

STATE OF COLORADO

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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

August 31, 2010

Certified Mail Number: 7009 1680 0000 2094 4886

PWSID# CO-0102300

Mr. Robert Lewis Coleman, Registered Agent

High Valley Mobile Home Park

4892 State Highway 17

Alamosa, CO 81101

RE: Service of Drinking Water Enforcement Order, Number: DC-100831-2

Dear Mr. Coleman:

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 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 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 Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S., and the procedural rules promulgated in 5 CCR 1002-21.

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

Should 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 Sean Scott at (303) 692-3258 or by electronic mail at sean.scott@state.co.us.

Sincerely,



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

Enclosure

- cc: Alamosa County Public Health Department
Mike Potts, Operator, 4990 W. County Rd 10 N., Del Norte, CO 81132
Robert L. Coleman, 19880 E. Amherst Dr., Aurora, CO 80013
- ec: Joseph Talbott, 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
Sean Scott, Case Person, CDPHE



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

ENFORCEMENT ORDER

NUMBER: DC-100831-2

**IN THE MATTER OF: ROBERT L. COLEMAN
d/b/a HIGH VALLEY MOBILE HOME PARK
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0102300
ALAMOSA 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. Robert L. Coleman owns and/or operates a drinking water system, known as High Valley Mobile Home Park, at or near 4892 Highway 17, Alamosa, Colorado, in Alamosa County, Colorado (the "System").
2. Robert L. Coleman is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Robert L. Coleman is a supplier of water within the meaning of §25-1.5-201(2), C.R.S., and its implementing regulation, 5 CCR 1003-1, §1.5.2(128).
4. The System is a public water system as defined by §25-1.5-201(1), C.R.S., and its implementing regulation, 5 CCR 1003-1, §1.5.2(107).
5. The Public Water System Identification Number ("PWSID") assigned to the System by the Division is PWSID #: CO-0102300.
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. Robert L. Coleman provides piped water for human consumption from the System to at least fifteen (15) service connections used by year-round residents of the area served by the System and/or regularly serves at least twenty-five (25) year-round residents. The System is therefore classified as a "community water system" as defined by 5 CCR 1003-1, §1.5.2(15).

8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).
9. On August 16, 2010, a Division representative conducted a sanitary survey (compliance inspection) of the System, pursuant to the Division's authority under §25-1.5-204, C.R.S. and 5 CCR 1003-1, §1.7, to determine the System's compliance with the Regulations.

First Violation
(Exceedance of the Maximum Contaminant Level for Arsenic)

10. Pursuant to 5 CCR 1003-1, §2.2, Table 2-3(2), all community public water systems are subject to the arsenic maximum contaminant level of 0.010 mg/L.
11. Pursuant to 5 CCR 1003-1, §6.1.5(d)(1), the System must monitor for arsenic by taking one sample at each sampling point, as defined in 5 CCR 1003, §6.1.5(b)(1), during each compliance period.
12. Pursuant to 5 CCR 1003-1, §6.1.5(d)(8), systems that exceed the maximum contaminant level for arsenic, as calculated in accordance with 5 CCR 1003-1, §6.1.3(a), shall monitor quarterly beginning in the next quarter after the violation occurred.
13. Pursuant to 5 CCR 1003-1, §6.1.3(a)(1), for systems which are conducting monitoring at a frequency greater than annual, compliance with the maximum contaminant level for arsenic is determined by a running annual average based on data from the most recent four consecutive quarters at any sampling point.
14. Pursuant to 5 CCR 1003-1, §6.1.2 and §1.6.4(a), the System shall report to the state the results of any test measurement or analysis required by the Regulations within (1) the first ten calendar days following the month in which the result is received, or (2) the first ten calendar days following the end of the required monitoring period, as stipulated by the Department, whichever of these is shorter.
15. From calendar year 2007 to present, monitoring data submitted to the Division from the System establish the following arsenic running annual averages for the System:

3 rd Q 2007 0.014	4 th Q 2007 0.015	1 st Q 2008 0.010	2 nd Q 2008 0.011	0.013
4 th Q 2007 0.015	1 st Q 2008 0.010	2 nd Q 2008 0.011	3 rd Q 2008 0.021	0.014
1 st Q 2008 0.010	2 nd Q 2008 0.011	3 rd Q 2008 0.021	4 th Q 2008 0.010	0.013
2 nd Q 2008 0.011	3 rd Q 2008 0.021	4 th Q 2008 0.010	1 st Q 2009 0.004	0.012

3rd Q 2008 0.021	4th Q 2008 0.010	1st Q 2009 0.004	2nd Q 2009 0.014	0.012
4th Q 2008 0.010	1st Q 2009 0.004	2nd Q 2009 0.014	3rd Q 2009 0.018	0.012
1st Q 2009 0.004	2nd Q 2009 0.014	3rd Q 2009 0.018	4th Q 2009 0.009	0.011
2nd Q 2009 0.014	3rd Q 2009 0.018	4th Q 2009 0.009	1st Q 2010 0.010	0.013
3rd Q 2009 0.018	4th Q 2009 0.009	1st Q 2010 0.010	2nd Q 2010 0.011	0.012

16. Pursuant to 5 CCR 1003-1, §6.1.3(a)(1), for systems which are conducting monitoring at a frequency greater than annual, if the running annual average at any sampling point is greater than the maximum contaminant level, then the system is out of compliance.
17. Robert L. Coleman's failure to comply with the maximum contaminant level for arsenic constitutes violations of 5 CCR 1003-1, §2.2, Table 2-3(2).

Second Violation
(Exceedance of the Maximum Contaminant Levels for
Total Trihalomethanes and Haloacetic Acids (five))

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

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

20. In a letter dated November 4, 2009, the Division increased the System's monitoring to quarterly as a result of its September 24, 2009, TTHM and HAA5 maximum contaminant level exceedance.

21. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(i), compliance with the maximum contaminant levels for TTHM and HAA5 must be based on a running annual arithmetic average (“RAA”), computed quarterly, of quarterly arithmetic averages of all samples collected by the system as prescribed by 5 CCR 1003-1, §7.6.3(b)(1).
22. 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.
23. From calendar year 2009 to present, monitoring data submitted to the Division from the System establish the following TTHM and HAA5 running annual arithmetic averages for the System:

TTHM (mg/L)				
1 st Q 2009 -	2 nd Q 2009 -	3 rd Q 2009 0.210	4 th Q 2009 0.199	0.102
2 nd Q 2009 -	3 rd Q 2009 0.210	4 th Q 2009 0.199	1 st Q 2010 0.069	0.120
3 rd Q 2009 0.210	4 th Q 2009 0.199	1 st Q 2010 0.069	2 nd Q 2010 0.001	0.120

HAA5 (mg/L)				
2 nd Q 2009 -	3 rd Q 2009 0.169	4 th Q 2009 0.071	1 st Q 2010 0.017	0.064
3 rd Q 2009 0.169	4 th Q 2009 0.071	1 st Q 2010 0.017	2 nd Q 2010 0.0137	0.068

24. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(iii), if the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the maximum contaminant level, the System is in violation of the maximum contaminant level and must notify the public pursuant to 5 CCR 1003-1, §9.2, in addition to reporting to the Department pursuant to 5 CCR 1003-1, §7.6.5.
25. Robert L. Coleman’s failure to comply with the maximum contaminant levels for TTHM and HAA5 constitutes violations of 5 CCR 1003-1, §2.4, Table 2-5(1) and (2).

Third Violation
(Exceedance of the Maximum Contaminant Level
for Microbiological Contaminants)

26. Pursuant to 5 CCR 1003-1, 5.7(a), the maximum contaminant level for microbiological contaminants is based on the presence or absence of total coliforms in a sample, rather than coliform density.

27. Pursuant to 5 CCR 1003-1, §5.7(a)(2), the System, which collects fewer than 40 total coliform samples per month, exceeds the maximum contaminant level for microbiological contaminants if more than one sample collected during a month is total coliform-positive.
28. 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.
29. Division records establish that the System reported positive total coliforms and E. coli results for the following sample dates.

Sample Month/Day/Year	Sample Location	Number of Positive Total Coliform Sample(s)	Number of Positive E. coli Sample(s)
7/14/2010	RTOR	1	0
7/16/2010	RPOT	4	4

30. Robert L. Coleman's failure to maintain compliance with the maximum contaminant level for microbiological contaminants during the month of July 2010 constitutes violation(s) of 5 CCR 1003-1, §2.3 and §5.7(a).

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

31. Pursuant to 5 CCR 1003-1, §1.11.2(b), no person shall commence construction of any new waterworks, or make improvements to or modify the treatment process of an existing waterworks, or initiate use of a new source, until plans and specifications for such construction, improvements, modifications or use have been submitted to, and approved by the Department. A Professional Engineer registered in the State of Colorado shall design all treatment systems serving a community water supply. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with design criteria as stated above, and with all applicable laws, standards, rules and regulations.
32. During the August 16, 2010 sanitary survey, the Division Representative observed and the System representatives advised the Division Representative that they had recently replaced the System's source water well with a new re-drilled well, thus initiating the use of a new source.
33. Division records establish that prior to construction of the new replacement well, Robert L. Coleman did not submit to the Department (for approval) the plans and specifications for the new well. Division records (to-date) further establish that Robert L. Coleman has not submitted or received plans and specifications approval from the Department for the use of the new replacement well.

34. Robert L. Coleman's failure to submit and/or obtain Department approval of the System's plans and specifications prior to construction, improvements or modifications to the System constitutes violation(s) of 5 CCR 1003-1, §1.11.2(b).

COMPLIANCE REQUIREMENTS

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Robert L. Coleman is hereby ordered to:

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

Further, the Division hereby orders Robert L. Coleman to comply with the following specific terms and conditions of this Enforcement Order.

36. By no later than October 15, 2010, Robert L. Coleman shall retain a qualified person or entity (*such as a Professional Engineer experienced in drinking water arsenic removal treatment, disinfection equipment, and control of disinfection by-products*) to review and evaluate the System's installed arsenic treatment, disinfection treatment, and the ability of the System to properly maintain a disinfection residual in the distribution system. The retained qualified person or entity shall make System improvement recommendations to ensure long-term compliance with the arsenic, TTHM/HAA5, and microbiological contaminant maximum contaminant levels outlined in 5 CCR 1003-1, §2.2, Table 2-3(2), 5 CCR 1003-1, §2.4, Table 2-5(1&2), 5 CCR 1003-1, §2.3, Table 2-4(4) and the disinfection residual requirements outlined in 5CCR 1003-1, Article 7.
37. By no later than October 22, 2010, Robert L. Coleman shall submit a written notice to the Division identifying the qualified person or entity retained to perform the review and evaluation required in paragraph 36 above. Robert L. Coleman's notice shall also outline the scope of work for the review and evaluation.
38. By no later than November 30, 2010, Robert L. Coleman shall submit to the Division a written report detailing the findings from the review and evaluation performed pursuant to paragraph 36 above. In addition, the report should specifically outline actions and associated time schedules for Robert L. Coleman to implement improvements to ensure reliable and consistent compliance with the disinfection residual requirements and the maximum contaminant levels for arsenic, TTHM, HAA5, and microbiological contaminants. The submitted actions and time schedules shall become a condition of this Enforcement Order and Robert L. Coleman shall comply with the actions and time schedules unless notified by the Division, in writing, that alternate actions and/or time schedule(s) are appropriate. If the Division imposes alternate actions and/or time schedule(s), they shall also become a condition of this Enforcement Order.

39. By no later than November 30, 2010, Robert L. Coleman shall submit for Division review and approval, plans and specifications for the System's recently replaced (re-drilled) well number 1. Upon review of the submitted plans and specifications, if the Division determines that the implemented system improvements are deficient, Robert L. Coleman shall within sixty (60) calendar days of the Division's notice certify in writing that the deficiencies have been corrected, as necessary, and that the System is now constructed in accordance with the Department approved design plans, specifications and the Regulations.

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

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

40. In accordance with 5 CCR 1003-1, §9.2, Robert L. Coleman shall issue or reissue a public notice each calendar quarter for each ongoing arsenic or TTHM/HAA5 MCL violation until Robert L. Coleman has been notified in writing by the Division that the System has returned to compliance with the maximum contaminant levels for arsenic, TTHM and HAA5. Within ten (10) calendar days of completion of each required public notification, Robert L. Coleman 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.
41. Within thirty (30) calendar days after receipt of this Order, if he has not already done so, Robert L. Coleman shall issue a public notice in accordance with 5 CCR 1003-1, §9.2, for his failure to submit plans and specifications for the new well. Within ten (10) calendar days of completion of the required public notification, Robert L. Coleman 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

42. Robert L. Coleman shall submit "System Improvement Project - Progress Reports" to the Division every ninety (90) calendar days. The first report shall be submitted to the Division by October 22, 2010. At a minimum, each report shall clearly indicate the status of the system evaluation/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 arsenic, TTHM and HAA5, and microbiological contaminant maximum contaminant levels outlined in 5 CCR 1003-1, §2.2, Table 2-3(2), 5 CCR 1003-1, §2.4, Table 2-5(1) and (2), and 5 CCR 1003-1, §2.3, Table 2-4(4).
43. All documents submitted under this Order shall use the same titles as stated in the Order and shall reference both the Order number and the paragraph number pursuant to which the document is required.

NOTICES AND SUBMITTALS

44. For all documents, plans, records, reports and replies required to be submitted by this order, Robert L. Coleman 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: Sean Scott
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: sean.scott@state.co.us
Fax: (303) 782-0390

(For any facsimile transmittals, please include a cover sheet addressed to Sean Scott)

45. All reports, notices, summaries, and certifications required to be submitted to the Division by the public water system must bear the original signature of the owner or the owner's authorized representative.

NOTICE OF COMPLETION

46. Robert L. Coleman 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 Robert L. Coleman 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

47. 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 serving a community water supply. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with all applicable laws, standards, rules and regulations.

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

48. You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars (\$1,000) per violation per day, to be imposed by the Department or a State District Court. Further, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an Enforcement Order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

REQUEST FOR HEARING OR APPEAL

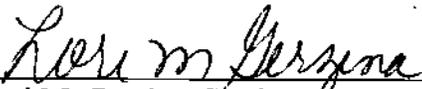
49. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests, at a minimum, shall contain the information specified in 5 CCR 1003-1, §1.6.7(g), and 5 CCR 1002-21, §21.4(B)(2). Hearings on Enforcement Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S., and the procedural rules promulgated in 5 CCR 1002-21.

ADDITIONAL ACTION

50. 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.
51. 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 31st day of August, 2010.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT


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