

STATE OF COLORADO

Bill Ritter, Jr., Governor
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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

September 29, 2010

PWSID# CO-0230518

Mr. Robert A. Watzel, Registered Agent
Mountain Air Ranch, Incorporated
9006 S. Mica Mine Gulch Rd.
Littleton, CO 80127

Certified Mail Number: 7009 1680 0000 2094 4947

RE: Service of Amendment to Enforcement Order Number: DN-091222-1

Dear Mr. Watzel:

Mountain Air Ranch, Incorporated is hereby issued the enclosed amendment to the Enforcement Order (Number: DN-091222-1) that was issued to Mountain Air Ranch, Incorporated on December 22, 2009. 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 Lauren Worley of this office at (303) 692-3547 or by electronic mail at laurne.worley@state.co.us.

Sincerely,

Russell Zigler

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

cc: Jefferson County Public Health
Ron Earthman, Operator, PO Box 855, Indian Hills, CO 80454-0855

ec: Jon Erickson, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Lori Billeisen, 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: DN-091222-1

IN THE MATTER OF: MOUNTAIN AIR RANCH, INCORPORATED
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0230518
JEFFERSON 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 amendment to Enforcement Order Number DN-091222-1:

GENERAL FINDINGS

1. In a June 18, 2009 Boil Water Order, the Division advised Mountain Air Ranch, Incorporated ("Mountain Air Ranch") of its obligation to perform a Tier 1 Public Notification due to the presence of total coliform and E. coli in the distribution piping associated with its drinking water system. A copy of the Boil Water Order is attached hereto as Exhibit A and is incorporated herein by reference.
2. On December 22, 2009, the Division issued Enforcement Order Number: DN-091222-1 ("Enforcement Order") to Mountain Air Ranch citing nine (9) violations of the *Colorado Primary Drinking Water Regulations* ("Regulations"). The Enforcement Order outlined a compliance schedule that was designed to return and ensure long-term compliance with the Regulations, specifically including the groundwater disinfection treatment requirements (Article 13) and the microbiological contaminant maximum contaminant level (Articles 2 and 5). A copy of the Enforcement Order is attached hereto as Exhibit B and is incorporated herein by reference.
3. In a pair of letters dated March 4, 2010, from Mountain Air Ranch to the Division, Mountain Air Ranch requested a hearing/appeal on the Division's classification of its drinking water system as a Public Water System and the inclusion of individual wells (Spruce and Cedar) as being part of its distribution system.
4. In a letter dated May 11, 2010, from Connie H. King, Mountain Air Ranch's attorney, to the Division's attorney, Ms. King informed the Division that Mountain Air Ranch has decided to drop its request for a hearing/appeal and that it was in the process of retaining the engineering consulting firm JVA, Incorporated ("JVA") to evaluate its drinking water system to determine how the system could be improved to comply with the Regulations.

5. In a letter dated May 14, 2010, from the Division's attorney to Mountain Air Ranch, the Division acknowledged Mountain Air Ranch's withdrawal of its request for a hearing/appeal. Moreover, in the letter, the Division extended the deadlines for Mountain Air Ranch to retain a qualified individual or entity to develop Final Plans and Specifications for the system improvements (paragraph 61(a) of the Enforcement Order) from January 6, 2010, to May 20, 2010, and for Mountain Air Ranch to submit the Final Design Plans and Specifications to the Division (paragraph 61(b) of the Enforcement Order) from February 20, 2010, to June 15, 2010.
6. In a letter dated June 7, 2010, from JVA to the Division, JVA informed the Division that Mountain Air Ranch had retained JVA to prepare a Conceptual Engineering Plan for system improvements, in satisfaction of paragraph 61(a) of the Enforcement Order.
7. On June 29, 2010, the Division sent Mountain Air Ranch a Compliance Advisory notifying Mountain Air Ranch of its failure to submit Final Design Plans and Specifications for the system improvements as required by paragraph 61(b) of the Enforcement Order.
8. In a letter dated July 20, 2010, from Mountain Air Ranch to the Division, Mountain Air Ranch responded to the Division's June 29, 2010 Compliance Advisory and explained that the delay in submitting the Final Design Plans for the system improvements was due to unexpected difficulties and delays associated with its engineering consulting firm (JVA).
9. On August 2, 2010, representatives of Mountain Air Ranch and representatives of the Division met to discuss Mountain Air Ranch's compliance with the Enforcement Order, more specifically the submittal of Final Design Plans and Specifications for the system improvements. During the meeting, Mountain Air Ranch advised that it would submit a revised implementation schedule to return to compliance with the Enforcement Order by August 30, 2010.
10. On August 30, 2010, Mountain Air Ranch submitted a proposed schedule for implementation of system improvements to return to compliance with the Enforcement Order.
11. On August 31, 2010, the Division rescinded the Boil Water Order due to the results of three months (May 2010 through July 2010) of clean microbiological samples obtained from the distribution system and the receipt of a Certification of Delivery that the "Boil Water Advisory" was repeatedly delivered to Mountain Air Ranch's customers along with copies of the Public Notification.
12. After reviewing the proposed implementation schedule submitted by Mountain Air Ranch, and in consideration of the Division's rescission of the Boil Water Order, the Division hereby amends the compliance schedule for Mountain Air Ranch's system improvements and the public notification requirements of the Enforcement Order.

AMENDMENT NUMBER ONE

13. Effective as of the issued date of this Amendment, Enforcement Order Number: DN-091222-1 is amended to revise the Enforcement Order as follows:

- a. In consideration of the extenuating circumstances associated with Mountain Air Ranch's failure to comply with the Enforcement Order, as recounted in the General Findings above, paragraphs 61(b) through (d) are superseded and replaced with the following new paragraphs:
 - b) By September 30, 2010, have a qualified engineering firm (experienced in drinking water treatment technologies and operational practices) under contract to evaluate and recommend Final Design Plans and Specifications for the proposed system improvements.
 - c) By November 30, 2010, submit Final Design Plans and Specifications for the proposed system improvements for Department review and approval in accordance with 5 CCR 1003-1, §1.11.2, and the State of Colorado Design Criteria for Potable Water Systems.
 - d) Within thirty (30) calendar days from the date of the Department's approval of Final Design Plans and Specifications, begin soliciting bids from qualified contractors (experienced in drinking water treatment technologies and operational practices) to construct the Department approved system improvements.
 - e) By April 1, 2011, begin construction of the Department approved system improvements to the Gatehouse, Cedar, Ponderosa, U-Turn and Clubhouse water systems
 - f) By May 30, 2011, complete construction/implementation of the Department approved system improvements to ensure long-term compliance with the groundwater disinfection treatment requirements and the microbiological contaminant maximum contaminant level.
 - g) By June 10, 2011, submit a written certification from the engineering firm stating that the system improvements were constructed/installed as approved by the Department.
- b. Since Mountain Air Ranch's Boil Water Order was rescinded on August 31, 2010, and Mountain Air Ranch has not yet installed disinfection treatment on its distribution system, paragraph 62 is superseded and replaced with the following new paragraph:

62. By no later than September 30, 2010, Mountain Air Ranch, Incorporated shall issue a public notice in accordance with 5 CCR 1003-1, Article 9.2, for its ongoing failure to provide disinfection treatment of its groundwater source as identified in this Enforcement Order. Beginning September 30, 2010, Mountain Air Ranch, Incorporated shall, at a minimum, continuously post the public notice at the Gatehouse, in a prominent and member/guest visible location, until Mountain Air Ranch, Incorporated has effectively addressed and returned to compliance with the disinfection treatment requirements outlined in 5 CCR 1003-1, §13.2(b). Within ten (10) calendar days of the end of each calendar quarter, Mountain Air Ranch, Incorporated shall submit to the Department, along with the mandatory public notification certification of delivery, a representative copy of notices distributed, published, posted, and/or made available to the persons served by the system and/or to the media. *(Attached, as Exhibit C, are copies of procedures and forms to assist Mountain Air Ranch, Incorporated with the public notification requirements.*

SCOPE OF AMENDMENT NUMBER ONE

The scope of this Amendment Number One to Enforcement Order Number: DN-091222-1 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 29th day of September, 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
James B. Martin, Executive Director

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Colorado Department
of Public Health
and Environment

June 18, 2009

Mr. Ron Earthman
Mountain Air Ranch
P.O. Box 855
Indian Hills, CO 80454-0855

BOIL WATER ORDER TIER 1 PUBLIC NOTIFICATION REQUIREMENT Mountain Air Ranch; PWSID #CO0230518; JEFFERSON COUNTY

Dear Mr. Earthman:

This letter is formal notification to the Mountain Air Ranch (the "System") of the Colorado Department of Public Health and Environment-Water Quality Control Division (the "Division") requirement to issue a "Boil Water Order" to each of the affected water users of the Mountain Air Ranch drinking water system. This "Boil Water Order" is being required as a measure to protect public health as a result of the presence of total coliform and *E. coli* bacteria in recent samples from the System.

Pursuant to Article 5 of the Colorado Primary Drinking Water Regulations (the "regulations"), drinking water systems that are required to collect fewer than 40 total coliform samples per month are in violation of the Maximum Contaminant Level (MCL) if more than one (1) sample collected during a month is total coliform-positive. Division records show that one (1) routine sample collected at the System on June 14, 2009 had results showing total coliform present and *E. coli* present and four (4) repeat samples collected on June 17, 2009 had results showing total coliform present, one (1) of which was also *E. coli* present. This constitutes an acute violation of the MCL for total coliform.

Article 9 of the *Colorado Primary Drinking Water Regulations* requires that public notice be delivered to the System's water users as soon as possible and within twenty-four (24) hours of receipt of this letter. To assist you in fulfilling this public notification requirement, enclosed are copies of the Tier 1 Public Notice Instructions, which includes the "Ten Required Elements of a Public Notice", the Public Notification Template, and the Drinking Water Public Notification "Certificate of Delivery" Form. Please fill in the blanks of the Template with language to reflect your specific situation.

Additionally, public water systems are required to submit a certification of delivery following any type of public notification to verify that the public was notified in accordance with the regulations. The "Boil Water Tier 1 Public Notice" must be reissued every two weeks until the Division has determined the system is operating properly and providing safe drinking water to the public and has provided the system with written correspondence lifting the order.

The officials responsible for managing this public water system must also:

Exhibit A

Mr. Ron Earthman
Mountain Air Ranch
June 18, 2009
Page 2

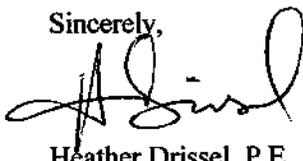
- Investigate the cause of the bacteriological contamination to the distribution system and the source (if identified during source water sampling);
- Resolve the potential source of contamination identified in the above mentioned Investigation;
- Collect source water sample(s) from the well/cisterns providing water to the system and analyze the sample(s) for the presence of total coliforms and *E. coli* bacteria;
- Flush and sanitize the distribution system and collect chlorine residual concentrations during and after flushing; and
- After the system has been properly flushed and sanitized, the System must obtain five (5) water samples from the distribution system and have them analyzed for the presence of total coliform and *E. coli* bacteria.

Upon completion of the above actions, the Mountain Air Ranch must provide the Division with a written description of:

- Root cause investigation results and the actions taken to correct the underlying problem;
- Actions and procedures completed to flush and sanitize the distribution system, to include:
 - Times, locations and chlorine residual concentrations during flushing;
 - Times, locations and chlorine residual concentrations after flushing;
- The completed "Certificate of Delivery" Form;
- A copy of all Public Notices made available to all customers;
- Copies of all laboratory and field monitoring results.

Please be advised, in the interest of protecting public health, the "Boil Water Order" shall not be lifted until the system has successfully completed the above mentioned actions. If you need assistance regarding the above listed requirements, please do not hesitate to contact me at 303-916-4861 or via electronic mail at heather.drissel@state.co.us.

Sincerely,



Heather Drissel, P.E.
Denver Field Unit Manager 2
Engineering Section
Water Quality Control Division

Enclosure

cc Craig Sanders, Jefferson County
Drinking Water File, CO0144032

cc Steve Gunderson, Director, Water Quality Control Division, CDPHE
Ron Falco, Drinking Water Program Manager, WQCD-CDPHE
Lori Gerzina, CADM Section Manager, WQCD-CDPHE
Jennifer Miller - Engineering Section Manager, WQCD - CDPHE
Rick Koplitz, Drinking Water Compliance Unit Manager, CADM, WQCD-CDPHE
Bret Icenogle - Denver Field Unit Manager 1, WQCD - CDPHE
Paul Kosik, Engineering Section, WQCD-CDPHE
Jeremy Simmons, Drinking Water Rule Manager, CADM, WQCD-CDPHE
Emily Clark, Drinking Water Rule Manager, CADM, WQCD-CDPHE
Alicia Cronquist, Division of Epidemiology, CDPHE
Betsy Beaver, Liaison to the Water & Wastewater Operator Certification Board

Tier 1 Public Notice Instructions

Delivery Requirements

Violations and other situations that require Tier 1 public notice have significant potential to have serious adverse effects on human health as a result of short-term exposure. Therefore, the water system must provide public notice to persons served as soon as practical but within 24 hours after learning of the violation or situation. The water system must issue a repeat notice at a frequency determined by the Water Quality Control Division for as long as the violation or situation persists. ***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, at a minimum, use the following delivery method:

- ✓ Hand delivery

Non-community systems must, at a minimum, use the following delivery method:

- ✓ Posting in conspicuous locations

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 emergency reverse 911 system phone calls, television, radio, newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation or situation 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 the notice, describe corrective actions the water system is taking. Use one or more of the following actions, if appropriate, or develop your own:

- ✓ We are sampling throughout the distribution system for the presence of [contaminant]
- ✓ We are monitoring chlorine levels and will adjust them as needed
- ✓ We have isolated the break and are working to correct the problem.

After Issuing the Notice

Make sure to send WQCD copies of all public notice(s) and a Tier 1 Certificate of Delivery Form within ten days after issuing the notice.

Recommendations:

Although not required, it is recommended that the water system issue a "Problem Corrected" public notice once the violation or situation has been resolved.

It is recommended that the water system notify health professionals in the area of the potential health risks. People may call their doctors with questions about how the violation may affect their health, and the doctors should have the information they need to respond appropriately. In addition, health professionals, including dentists, use tap water during their procedures and need to know of potential problems so they can use bottled water.



DRINKING WATER WARNING

Mountain Air Ranch

Water Is Contaminated With Fecal Coliform or *E. coli*

BOIL YOUR WATER BEFORE USING

Fecal coliform or *E. coli* bacteria were found in the water supply on June 17, 2009. These bacteria can make you sick, and are a particular concern for people with weakened immune systems.

What does this mean? What should I do?

- ✓ **DO NOT DRINK THE WATER WITHOUT BOILING IT FIRST.** Bring all water to a boil, let it boil for three (3) minutes, and let it cool before using, or use bottled water. **DO NOT BOIL** for an extensive period of time. **MORE IS NOT BETTER.** Boiled or bottled water should be used for drinking, making ice, brushing teeth, washing dishes, and food preparation until further notice. Boiling kills bacteria and other organisms in the water.
- ✓ Fecal coliforms and *E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly and people with severely compromised immune systems. The symptoms above are not caused only by organisms in drinking water. If you experience any of these symptoms and they persist, you may want to seek medical advice. People at increased risk should seek advice about drinking water from their health care providers.
- ✓ People with severely compromised immune systems, infants, and some elderly may be at increased risk. These people should seek advice from their health care providers about drinking water.

What happened? What is being done?

(Describe corrective action) _____

We will inform you when tests show no bacteria and you no longer need to boil your water. We anticipate resolving the problem within (estimated time frame) _____. For more information, please contact (name of contact) _____ at (phone number) _____ or (mailing address) _____. General guidelines on ways to lessen the risk of infection by microbes are available from the EPA Safe Drinking Water Hotline at 1(800) 426-4791.

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 Mountain Air Ranch
Colorado Public Water System ID#: CO0230518
Date distributed: _____



Colorado Department
of Public Health
and Environment

Tier 1
Drinking Water Public Notification
Certificate of Delivery Form

Mountain Air Ranch
PWSID CO0230518

Reason for Notice: **Boil Water Order**

Date of Violation Letter or Date of Public Notice Requirement Letter: **June 18, 2009**

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.

The system consulted with: _____ (name) at CDPHE-WQCD, Date: _____

Public Notice Distributed on: (date) _____

Check all distribution methods used to reach all consumers:

- Direct delivery method (hand delivery) – required for community water systems
- Continuously posted: (list locations) _____
- Television, Radio, and/or Newspaper: _____
- Emergency-911 system message
- Delivery of multiple copies to hospitals, apartment buildings, schools, or other community centers
- E-mail
- 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
ATTN: CADM-Public Notification
4300 Cherry Creek Drive South
Denver, CO 80246-1530

OR

Fax to: (303) 758-1398

Drinking Water System

Generic Flushing and Sanitization Procedure

The flushing and sanitizing of a drinking water system begins at the treatment plant and proceeds systematically outward to all ends of the distribution system. Proper flushing, sanitation, and bacteriological testing are required prior to lifting a boil-water advisory.

1. The first step is to increase the disinfectant (chlorine) level leaving the properly operating treatment plant, and entering the distribution system, to between 3 and 4 mg/l (free chlorine).
2. The next step is to systematically begin flushing from the entry point of the distribution system outwards to all ends of the distribution system. Adequate flushing can be easily verified by measuring for the increased disinfectant residual at each flushing point.
3. After flushing, the disinfectant (chlorine) residual level is returned to the normal operating range and the system is once again flushed until the disinfectant (chlorine) level at the system's furthest tap is within the normal operating range, generally greater than 0.2 mg/l but less than 2.0 mg/l free chlorine.
4. Once the quality of finished water has stabilized throughout the distribution system, microbiological samples (Standard Coliform Test) must be collected at representative locations, (minimum of 5 to 10 sample points), in the distribution system, including all ends of the system. Disinfectant (chlorine) levels in the sampled water must also be measured at the same time the microbiological samples are collected.
5. If the above microbiological monitoring results indicate unsafe conditions (total coliform – positive, on any single sample) the above procedure must be re-implemented until the microbiological monitoring results indicate safe conditions, (total coliform – negative, on all sample locations).
6. Submit results in a written document summarizing all activities undertaken to fix the treatment problem, flush and sanitize the distribution system, and results of all laboratory and field-testing.

GUIDANCE FOR DETERMINING COMPLIANCE WITH BOIL WATER ORDERS

These general guidelines for applying the *Rules and Regulations Governing Retail Food Establishments in the State of Colorado* are provided by the Colorado Department of Public Health and Environment, Consumer Protection Division. Additional information about the rules and regulations may be obtained by calling 303-692-3620, or visiting the division's web page - www.cdphe.state.co.us/cp

Boil water orders are issued when there is confirmed contamination of the water source. The following guidelines should be used to supplement the information provided in the boil order. The Colorado Department of Public Health and Environment, Water Quality Control Division may provide more stringent requirements, depending on the circumstances, and those requirements would take precedence.

Facilities regulated pursuant to the Department's authority are required to have a safe and adequate potable water supply in order to operate. In no case should a facility choose to shut off the water rather than comply with the boil order. A facility with no water is **REQUIRED** to close (refer to the appropriate rules and regulations).

RETAIL FOOD ESTABLISHMENTS: All water used for retail food establishment activities must be boiled for at least one minute during a boil order, or bottled from an approved source outside of the boil order area, in an appropriate manner, and transported by an approved method. This includes water for:

- drinking;
- food preparation/inclusion in recipes;
- vegetable and fruit washing;
- manual utensil and equipment washing, rinsing and sanitizing;
- wiping cloth solutions;
- making ice;
- and handwashing.

The use of a chemical sanitizing warewashing machine during a boil order is not approved. Chemical sanitizing may not dispense an adequate concentration of sanitizing solution to kill the organism(s) of concern during a boil order. It is recommended that retail food establishments use single-service plates and utensils. Heat sanitizing warewashing machines will adequately sanitize utensils with the required final rinse temperature of 180°F. Equipment directly plumbed to the water source shall not be used during a boil order. This includes pop machines, coffee makers, dispenser "guns" in bar facilities, hot chocolate/cappuccino machines, produce misters and ice machines. The ice machine should be disconnected in order to allow the ice to drain off, and the machine then cleaned and sanitized prior to re-use.

WHOLESALE FOOD MANUFACTURERS:

Should follow the guidance listed above for Retail Food Establishments.

MEAT PROCESSING PLANTS:

Contact the USDA and/or the Colorado Department of Agriculture for guidance.

CHILD CARE CENTERS AND SCHOOLS:

Drinking fountains shall not be used.

Bottled water must be used to mix infant formula.

Boiled or bottled water must be used to mix sanitizing solutions for diapering areas and surfaces such as

Exhibit A

toys and tabletops.

Due to childrens' frequent hand-to-mouth contact, water for handwashing shall be boiled or bottled. Use the guidance listed above under Retail Food Establishments for all food preparation and handling.

SWIMMING POOLS HOT TUBS AND SPAS:

Pools that are operated properly, including monitoring the pool for adequate disinfection levels, may be allowed to continue operating during a boil order. CDPHE Water Quality Control Division should be contacted for guidance.

GENERAL PUBLIC:

Boil all water for drinking, inclusion in recipes, washing fruits and vegetables, making ice, manually washing dishes and utensils, and brushing teeth. Alternately, bottled water from a source outside of the boil area may be used.

Home-style/domestic dishmachines are adequate for sanitizing if the heat drying cycle is applied.

Bathing and showering in the water should present no problems for immunocompetent/healthy individuals. To err on the side of safety, immunocompromised individuals may choose to add ¼ cup of bleach to bath water prior to bathing.



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

**ENFORCEMENT ORDER &
ADMINISTRATIVE PENALTY ASSESSMENT**

NUMBER: DN-091222-1

**IN THE MATTER OF: MOUNTAIN AIR RANCH, INCORPORATED
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0230518
JEFFERSON 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. Mountain Air Ranch, Incorporated owns and/or operates a drinking water system, known as Mountain Air Ranch, located at or near 8796 S. Mica Mine Gulch Road, in unincorporated Jefferson County, Colorado (the "System").
2. Mountain Air Ranch, Incorporated is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Mountain Air Ranch, Incorporated 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 #: CO0230518.
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. Mountain Air Ranch, Incorporated provides piped water for human consumption from the System to at least twenty-five (25) of the same persons over six (6) months per year. The System is therefore classified as a "non-transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(94).

8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).
9. On April 15, 2009, a Division representative conducted a 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 Microbiological Contaminants)

10. 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.
11. Pursuant to 5 CCR 1003-1, §2.3 and 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.
12. Pursuant to 5 CCR 1003-1, §2.3 and §5.7(b), any fecal coliform-positive repeat sample or E. coli-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or E. coli-positive routine sample constitutes a violation of the maximum contaminant level for total coliforms.
13. Pursuant to 5 CCR 1003-1, §5.1.1(b) and §5.1.2(i), the System is required to submit the results of all routine and repeat total coliform sampling and analyses to the Department for review.
14. Division records establish that the System reported total coliform-positive and E. coli-positive routine and repeat results for the following sample dates.

Sample Date	Type of Sample	Total Coliform Result	<i>E. coli</i> Result
June 14, 2009	Routine Sample	Positive	Positive
June 17, 2009	Repeat Sample	Positive	Absent
June 17, 2009	Repeat at Original Site	Positive	Positive
June 17, 2009	Repeat Sample	Positive	Absent
June 17, 2009	Repeat Sample	Positive	Absent
June 28, 2009	Repeat at Original Site	Positive	Absent
July 19, 2009	Routine Sample	Positive	Absent
July 22, 2009	Repeat Sample	Positive	Absent

15. Mountain Air Ranch, Incorporated's failure to maintain compliance with the maximum contaminant level for microbiological contaminants during the above described monitoring periods constitutes violations of 5 CCR 1003-1, §2.3 and §5.7(a).

Second Violation
(Failure to Conduct Routine Monitoring and/or Reporting
For Microbiological Contaminants)

16. Pursuant to 5 CCR 1003-1, §5.1.1(a), the System must collect total coliform samples at sites, which are representative of water throughout the distribution system according to a written sample-siting plan.
17. Pursuant to 5 CCR 1003-1, §5.1.1(e)(1), a non-community water system using only groundwater and serving 1,000 persons or fewer must monitor in each calendar quarter that the system provides water to the public.
18. 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. Due to the lack of approved disinfectant treatment, the Water Quality Control Division established that Mountain Air Ranch, Incorporated shall monitor for total coliform at a frequency based on the population served by the System pursuant to 5 CCR 1003-1, §5.1.1(d). The System, which serves less than 1,000 persons, is therefore required to collect one routine total coliform sample once per month. On March 20, 2009 the Division notified the System of this increased monitoring requirement.
19. Pursuant to 5 CCR 1003-1, §§1.6.4(a) and 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 within (a) the first ten (10) days following the month in which the result is 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. Division records establish that the System has failed to provide the Department with the results of its routine total coliform analyses for the following monitoring periods:

Month	Year	Number of Samples Required	Number of Samples Received
April	2009	1	0

21. Mountain Air Ranch, Incorporated's failure to submit the results of the routine total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a) and §5.1.1(b). Additionally, if Mountain Air Ranch, Incorporated failed to perform routine total coliform monitoring during the identified period, such failure to perform the monitoring further constitutes violation(s) of 5 CCR 1003-1, §1.6.2.

Third Violation
(Failure to Conduct Follow-Up Monitoring and/or Reporting
for Microbiological Contaminants)

22. Pursuant to 5 CCR 1003-1, §5.1.2(f), when a system collecting fewer than five (5) routine samples per month has one or more total coliform-positive samples, the system must collect at least five (5) routine (follow-up) total coliform samples during the next month the system provides water to the public.

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- 23. A review of total coliform monitoring data provided to the Department by the System, shows that on August 2, 2009 the System collected a total coliform sample that was determined to be total coliform-positive. As a result of the unsafe sample, the System was required to collect five (5) routine (follow-up) total coliform samples during the month of September 2009.
- 24. Pursuant to 5 CCR 1003-1, §§1.6.4(a) and 5.1.2(i), the System is required to submit the results of all routine (follow-up) microbiological sampling and analyses to the Department for review.
- 25. Division records establish that the System did not report to the Division the results of the five (5) required routine (follow-up) total coliform samples for the month of September 2009 as follows:

Month	Year	Number of Samples Required	Number of Samples Received
September	2009	5	1

- 26. Mountain Air Ranch, Incorporated’s failure to submit the results of the System’s September routine (follow-up) total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §§1.6.4(a) and 5.1.2(i).. Additionally, if Mountain Air Ranch, Incorporated failed to perform the follow-up total coliform monitoring during the identified period, such failure to perform the monitoring further constitutes violation(s) of 5 CCR 1003-1, §5.1.2(f).

Fourth Violation
(Failure to Provide or Certify Repeat Public Notifications)

- 27. On or about June 18, 2009, the System returned positive total coliform and E. coli sample results that established a total coliform maximum contaminant level violation.
- 28. 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.
- 29. Pursuant to 5 CCR 1003-1, §9.2.2(a) a violation of the maximum contaminant level for total coliforms that is associated with positive fecal coliform or E. coli results requires a Tier 1 public notice.
- 30. Pursuant to 5 CCR 1003-1, §9.2.2(b), the System must perform the following for a Tier 1 public notice; (1) Provide a public notice as soon as practical but no later than 24 hours after the system learns of the violation; (2) Initiate consultation with the Department as soon as practical, but no later than 24 hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and (3) Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the Department. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.

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31. On June 18, 2009, the Division issued a Boil Water Order to the System that outlined the Division's specific expectations for the System's Tier 1 public notice. Further, the Boil Water Order required the System to reissue (repeat) the public notice every two weeks until the Division has determined that the System is operating properly and providing safe drinking water to the public and has provided the System with written correspondence lifting the order.
32. 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.
33. Division records establish that the System has not submitted copies of its repeat public notice nor its repeat public notice certifications to the Division.
34. Mountain Air Ranch Incorporated's failure to submit copies to the Department of its required repeat public notifications/certifications constitutes violations of 5 CCR 1003-1, §§9.2.1(c)(3) and 1.6.4(d). If Mountain Air Ranch, Incorporated failed to perform its repeat public notification pursuant to the June 18, 2009 Boil Water Order, this failure constitutes violations of 5 CCR 1003-1, §§9.2.1 and 9.2.2.

Fifth Violation **(Failure to Develop and Implement a Monitoring Plan)**

35. Pursuant to 5 CCR 1003-1, § 1.12, each public water system shall develop and implement a monitoring plan. Each public water system shall maintain the plan and make it available for inspection by the Department. The monitoring plan shall be designed and implemented to ensure that the water quality monitoring performed by the system is representative of the water distributed to consumers and is consistent with regulatory requirements of the Colorado Primary Drinking Water Regulations.
36. Pursuant to 5 CCR 1003-1, §1.12.1, the System's monitoring plan shall include the information specified in 5 CCR 1003-1, §§1.12.1(a) - (e) as outlined below.
 - a) Part 1 - System Summary: Identify the public water system and provide all of the following: (1) The Colorado public water system identification number (PWSID); (2) The full name of the legal entity (that is, the owner of the system. For example, the name of a corporation, LLC, partnership, sole proprietor, HOA, etc.); (3) The legal entity's address; (4) The name of the legal entity's authorized contact person(s) responsible for the development and implementation of the monitoring plan (if other than the owner); (5) The telephone number of the legal entity or the legal entity's authorized monitoring plan contact person; (6) The system's classification (that is, community, non-transient, non-community, or transient, non-community); (7) The total population-served by the system, by population type (that is, the total of resident, non-transient, and transient consumers); (8) The physical addresses of all system facilities (including master meters) and the latitude and longitude of all facilities, and (9) The physical location of all records required by section 1.6.3.
 - b) Part 2 - Water Sources Details: Identify all water sources capable of being used by the system, (i.e., those connected by conveyances, whether currently producing or not) and a schematic, diagram, or

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sketch depicting how the flow from each source is connected to the treatment processes and the distribution system.

- c) **Part 3 - Water Treatment Details:** Provide a summary of the system's operating characteristics, including a schematic of all treatment processes and their associated temporal utilization that was assumed in the design of the monitoring plan (e.g., use of peaking facilities, alternative water sources, maintenance schedules that take facilities off line, etc.).
 - d) **Part 4 - Distribution System Details:** Provide a schematic of the distribution system identifying: (1) All entry points to the distribution system; (2) All post entry point treatment facilities; (3) All storage facilities and other finished water reservoirs; (4) All distribution system monitoring points; (5) Any master meters; and (6) All pump stations.
 - e) **Part 5 - Individual Rule Sampling Plans:** Each sampling plan shall meet all requirements of the respective provision, including: (1) Frequency and approximate time of collection; (2) Sample site location identification and associated identification number; (3) If appropriate, justification for the site selection; (4) Sample preservation, quality assurance, and quality control procedures, including procedures for equipment calibration; (5) Analysis procedure (certified laboratory or on-site by a party approved by the Department); (6) Monitoring results presentation format; (7) Procedures to assess and report compliance status for MCLs, ALs, MRDLs, TTs and, if applicable, disinfection byproduct precursor removal efficiency; (8) The rationale used by the system to identify the sampling locations selected to represent the distribution system, and (9) 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.
37. During the April 15, 2009 Department inspection, the Division Representative noted that Mountain Air Ranch, Incorporated was unable to produce a copy of the System's monitoring plan, demonstrating to the Division Representative that the System has not developed and implemented a monitoring plan meeting the requirements of 5 CCR 1003-1, §1.12.1.
38. Mountain Air Ranch, Incorporated's failure to develop and implement a monitoring plan constitutes violation(s) of 5 CCR 1003-1, §1.12.

Sixth Violation **(Failure to Implement a Cross-Connection Control Program)**

39. Pursuant to 5 CCR 1003-1, §12.1, a public water system shall control hazardous cross-connections and protect the public water system from contamination by implementing a cross-connection control program in the following manner:
- a) Identifying potentially uncontrolled hazardous service cross-connections.
 - b) Requiring system users to install and maintain containment devices on any uncontrolled hazardous service cross connections, provided the Department has determined that the device is consistent with the degree of hazard posed by the uncontrolled cross connection.
 - c) Installation of containment devices shall be approved by the public water system upon installation.

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- d) All containment devices shall be tested and maintained as necessary on installation and at least annually thereafter, by a Certified Cross-Connection Control Technician.
40. In addition, pursuant to 5 CCR 1003-1, §12.1(c), each public water system shall retain maintenance records for three years for all containment devices and these records shall be available for Department inspection.
41. During the April 15, 2009 inspection, the Division Representative noted that there was no evidence available to demonstrate that the System was implementing a cross-connection control program.
42. Department records to date establish that the System has failed to provide the Department with any information demonstrating that the System has implemented a cross-connection control program.
43. Mountain Air Ranch, Incorporated's failure to implement a cross-connection control program for the System constitutes violation(s) of 5 CCR 1003-1, §12.1.

Seventh Violation **(Failure to Provide Disinfection Treatment)**

44. Pursuant to 5 CCR 1003-1, §13.2(b), A public water system that uses only groundwater sources which have been determined to not be under the direct influence of surface water shall be disinfected by means or methods which are approved by the Department and are affective in the killing or removal of pathogenic organisms. Disinfection may include physical as well as chemical treatment. When chlorination methods are employed, a sufficient amount of chlorine shall be added to the water to destroy any pathogenic organisms potentially present and to maintain a detectable residual in at least 95 percent of the samples taken at the extremities of the distribution system from which water may be withdrawn.
45. Pursuant to 5 CCR 1003-1, §13.2(d), the Department may waive the requirement for disinfection upon written application by a supplier. Waivers may be granted when competent evidence is submitted by the supplier to establish that the water being supplied to the public is from a protected groundwater source, determined safe and free from contamination. An application for a waiver shall include information regarding the source, distribution and quality of the system's water.
46. Division records establish that the System has not requested or received a disinfection waiver from the Department.
47. Division records to-date establish that the System has not installed Division approved disinfection treatment for the System's distributed water.
48. Mountain Air Ranch, Incorporated's failure to provide Division-approved disinfection treatment and to maintain a detectable disinfectant residual in the System's distributed water constitutes violation(s) of 5 CCR 1003-1, §13.2(b).

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

49. 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. 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.
50. During the April 15, 2009 Department inspection, the Division Representative determined/verified that the plans and specifications for the original System design have not been submitted to and approved by the Department.
51. Division records establish that Mountain Air Ranch, Incorporated has not received plans and specifications approval from the Department for the original System.
52. In a sanitary survey inspection follow-up letter, dated September 3, 2009, addressed to Ron Earthman, the Division Representative advised Mountain Air Ranch, Incorporated of the requirement for the plans and specifications approval for the System and requested Mountain Air Ranch, Incorporated to take immediate action to submit plans and specifications for the System to the Division Representative. The letter requested a written response to the Division representative by October 18, 2009 with the action taken to address this deficiency.
53. Division records to-date establish that the System did not respond to the Division's September 3, 2009 letter and submit plans and specifications of the System for Department approval.
54. Mountain Air Ranch, Incorporated'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).

Ninth Violation
(Failure to Retain System Records)

55. Pursuant to 5 CCR 1003-1, §1.6.3, each supplier shall retain on its premises or at a convenient location near its premises the following records:
 - a) Records of bacteriological analyses made pursuant to Articles 5 and 7 of the Colorado Primary Drinking Water Regulations, for not less than five (5) years. Records of chemical analyses for not less than ten (10) years. The actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:
 - i. The date, place, and time of sampling, and the name of the person who collected the sample;

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- ii. Identification of the sample as to whether it was a routine distribution system sample, routine entry-point-to-the-distribution sample (EPTDS), confirmation sample, raw or processed water sample or a special purpose sample;
 - iii. Date of analysis;
 - iv. Laboratory and person responsible for performing analysis;
 - v. The analytical technique/method used, and
 - vi. The results of the analyses.
- b) For each violation of the Colorado Primary Drinking Water Regulations, the records of action taken by the public water system to correct the violation shall be kept for not less than three (3) years after the date on which the last action was taken with respect to the particular violation involved.
- c) Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system itself, a private consultant, or a local, state or federal agency shall be kept for not less than ten (10) years after completion of the sanitary survey.
- d) Records concerning a variance or exemption granted to the system shall be kept for not less than five (5) years following the expiration of such variance or exemption.
- e) Copies of public notices and consumer confidence reports issued pursuant to Article 9 and certifications made to the Department must be kept for not less than three (3) years after issuance.
- f) All records pertaining to the operation and water quality of a public water system are public information and shall be made available to the public by the Department, at request, during normal working hours.
- g) Upon request of the Department the public water system shall submit copies of any records required to be maintained for public notification or copies of any documents in existence, which the Department is entitled to inspect pursuant to the authority of the Colorado Primary Drinking Water Regulations.
56. During the April 15, 2009 Division inspection, the Division representative determined that no analytical data or results were available.
57. In a sanitary survey inspection follow-up letter, dated September 3, 2009, addressed to Ron Earthman, the Division Representative advised Mountain Air Ranch, Incorporated of the requirement for the System to retain and make available monitoring records for review and requested Mountain Air Ranch, Incorporated to respond in writing to the Division representative by October 18, 2009 with the action taken to address the System's record keeping deficiencies.
58. Department records to date establish that the System failed to provide the Department with any information indicating the action taken to address the System's record keeping deficiencies.
59. Mountain Air Ranch, Incorporated's failure to retain System records on the premises, or at a convenient location near its premises, constitutes violations of 5 CCR 1003-1, §1.6.3.

COMPLIANCE REQUIREMENTS

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Mountain Air Ranch, Incorporated is hereby ordered to:

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

Further, the Division hereby orders Mountain Air Ranch, Incorporated to comply with the following specific terms and conditions of this Enforcement Order.

61. In order to ensure long-term compliance with the Colorado Primary Drinking Water Regulations, specifically including the groundwater disinfection treatment requirements (Article 13) and the microbiological contaminant maximum contaminant level (Article 2 and 5) for public water supplies, Mountain Air Ranch, Incorporated shall evaluate and upgrade, as needed, the System's water sources and/or treatment processes in accordance with the following schedule:

- a) Within fifteen (15) days from the date of this order, retain a qualified individual or entity (experienced in drinking water treatment technologies and operational practices) to evaluate and recommend System improvements to Mountain Air Ranch, Incorporated to ensure compliance with the groundwater disinfection treatment requirements and the microbiological contaminant maximum contaminant level.
- b) Within sixty (60) days from the date of this order, submit Final Design Plans and Specifications for the proposed System improvements and/or the historical or recently constructed system components (e.g. filtration treatment and groundwater source well) for Department review and approval in accordance with 5 CCR 1003-1, §1.11.2 and the State of Colorado Design Criteria for Potable Water Systems.
- c) Within ninety (90) days from the date of the Division's approval of Final Design Plans and Specifications, complete construction/implementation of the Department approved System improvements to ensure long-term compliance with the compliance with the groundwater disinfection treatment requirements and the microbiological contaminant maximum contaminant level.
- d) Within fifteen (15) days of completion, submit a written certification from the design firm (or person) stating that the System improvements were constructed/installed as approved by the Department.

62. Within 24 hours after receipt of this Order, if it has not already done so, Mountain Air Ranch, Incorporated shall reissue (repeat) its tier one public notice (boil water advisory) required by the Division's June 18, 2009 Boil Water Order in accordance with 5 CCR 1003-1, §9.2. Additionally and consistent with the terms of the Division's June 18, 2009 Boil Water Order, Mountain Air Ranch, Incorporated shall reissue (repeat) its tier one public notice (boil water advisory) every two (2) weeks until the Division has provided written correspondence lifting the order. Within ten (10) calendar days of completion of each repeat public notice, Mountain Air Ranch, Incorporated 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 in accordance with 5 CCR 1003-1, §9.2.1(c)(3) and §1.6.4(d).

63. In addition to or in conjunction with paragraph 62 and within thirty (30) calendar days after receipt of this Order, if it has not already done so, Mountain Air Ranch, Incorporated shall issue a public notice in

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accordance with 5 CCR 1003-1, §9.2.1 for each violation identified in this Order. Within ten (10) calendar days of completion of each required public notification, Mountain Air Ranch, Incorporated, 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 in accordance with 5 CCR 1003-1, §9.2.1(c)(3) and §1.6.4(d).

*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*

- 64. Immediately take steps to comply with the microbiological contaminant monitoring/reporting obligations as required by 5 CCR 1003-1, Article 5.
- 65. Within sixty (60) calendar days after receipt of this Order, Mountain Air Ranch, Incorporated shall develop and provide a written records retention policy or procedure outlining how the System will retain System records on the premises, or at a convenient location near its premises, in accordance with 5 CCR 1003-1, §1.6.3.
- 66. Within thirty (30) calendar days after receipt of this Order, Mountain Air Ranch shall submit the results of any microbiological contaminant (total coliform) monitoring performed for the following monitoring periods:

Sample Month	Year	Sample Type
April	2009	Routine
September	2009	Routine Follow-up

- 67. Within forty five (45) calendar days after receipt of this Order, Mountain Air Ranch, Incorporated shall develop and implement a monitoring plan pursuant to 5 CCR 1003-1, §1.12, which includes a microbiological contaminant sampling-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 Mountain Air Ranch, Incorporated 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 January 1, 2010, Mountain Air Ranch, Incorporated 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 guidance document on how to prepare a small system microbiological rule sampling plan can be viewed at the following internet location: http://www.cdphe.state.co.us/wq/drinkingwater/pdf/Bulletin02_01BactSamplingPlanguidanceDoc.pdf

- 68. Within thirty (30) calendar days after receipt of this Order and pursuant to 5 CCR 1003-1, §12.1, Mountain Air Ranch, Incorporated shall provide a written description of how the System’s Cross-Connection Control Program is being implemented.

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A Sample Cross-Connection Control Program for Small Systems guidance document can be viewed at the following internet location: http://www.cdphe.state.co.us/wq/drinkingwater/pdf/cross_connection_control.pdf

69. Within forty five (45) calendar days after receipt of this Order and pursuant to §25-9-110(2)(a), C.R.S. (2008) and 5 CCR 1003-2, §§ 100.1 and 100.21.1, Mountain Air Ranch, Incorporated shall provide a written certification stating that the System is under the direct supervision of an operator in responsible charge, certified at a classification equivalent to or higher than the classification of the System.

For a list of contract operators or for specific questions regarding the operator certification requirements, please contact Betsy Beaver at 303.692.3503 or by electronic mail at betsy.beaver@state.co.us.

ORDER FOR ADMINISTRATIVE PENALTY

70. 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.
71. 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 three hundred and sixteen dollars and twenty five cents (\$316.25) 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

72. If Mountain Air Ranch, Incorporated 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:

Bryan Pickle, Drinking Water Enforcement Specialist
Compliance Assurance Section, Enforcement Unit
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

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(To facilitate payment processing, please ensure that Mr. Bryan Pickle's name is on the outside of the envelope.)

73. Payment or appeal of the administrative penalty in this manner does not relieve Mountain Air Ranch, Incorporated of its obligation to perform the activities required by this enforcement action.

NOTICES AND SUBMITTALS

74. For all documents, plans, records, reports and replies required to be submitted by this order, Mountain Air Ranch, Incorporated 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 Section
Attention: Bryan Pickle
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: lauren.worley@state.co.us
Fax: (303) 692-3547

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

75. 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

76. Mountain Air Ranch, Incorporated 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 Mountain Air Ranch, Incorporated 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

77. 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. 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

78. 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 Mountain Air Ranch, Incorporated 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

79. 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.
80. 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.

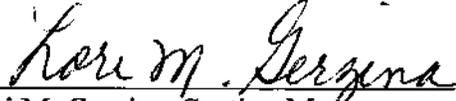
ADDITIONAL ACTION

81. 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.
82. 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.

Exhibit B

Issued at Denver, Colorado, this 22nd day of December, 2009.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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

MOUNTAIN AIR RANCH, INCORPORATED
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0230518
UNINCORPORATED JEFFERSON COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
DECEMBER 22, 2009

Penalty Summary

Penalty Calculation -Violation Number 2\$120.25

Violation Failure to perform performance tests and monitoring for Microbiological Contaminants
Regulation Violated: 5 CCR 1003-1, §1.6.2

Penalty Calculation -Violation Number 3\$196.00

Violation Failure to perform routine (follow-up) Microbiological Contaminants monitoring
Regulation Violated: 5 CCR 1003-1, §5.1.2(f)

TOTAL PENALTY.....\$316.25

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 2

System Name: Mountain Air Ranch, Incorporated	PWSID Number: CO-0230518
Date of Enforcement Order: December 22, 2009	Number: DN-091222-1
Regulation Violated: 5 CCR 1003-1, §1.6.2	Population Served: 32

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to perform performance tests and monitoring for Microbiological Contaminants (April 2009)	< 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 8		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$60.00

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	Justification: The Division has chosen to consider the failure to monitor for April 2009 Microbiological Contaminants violation as a single day violation.	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$60.00
	Calculations: 1(Day) x (\$60.00) = \$60.00	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$60.25
	Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has avoided its cost for the tests itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$120.25

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	Justification: Not Applicable. The Division does not have any documented information suggesting that the Mountain Air Ranch, Incorporated has an inability to pay the assessed penalty amount.	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$120.25

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET**VIOLATION NUMBER: 3**

System Name: Mountain Air Ranch, Incorporated	PWSID Number: CO-0230518
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Date of Enforcement Order: December 22, 2009	Number: DN-091222-1
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Regulation Violated: 5 CCR 1003-1, §5.1.2(f).	Population Served: 32
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to perform routine (follow-up) Microbiological Contaminants monitoring (Sept 2009)	< 500 Served	\$75.00

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

	Aggravating / Mitigating Factors	% Base Penalty Increase or Decrease	Amount in Dollars
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$75.00

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	Justification: The Division has chosen to consider the September 2009 failure to monitor for Microbiological Contaminants violation as a single day violation.	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$75.00
	Calculations: 1 (Day) x (\$75.00) 1 = \$75.00	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$121.00
	Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has avoided its cost for the tests itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to a lab.	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$196.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	Justification: Not Applicable. The Division does not have any documented information suggesting that the Mountain Air Ranch Incorporated has an inability to pay the assessed penalty amount.	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$196.00

Exhibit C

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

MOUNTAIN AIR RANCH, INCORPORATED
Does Not Meet Disinfection Treatment Requirements

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.

On December 22, 2009, the Colorado Department of Public Health and Environment, Water Quality Control Division issued Enforcement Order Number: DN-091222-1 (“Enforcement Order”) to Mountain Air Ranch, Incorporated. The Enforcement Order cites Mountain Air Ranch, Incorporated’s failure to meet the groundwater disinfection treatment requirements of the Colorado Primary Drinking Water Regulations (“Regulations”), 5 CCR 1003-1, and has placed it on a compliance schedule to implement system improvements that meet the groundwater treatment requirements of the Regulations.

What does this mean? What should I do?

- ✓ Without disinfection treatment, water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. These symptoms, however, are not caused only by organisms in drinking water, but also by other factors. If you experience any of these symptoms and they persist, you may want to seek medical advice.
- ✓ **You do not need to boil your water or take other corrective actions.** However, if you have specific health concerns, consult your doctor.
- ✓ People with severely compromised immune systems, infants, and some elderly may be at increased risk. These people should seek advice about drinking water from their health care providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA’s Safe Drinking Water Hotline at 1 (800) 426-4791.

What is being done?

This situation is not an emergency. If it had been, you would have been notified immediately. Tests taken during this same time period did not indicate the presence of bacteria in the water.

(Describe actions Mountain Air Ranch, Incorporated has taken and will be taking to install disinfection treatment.)

We anticipate resolving the problem within (estimated time frame) _____. For more information, please contact Ron J. Earthman at 303-697-4083 or PO Box 855, Indian Hills, CO 80454-0855.

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 the Mountain Air Ranch, Incorporated
Colorado Public Water System ID#: CO0230518 Date distributed: _____

Tier 2 Public Notice Instructions

Delivery Requirements

Since exceeding maximum contaminant levels (MCLs) has the potential to have serious adverse effects on human health, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation. You must issue a repeat notice every three months for as long as the violation persists. *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 (9.2.3(c)(1)):

- ✓ Hand delivery or other direct delivery method
- ✓ Mail (can be included with the bill)

Non-community systems must use at least one of the following delivery methods (9.2.3(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 are working with [local/state agency] to evaluate the water supply and researching options to correct the problem. These options may include treating the water to remove [contaminant] or connecting to [system]'s water supply.
- ✓ We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well.
- ✓ We will increase the frequency at which we test the water for [contaminant].
- ✓ We have since taken samples at this location and had them tested. They show that we meet the standards.

After Issuing the Notice

Make sure to send WQCD copies of all public notice(s) and a Tier 2 Certificate of Delivery Form within ten days after issuing the notice.



Tier 2
Drinking Water Public Notification
Certificate of Delivery Form

Colorado Department
of Public Health
and Environment

Mountain Air Ranch, Incorporated
PWSID CO0230518

Reason for Notice: Enforcement Order Number DN-091222-1

Date of EO: December 22, 2009

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) – **REQUIRED FOR COMMUNITY WATER SYSTEMS**
- Continuously posted: (list locations): _____
- Television, Radio, and/or Newspaper: _____
- Delivery of multiple copies to hospitals, apartment buildings, schools, or other community centers
- E-mail
- 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
ATTN: CAS - DW Public Notification
4300 Cherry Creek Drive South
Denver, CO 80246-1530

OR

Fax to: (303) 758-1398