

cc: San Juan Basin Health Department
Compliance Monitor / Drinking Water File

ec: Greg Brand, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Betsy Beaver, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Paul Klug, Consumer Protection Division, CDPHE
Carolyn Schachterle, OPA



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

ENFORCEMENT ORDER

NUMBER: DT-080826-3

**IN THE MATTER OF: RIKI CORDELL
d/b/a RED MESA CAFÉ AND BAKERY
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0234671
LA PLATA COUNTY, COLORADO**

Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority has been delegated to the Department's Water Quality Control Division (the "Division"), the Division hereby makes the following findings and issues the following Enforcement Order:

GENERAL FINDINGS

1. Riki Cordell owns and/or operates a drinking water system, known as Red Mesa Café and Bakery, located at or near 6831 Highway 140, in or near the Town of Hesperus, La Plata County, Colorado (the "System").
2. Riki Cordell is a person as defined by 5 CCR 1003-1, §1.5.2 (92).
3. Riki Cordell 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(122).
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(101).
5. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID # CO-0234671.
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. Riki Cordell provides piped water for human consumption from the System to at least twenty-five (25) people, but the System does not serve twenty-five (25) or more of the same people, for sixty (60) or more days per year. The System is therefore classified as a "transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(131).

Exhibit A

8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(60).

First Violation

(Failure to Monitor and/or Report for Microbiological Contaminants)

9. Pursuant to 5 CCR 1003-1, §5.1.1(a), the System must collect total coliform samples at sites that are representative of water throughout the distribution system, according to a written sample-siting plan.
10. Pursuant to 5 CCR 1003-1, §5.1.1(e)(1), the System, which serves less than 1,000 persons, must monitor in each calendar quarter that the system provides water to the public.
11. Pursuant to 5 CCR 1003-1, §5.1.1(b), the System is required to submit the results of all routine total coliform sampling and analyses to the Department for review.
12. Pursuant to 5 CCR 1003-1, §1.6.2, to establish compliance with the Regulations, the Department may require suppliers to conduct performance tests and monitoring, as the Department deems necessary to protect the public health. Since the System does not apply disinfection to the drinking water, the Division requires the System to collect and analyze at least one bacteriological sample each month while open for business.
13. Division records establish that the System failed to provide the Department with the results of routine total coliform analyses for the following monitoring periods:

Month	Year	Number of Samples Required	Number of Samples Received
August	2007	1	0
September	2007	1	0
November	2007	1	0
December	2007	1	0
January	2008	1	0
February	2008	1	0
April	2008	1	0
May	2008	1	0
June	2008	1	0
July	2008	1	0

14. Riki Cordell's failure to submit the results of the System's routine total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §5.1.1(b). Additionally, if Riki Cordell failed to perform routine total coliform monitoring during the identified periods, such failure to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §5.1.1(e)(1).

Exhibit A

Second Violation

(Failure to Monitor and/or Report for Nitrate)

15. Pursuant to 5 CCR 1003-1, §6.1.5(e) all public water systems shall monitor to determine compliance with the maximum contaminant level for Nitrate.
16. Pursuant to 5 CCR 1003-1, §6.1.5(e)(1), systems served by groundwater, shall monitor for Nitrate annually.
17. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), the System is required to collect a minimum of one Nitrate sample at every entry point to the distribution system which is representative of each groundwater source after treatment.
18. The *Official 2007 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor separately for Nitrate at each entry point to the distribution system (after treatment) during calendar year 2007.
19. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System shall report to the Department the results of the System's Nitrate analyses within (a) the first ten (10) days following the month in which the results are received, or (b) the first ten (10) days following the end of the required monitoring period as stipulated by the Department, whichever of these is soonest.
20. Department records establish that the System failed to submit results of its Nitrate monitoring for calendar year 2007.
21. Riki Cordell's failure to submit the results of the System's Nitrate analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Riki Cordell failed to perform the Nitrate analyses during the identified periods, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§6.1.5(e), and 6.1.5(b)(1).

Third Violation

(Failure to Provide or Certify Public Notification)

22. Pursuant to 5 CCR 1003-1, §9.2.1(a), the owner or operator of a public water system must give notice to persons served by the water system for all violations of the *Colorado Primary Drinking Water Regulations*. The term "violations" includes violations of the maximum contaminant level, maximum residual disinfection level, treatment technique, monitoring requirements, and testing procedures.
23. Pursuant to 5 CCR 1003-1, §9.2.1(c)(1), each public water system must provide public notice to persons served by the water system, in accordance with 5 CCR 1003-1, §9.2.
24. Division records establish that Riki Cordell has failed to monitor and/or report for microbiological contaminants during the months of August, September, November, December of calendar year 2007

Exhibit A

and January, February, April, May, June and July in calendar year 2008. Such failures are violations of 5 CCR 1003-1, §5.1.1.

25. Pursuant to 5 CCR 1003-1, §§9.2.1(c)(3) and 1.6.4(d), the System must send a copy of the public notice to the Department within ten (10) calendar days of completing the public notification requirements for the initial public notice and for any repeat notices. In addition, the System must submit to the Department a certification that it has fully complied with the public notification regulations.
26. Division records establish that the System has not submitted a certification to the Department certifying that it has fully complied with the public notification regulations relating to its failure to comply with the monitoring and/or reporting for microbiological contaminants violations for August, September, November, December of calendar year 2007 and January, February, April, May, June and July in calendar year 2008.
27. Riki Cordell's failure to submit copies to the Department of its required public notifications/certifications constitutes violations of 5 CCR 1003-1, §§9.2.1(c)(3) and 1.6.4(d). If Riki Cordell failed to notify the public of her failure to monitor and/or report for microbiological contaminants, this failure constitutes violations of 5 CCR 1003-1, §§9.2.1(a) and 9.2.1(c)(1).

COMPLIANCE ORDER

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

28. Immediately comply with the *Colorado Primary Drinking Water Regulations*, 5 CCR 1003-1, Articles 1 through 12.

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

29. Immediately take steps to comply with the microbiological contaminant monitoring/reporting obligations as required by 5 CCR 1003-1, Article 5.
30. Within thirty (14) calendar days after receipt of this Order, Riki Cordell shall submit the results of any microbiological contaminant (total coliform) monitoring performed for the following monitoring periods:

Exhibit A

Month	Year	Number of Samples Required	Number of Samples Received
August	2007	1	0
September	2007	1	0
November	2007	1	0
December	2007	1	0
January	2008	1	0
February	2008	1	0
April	2008	1	0
May	2008	1	0
June	2008	1	0
July	2008	1	0

31. Within fourteen (14) calendar days after receipt of this Order, Riki Cordell shall submit the results of any Nitrate monitoring performed for calendar year 2007.
32. If the system has not performed the Nitrate monitoring for calendar year 2008, Riki Cordell shall perform Nitrate analyses on a representative water sample, taken from each entry point to the distribution system, within thirty (30) calendar days of receipt of this Order. The Nitrate sample(s) must be collected properly and analyzed by a Department-certified laboratory in accordance with approved methods and cited detection limits. Riki Cordell shall provide the Department with the results of the Nitrate analyses within ten (10) calendar days of receipt of the results from the laboratory.
33. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, Riki Cordell 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, Riki Cordell 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 the system and/or to the media. (*See attached public notification procedures.*)

ORDER FOR ADMINISTRATIVE PENALTY

34. 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 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.
35. 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 Two Thousand

Exhibit A

Dollars (\$2,000.00) 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 Exhibit A.

Terms of Administrative Penalty Payment

36. If Riki Cordell 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. Catherine Heald, Drinking Water Enforcement Specialist
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. Heald's name is on the outside of the envelope.)

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

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this order, Riki Cordell 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: Catherine Heald
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: catherine.heald@state.co.us

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

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

Riki Cordell 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 Riki Cordell 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.

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

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 Riki Cordell 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

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.

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 shall be filed in writing with the Water Quality Control Commission within thirty (30) calendar days after service of the penalty assessment.

Exhibit A

ADDITIONAL ACTION

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.

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 26th day of August, 2008.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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

RIKI CORDELL
d/b/a RED MESA CAFÉ AND BAKERY
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0234671
LA PLATA COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(August 26, 2008)

Penalty Summary

Penalty Calculation -Violation Number 1 (Count 1)\$148.00
(Counts 2-10).....\$1,332.00

Violation: Failure to Monitor for Microbiological Contaminants
Regulation Violated: 5 CCR 1003-1, §5.1.

Penalty Calculation -Violation Number 2 (Count 1)\$270.00

Violation: Failure to Monitor for Nitrate
Regulation Violated: 5 CCR 1003-1, §6.1

Penalty Calculation -Violation Number 3 (Count 1)\$250.00

Violation: Failure to Provide or Certify Public Notification
Regulation Violated: 5 CCR 1003-1, §9.2.1(a)

TOTAL PENALTY..... \$2,000.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1 (Count 1)

System Name: Riki Cordell d/b/a/ Red Mesa Café and Bakery	PWSID Number: CO-0234671
Date of Enforcement Order: August 26, 2008	Number: DC-080826-3
Regulation Violated: Failure to Monitor for Microbiological Contaminants, 5 CCR 1003-1, §5.1.1	Population Served: 33

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Microbiological Contaminants – August 2007	< 500 Served	\$60.00

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: Riki Cordell d/b/a Red Mesa Café' and Bakery was issued an Enforcement Order (number DT-060829-2) on August 29, 2006 for her failure to comply with microbiological contaminant monitoring requirements. Therefore, Riki Cordell d/b/a Red Mesa Café' and Bakery has demonstrated a history/pattern of not obeying or complying with her regulatory obligations, thereby revealing a level of disregard for regulatory programs. Riki Cordell's continued noncompliance with the same violation supports an upward adjustment of 50%.</i>	+50%	\$30.00
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

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 8	Factor G: Other Aggravating or Mitigating Circumstances		\$0.00
	<i>Justification: n/a</i>		
Line 9	Sum of Lines 2 through Line 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$90.00

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the July 2007 failure to monitor for microbiological contaminants violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$90.00
	<i>Calculations: Day 1 August 2007 (\$90.00) = \$90.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$58.00
	<i>Justification: The Division believes that Riki Cordell d/b/a/ Red Mesa Café realized an economic benefit by failing to monitor since she avoided the cost of the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$148.00

Exhibit A

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division does not have any information suggesting that Riki Cordell d/b/a/ Red Mesa Café has an inability to pay the assessed penalty amount.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$148.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 1 (Counts 2-11)

System Name: Riki Cordell d/b/a/ Red Mesa Café and Bakery	PWSID Number: CO-0234671
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Date of Enforcement Order: August 26, 2008	Number: DC-080826-3
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Regulation Violated: Failure to Monitor for Microbiological Contaminants, 5 CCR 1003-1, §5.1.1	Population Served: 33
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Microbiological Contaminants – September, November, and December 2007 and January, February, April, May, June and July 2008	< 500 Served	\$60.00

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: Riki Cordell d/b/a/ Red Mesa Café and Bakery was issued an Enforcement Order (number DT-060829-2) on August 29, 2006 for her failure to comply with microbiological contaminant monitoring requirements. Therefore, Riki Cordell d/b/a/ Red Mesa Café and has demonstrated a history/pattern of not obeying or complying with her regulatory obligations, thereby revealing a level of disregard for regulatory programs. Riki Cordell d/b/a/ Red Mesa Café and Bakery continued noncompliance with the same violation supports an upward adjustment of 50%.</i>	+ 50%	\$30.00
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

Exhibit A

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 8	Factor G: Other Aggravating or Mitigating Circumstances		\$0.00
	<i>Justification: n/a</i>		
Line 9	Sum of Lines 2 through Line 9		\$30.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$90.00

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	9
	<i>Justification: The Division has chosen to consider the failure to monitor for microbiological contaminants violation as a single day violation for each month of violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$810.00
	<i>Calculations:</i>	
	<i>Day 1 September 2007 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 2 November 2007 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 3 December 2007 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 4 January 2008 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 5 February 2008 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 6 April 2008 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 7 May 2008 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 8 June 2008 (\$90.00)</i>	<i>= \$90.00</i>
	<i>Day 9 July 2008 (\$90.00)</i>	<i>= \$90.00</i>
	<i>SUM:</i>	<i>= \$810.00</i>

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit	\$522.00
	<i>Justification: The Division believes that Riki Cordell d/b/a/ Red Mesa Café and Bakery realized an economic benefit by failing to monitor since she avoided the cost of the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.</i>	

Exhibit A

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$1,332.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division does not have any information suggesting that Riki Cordell d/b/a/ Red Mesa Café and Bakery has an inability to pay the assessed penalty amount.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$1,332.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 2 (Count 1)

System Name: Riki Cordell d/b/a/ Red Mesa Café and Bakery	PWSID Number: CO-0234671
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Date of Enforcement Order: August 26, 2008	Number: DT-080826-3
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Regulation Violated: Failure to Monitor for Nitrate, 5 CCR 1003-1, §6.1.5	Population Served: 33
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Nitrate – calendar year 2007	< 500 Served	\$200.00

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)		\$200.00

Exhibit A

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the 2007 failure to monitor for Nitrate violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$200.00
	<i>Calculations:</i> <i>Day 1 July 2007 (\$200.00) = \$200.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$70.00
	<i>Justification: The Division believes that Riki Cordell d/b/a/ Red Mesa Café and Bakery realized an economic benefit by failing to monitor. The cost of the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab were avoided.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$270.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division does not have any information suggesting that Riki Cordell d/b/a/ Red Mesa Café and Bakery has an inability to pay the assessed penalty amount.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$270.00

Exhibit A

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET

VIOLATION NUMBER: 3 (Count 1)

System Name: Riki Cordell d/b/a/ Red Mesa Café and Bakery	PWSID Number: CO-0234671
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Date of Enforcement Order: August 26, 2008	Number: DT-080826-3
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Regulation Violated: Failure to Provide or Certify Public Notification, 5 CCR 1003-1, §9.2.1(a)	Population Served: 33
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Provide or Certify Public Notification	< 500 Served	\$250.00

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)		\$250.00

Exhibit A

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the 2007 failure to Provide or Certify Public Notification violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$250.00
	<i>Calculations:</i>	
	<i>Day 1 (\$250.00)</i>	<i>- \$250.00</i>

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$0.00
	<i>Justification: The Division believes that Riki Cordell d/b/a/ Red Mesa Café and Bakery realized an economic benefit from its ongoing noncompliance. However, the Division believes it has adequately recovered the economic benefit through the recovery of economic benefit within each penalty for the underlying individual violations.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$250.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division does not have any information suggesting that Riki Cordell d/b/a/ Red Mesa Café and Bakery has an inability to pay the assessed penalty amount.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$250.00

Exhibit A

Tier 3 Public Notice Instructions

TEMPLATE ON REVERSE

Delivery Requirements

Tier 3 public notices must be provided to persons served within one year (365 days) after you learn of the violation. Multiple monitoring violations can be serious. *Public water systems that provide water to other water systems must deliver public notices to the owners or operators of all receiving water systems (consecutive water systems) (9.2.1(c)).*

Community systems must use at least one of the following delivery methods (9.2.4(c)(1) and 9.2.4(d)):

- ✓ Hand delivery or other direct delivery method
- ✓ Mail (can be included with the bill)
- ✓ Insert the notice in the Consumer Confidence Report, as long the CCR is delivered within one year (365 days) after you learn of the violation.

Non-community systems must use at least one of the following delivery methods (9.2.4 9(c)(2)):

- ✓ Posting in conspicuous locations
- ✓ Mail, hand delivery, or other direct delivery method to each user (where known)

In addition, both community and non-community systems must use another method reasonably calculated to reach others if they would not be reached by the first method. Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved, but no less than seven days.

Ten Required Elements of a Public Notice (9.2.5)

1. Description of the violation or situation including contaminant(s) of concern and (as applicable) the contaminant level(s).
2. When the violation or situation occurred.
3. Any potential adverse health effects from the violation or situation, including any standard language provided in the rule. The health effects language may not be modified.
4. The population at risk; including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water.
5. Whether alternate water supplies should be used.
6. What actions consumers should take, including when to seek medical help, if known.
7. What the system is doing to correct the violation or situation (corrective action).
8. When the system expects to return to compliance or resolve the situation.
9. Contact information: name, business address, and phone number of the water system owner or the owner's legal representative of the PWS that can provide additional information.
10. A statement encouraging notice recipients to distribute the notice to other persons served using the following standard language from the rule. This statement may not be modified: "Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in public places or by distributing copies by hand."

Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

- ✓ We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- ✓ We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- ✓ We plan to take the required samples soon, as described in the last column of the table above.

After Issuing the Notice

Make sure to send WQCD copies of all public notice(s) and a Tier 3 Certificate of Delivery Form within ten days after issuing the notice.



Colorado Department
of Public Health
and Environment

Tier 3
Drinking Water Public Notification
Certificate of Delivery Form

System Name: _____

PWSID CO0 _____

Reason for Notice: (description of violation or situation) _____

Date of Violation Letter: _____

I hereby affirm that Public Notification for the violation or situation identified above has been provided to consumers and any consecutive water systems in accordance with the delivery, content, and format requirements of the *Colorado Primary Drinking Water Regulations*, section 9.2. I affirm that future requirements for notifying new billing units will be met. I also understand that this notice may need to be repeated in accordance with section 9.2 and I must submit this form again with each repeated notice.

Public Notice Distributed on: (date) _____

Check all distribution methods used to reach all consumers:

- Direct delivery method (includes hand delivery and U.S. mail)
- Continuously posted: (list locations) _____
- Television, Radio, and/or Newspaper: _____
- Delivery of multiple copies to hospitals, apartment buildings, schools, or other community centers
- E-mail
- Included in Consumer Confidence Report – applies to community water systems only
- Other method approved by CDPHE: _____

List all consecutive water systems (water systems that purchase water from your system) that notice was delivered to:

Signature of owner or owner's legal representative

Date Signed

Printed name of owner or owner's legal representative

Phone number: _____

Mailing Address: _____

Attach copies of each public notice and send to:

CDPHE-WQCD

ATIN: CADM-Public Notification

Or Fax to: (303) 758-1398

4300 Cherry Creek Drive South

Denver, CO 80246-1530

Exhibit A

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for

(System Name) _____

Our water system recently violated a drinking water standard. Although this situation does not require that you take immediate action, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During (compliance period) _____ we did not complete all monitoring for (contaminant) _____ and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

There is nothing you need to do at this time. The table below lists the contaminant(s) we did not properly test for.

Contaminant	Required Sampling Frequency	Number of Samples Taken	When Samples Should Have Been Taken	When Samples Were or Will Be Taken

What happened? What is being done?

(Describe corrective action)

For more information, please contact (name of contact) _____ at (phone number) _____
or (mailing address) _____

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by (system name) _____
Colorado Public Water System ID#: _____ Date distributed: _____

Exhibit B
RIKI CORDELL
d/b/a RED MESA CAFÉ AND BAKERY
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0234671
LA PLATA COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(August 26, 2008)

Penalty Summary

Penalty Calculation -Violation Number 1.....\$118.00

Violation: Failure to Monitor for Microbiological Contaminants
Regulation Violated: 5 CCR 1003-1, §5.1.

Penalty Calculation -Violation Number 2.....\$270.00

Violation: Failure to Monitor for Nitrate
Regulation Violated: 5 CCR 1003-1, §6.1

Penalty Calculation -Violation Number 3.....\$250.00

Violation: Failure to Provide or Certify Public Notification
Regulation Violated: 5 CCR 1003-1, §9.2.1(a)

TOTAL PENALTY..... \$638.00

Exhibit B

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1

System Name: Riki Cordell d/b/a/ Red Mesa Café and Bakery	PWSID Number: CO-0234671
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Date of Enforcement Order: August 26, 2008	Number: DC-080826-3
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Regulation Violated: Failure to Monitor for Microbiological Contaminants, 5 CCR 1003-1, §5.1.1	Population Served: 36
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Microbiological Contaminants – 2 nd Quarter, 2008	< 500 Served	\$60.00

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 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$60.00

Exhibit B

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the second quarter 2008 failure to monitor for microbiological contaminants violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$60.00
	<i>Calculations: Day 1 Second Quarter 2008 (\$60.00) = \$60.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$58.00
	<i>Justification: The Division believes that Riki Cordell d/b/a/ Red Mesa Café realized an economic benefit by failing to monitor since she avoided the cost of the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$118.00

Exhibit B

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
<i>Justification: Not Applicable – The Division does not have any information suggesting that Riki Cordell d/b/a/ Red Mesa Café has an inability to pay the assessed penalty amount.</i>		

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$118.00

Exhibit B

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 2

System Name: Riki Cordell d/b/a/ Red Mesa Café and Bakery	PWSID Number: CO-0234671
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Date of Enforcement Order: August 26, 2008	Number: DT-080826-3
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Regulation Violated: Failure to Monitor for Nitrate, 5 CCR 1003-1, §6.1.5	Population Served: 36
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor for Nitrate – calendar year 2007	< 500 Served	\$200.00

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)		\$200.00

Exhibit B

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
<i>Justification: The Division has chosen to consider the 2007 failure to monitor for Nitrate violation as a single day violation.</i>		

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$200.00
<i>Calculations:</i> <i>Day 1 July 2007 (\$200.00) = \$200.00</i>		

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$70.00
<i>Justification: The Division believes that Riki Cordell d/b/a/ Red Mesa Café and Bakery realized an economic benefit by failing to monitor. The cost of the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab were avoided.</i>		

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$270.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
<i>Justification: Not Applicable – The Division does not have any information suggesting that Riki Cordell d/b/a/ Red Mesa Café and Bakery has an inability to pay the assessed penalty amount.</i>		

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$270.00

Exhibit B
ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 3

System Name: Riki Cordell d/b/a/ Red Mesa Café and Bakery	PWSID Number: CO-0234671
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Date of Enforcement Order: August 26, 2008	Number: DT-080826-3
---	----------------------------

Regulation Violated: Failure to Provide or Certify Public Notification, 5 CCR 1003-1, §9.2.1(a)	Population Served: 36
--	------------------------------

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Provide or Certify Public Notification	< 500 Served	\$250.00

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)		\$250.00

Exhibit B
Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the second quarter 2008 failure to Provide or Certify Public Notification violation as a single day violation.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$250.00
	<i>Calculations:</i>	
	<i>Day 1 (\$250.00)</i>	<i>= \$250.00</i>

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$0.00
	<i>Justification: The Division believes that Riki Cordell d/b/a/ Red Mesa Café and Bakery realized an economic benefit from its ongoing noncompliance. However, the Division believes it has adequately recovered the economic benefit through the recovery of economic benefit within each penalty for the underlying individual violations.</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$250.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division does not have any information suggesting that Riki Cordell d/b/a/ Red Mesa Café and Bakery has an inability to pay the assessed penalty amount.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$250.00