

# 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

December 9, 2010

Shawn Sullivan, Environmental Manager  
The Western Sugar Cooperative  
18317 Highway 144  
Fort Morgan, Colorado 80701

**RE: Required Corrective Action Schedule Extension #4/ The Western Sugar Cooperative, Notice of Violation/ Cease and Desist Order Number: IO-100224-1**

Dear Mr. Sullivan:

In an October 6, 2010 letter from The Western Sugar Cooperative ("Western Sugar") to the Water Quality Control Division (the "Division"), Western Sugar requested an extension to the compliance dates required under paragraph 24 of the NOV/CDO. Paragraph 24 was previously revised in the Required Corrective Action Schedule Extension #3 letter ("Extension #3") from the Division to Western Sugar dated September 27, 2010. Extension #3 required Western Sugar to submit, by no later than December 31, 2010, a final report on the findings of the evaluation of the Facility operation as identified and outlined in paragraph 22. In addition, Extension #3 revised paragraph 24 to require Western Sugar to identify specific short-term and long-term measures that will be taken by Western Sugar to rectify deficiencies identified by the evaluation. For each short-term and long-term measure identified, Western Sugar shall submit a time schedule for completion of each measure, and the implementation time schedule submitted must identify completion of all measures by no later than January 31, 2010.

On September 10, 2010, under 5 CCR 1002-61, §61.12, Western Sugar submitted a formal request for permit variance from the total coliform limit. Additionally, Western Sugar submitted a permit amendment request to replace the total coliform limits with a limit for E.coli, pending the Division's decision on the variance request. Since the current permit (CDPS Permit Number CO-0041351, the "Permit") is set to expire January 31, 2011, the Division has determined to evaluate the variance and amendment requests during the Permit renewal process. A draft permit is expected to be completed in January 2011. Thus, the compliance dates required by Extension #3 must be extended to account for the time required for the Division to process the Permit renewal.

The Division hereby approves the request and formally revises Paragraph 24 of the NOV/CDO to read as follows:

***By no later than March 31, 2011, Western Sugar shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 22 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures that will be taken by Western Sugar to rectify deficiencies identified by the evaluation so that the Facility***

***consistently produces effluent that meets the limitations identified in Part I.A.1 of the renewed Permit. For each short-term and long-term measure identified, Western Sugar shall also submit a time schedule for completion of each measure. The implementation time schedule submitted must identify completion of all measures by no later than April 30, 2011. The measures and time schedule submitted shall become a condition of this Order, and Western Sugar shall implement the measures and time schedule as submitted unless notified by the Division, in writing, that alternate measures and/or time schedules are appropriate. If the Division imposes alternate measures and/or time schedules, they shall also become a condition of this Order.***

Please note that all other compliance dates referenced in or required by the NOV/CDO remain unchanged and in effect.

Should you or representatives of Western Sugar have any further questions regarding these matters, please do not hesitate to contact me at (303) 692-3634 or by electronic mail at [kelly.morgan@state.co.us](mailto:kelly.morgan@state.co.us).

Sincerely,



Lori Gerzina  
Section Manager  
Compliance Assurance Section  
WATER QUALITY CONTROL DIVISION

cc: Dennis Arfmann (Hogan & Hartson, LLP, 1470 Walnut Street Suite 200, Boulder, CO 80302)  
Enforcement File

cc: Tom Roan, Assistant Attorney General