

STATE OF COLORADO

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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

March 15, 2011

Certified Mail Number: 7007 0220 0001 0162 1436

PWSID# CO-0154755

Mr. Sandy Humler
Tree Haus Metropolitan District
PO Box 770159
Steamboat Springs, CO 80477

RE: Service of Drinking Water Enforcement Order, Number: DC-110314-1

Dear Mr. Humler:

Tree Haus Metropolitan District is 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 Tree Haus Metropolitan District has violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order, Tree Haus Metropolitan District 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 5CCR 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 Tree Haus Metropolitan District desire to informally discuss this matter with the Department or if you have any questions regarding the Order, please don't hesitate to contact Amy Schultz at (303) 691-4927 or by electronic mail at amy.schultz@state.co.us.

Sincerely,



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

Enclosure

- cc: Routt County Department of Environmental Health
Bruce Thompson, ORC, 2621 Honeysuckle Lane, Steamboat Springs, CO 80487
Ms. Sandra Rummmler, Administrative Secretary, Tree Haus Metropolitan District, PO
Box 770159, Steamboat Springs, CO 80477
- ec: Andy Poirot, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Lori Billeisen, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Amy Schultz, Case Person, CDPHE



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

ENFORCEMENT ORDER

NUMBER: DC-110314-1

**IN THE MATTER OF: TREE HAUS METROPOLITAN DISTRICT
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0154755
ROUTT 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. Tree Haus Metropolitan District ("Tree Haus MD") owns and/or operates a drinking water system located in Routt County, Colorado (the "System").
2. Tree Haus MD is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Tree Haus MD 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-0154755.
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. The Tree Haus MD 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 source of the water served by the System is ground water under the direct influence of surface water as defined by 5CCR 1003-1, §1.5.2(65). Pursuant to 5 CCR 1003-1, §1.5.2(129), groundwaters found to be under the direct influence of surface water will be classified as surface water.

First Violation
(Failure to Provide Treatment of a Public Water Supply)

9. Pursuant to 5 CCR 1003-1, §7.1.3(b), a public water system that uses a surface water source or a groundwater source under the direct influence of surface water and serves fewer than 10,000 people must provide treatment consisting of both disinfection, as specified in 5 CCR 1003-1, §7.1.2, and filtration treatment which complies with the requirements of 5 CCR 1003-1, §§7.1.3(f) or (g) or §§7.3.4(a), (b) or (c).
10. Pursuant to 5 CCR 1003-1, §7.1.3(d), once a groundwater source has been determined, through the results of a microscopic particulate analysis, visual well inspection or correlation of source water parameters with surface conditions, to be under the direct influence of surface water, the system must install filtration treatment designed to meet the turbidity requirements specified in 5 CCR 1003-1, §§7.1.3(e), (f), (g) or (h), 5 CCR 1003-1, §§ 7.2.3(a), (b) or (c), or 5 CCR 1003-1, §§7.3.4(a), (b), or (c) within eighteen (18) months of written notice from the Department.
11. In a letter dated May 22, 2010, the Division notified the System that its source water was being reclassified as groundwater under the direct influence of surface water. In the letter the System was further advised, by no later than November 30, 2010 (18 month deadline), to provide treatment consisting of both disinfection and filtration which complies with 5 CCR 1003-1, Article 7, §§1-3.
12. Division records establish that the System utilizes post gaseous chlorination to achieve disinfection treatment.
13. Division records to-date establish that the System has submitted complete plans and specifications for proposed filtration treatment System improvements. However, the System has not installed Division-approved filtration treatment to ensure compliance with the groundwater under the direct influence of surface water classification of the System's water sources.
14. Tree Haus MD's ongoing failure to provide approved filtration treatment on the System's groundwater under the direct influence of surface water source constitutes ongoing violation(s) of 5 CCR 1003-1, §7.1.3(b).

COMPLIANCE REQUIREMENTS

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

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

Further, the Division hereby orders Tree Haus MD to comply with the following specific terms and conditions of this Enforcement Order.

16. In order to ensure long-term compliance with the *Colorado Primary Drinking Water Regulations*, specifically including treatment consisting of both disinfection and filtration treatment for public water systems that use a surface water source or a groundwater source under the direct influence of surface water and serve fewer than 10,000 people (5 CCR 1003-1, Article 7), the Tree Haus MD shall upgrade, as needed, the System's water sources and/or treatment processes in accordance with the following schedule:

- a. Within forty-five (45) calendar days from the date of this order, Tree Haus MD shall have a contract in place with a qualified construction contractor to construct/implement the Department approved System improvements.
- b. Within ninety (90) calendar days of receipt of this order, begin construction/implementation of the Department approved System improvements.
- c. By November 30, 2011, achieve substantial completion of the Department approved System improvements.
- d. By January 31, 2012, achieve final completion of the Department approved System improvements to ensure long-term compliance with the disinfection and filtration treatment requirements of 5 CCR 1003-1, Article 7.
- e. By February 10, 2012, submit a Professional Engineer's Certification that the System improvements to comply with the disinfection and filtration treatment requirements of 5 CCR 1003-1, Article 7 were constructed/installed as approved by the Department.

17. Until the Tree Haus MD has implemented and finalized treatment process improvements to ensure long-term compliance with disinfection and filtration treatment requirements, the Tree Haus MD shall implement the following interim measures:

- a. Pursuant to 5 CCR 1003-1, §7.1.2(a)(1), once a groundwater source has been determined, through the results of a microscopic particulate analysis, visual well inspection or correlation of source water parameters with surface conditions, to be under the direct influence of surface water, the System must provide disinfection treatment, as specified in 5 CCR 1003-1, §7.1.2(c), beginning sixty (60) calendar days from the date the System has been reclassified.
- b. Disinfection must be sufficient to provide both 3-log inactivation of *Giardia Lamblia* cysts and 4 log inactivation of viruses. 5 CCR 1003-1, §§7.1.1(a) and 7.1.2(c)(1).
- c. Within thirty (30) calendar days from the date of this order, the System must provide the Department with data demonstrating that sufficient treatment is being achieved on a continuous basis with disinfection alone. The Department may, within its discretion, establish a minimum disinfectant residual appropriate to, and derived from, the operating data and water

quality data provided by the System.

18. Within thirty (30) calendar days from the date of this order, the System must begin collecting and recording at least one disinfectant residual sample per day in accordance with 5 CCR 1003, §7.1.4(a)(2), Table 7-1.
 - a. If at any time the residual disinfectant concentration entering the distribution system falls below 0.2 mg/L, or the Division established minimum disinfectant residual, the System must take a sample every four (4) hours until the residual disinfectant concentration is equal to or greater than 0.2 mg/L or the Division established minimum disinfectant residual.
19. The Tree Haus MD shall comply with the disinfectant residual reporting and notification requirements outlined in 5 CCR 1003-1, §§7.1.5(a)(2)-(3). The System shall report the disinfectant residual to the Department by no later than April 10, 2011, and monthly thereafter.
20. Tree Haus MD shall submit "System Improvement Project - Progress Reports" to the Department each calendar quarter. The first report shall be submitted to the Department by April 1, 2011. At a minimum, each report shall clearly indicate the status of Tree Haus MD's compliance with this Enforcement Order and outline activities to be undertaken by Tree Haus MD to maintain compliance with this Order within the next thirty (30) calendar days. These reports shall be required until the System has demonstrated reliable and consistent compliance with the requirements of 5 CCR 1003-1, §7.1.3(b).
21. By no later than March 31, 2011, and each calendar quarter thereafter, Tree Haus MD shall issue a public notice in accordance with 5 CCR 1003-1, Article 9.2, for its failure to provide filtration treatment of its distributed water until Tree Haus MD has effectively addressed and returned to compliance with the filtration treatment requirements outlined in 5 CCR 1003-1, §7.1.3(b). Within ten (10) calendar days of completion of each required public notification, Tree Haus MD 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 are copies of procedures and forms to assist you with the public notification requirements as Exhibit A).*

NOTICES AND SUBMITTALS

22. For all documents, plans, records, reports and replies required to be submitted by this order, Tree Haus MD 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: Amy Schultz
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Email: amy.schultz@state.co.us
Phone: (303) 691-4927
Fax: (303) 782-0390

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

23. 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

24. Tree Haus MD 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 Tree Haus MD 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

25. 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

26. 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

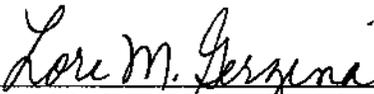
27. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests, 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

28. 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.
29. 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 14th day of March, 2011.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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

Instructions for SWTR Failure to Filter Notification-PN205/01

Template on Reverse

Since surface water treatment technique violations are included in Tier 2, you must provide Public Notification to persons served as soon as practical but within 30 days after you learn of the violation. You must issue a repeat Public Notification every three months for as long as the violation persists. Community systems must use one of the following methods:

- ✓ Hand or direct delivery
- ✓ Mail, as a separate Public Notification or included with the bill

Non-Community systems must use one of the following methods:

- ✓ Posting in conspicuous locations
- ✓ Hand delivery
- ✓ Mail

In addition, you 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 mail, post, or hand deliver, print your Public Notification on letterhead, if available.

The Public Notification on the reverse is appropriate for hand delivery or mail. However, you may wish to modify it before using it for posting. If you do, you must still include all the required elements and leave the health effects language in *italics* unchanged. This language is mandatory.

Corrective Action

In your Public Notification, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with surface water treatment technique violations. Use one or more of the following actions, if appropriate, or develop your own:

- ✓ Our filtration system needs upgrades to meet the requirements.
- ✓ We are installing filtration. We expect that the filtration system will be operational by [month, year].
- ✓ We are monitoring for turbidity (cloudiness), disinfectant levels, and the presence of bacteria. We continue to meet the standards for these measurements.

Repeat Public Notifications

For repeat Public Notifications, you should state how long the violation has been ongoing and remind consumers of when you sent out the previous Public Notification. If you are making progress in installing filtration, describe it. Alternatively, if funding or other issues are delaying installation, let consumers know.

After Issuing the Public Notification

Make sure to send the Rule Specialist at the CDPHE/WQCD copies of all Public Notification(s) and a certification that you have met the Public Notification requirements within ten days after you issued the Public Notification.

