

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

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: 7005 1820 0000 3213 7313

PWSID# CO-0137005
Patricia Vice, Mayor
Town of Genoa
PO Box 136
Genoa, CO 80818-0136

RE: Service of Drinking Water Enforcement Order, Number: DC-110315-1

Dear Ms. Vice:

The Town of Genoa 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 the Town of Genoa has violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order, the Town of Genoa 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 the Town of Genoa desire to informally discuss this matter with the Department or if you have any questions regarding the Order, please don't hesitate to contact Lauren Worley at (303) 692-3547 or by electronic mail at lauren.worley@state.co.us.

Sincerely,



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

Enclosure

cc: Lincoln County Department of Public Health
Mike McHone, ORC, PO Box 136, Genoa, CO 80818

cc: Paul Kim, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Lori Billeisen, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Lauren Worley, Case Person, CDPHE



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION

ENFORCEMENT ORDER

NUMBER: DC-110315-1

IN THE MATTER OF: TOWN OF GENOA
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0137005
LINCOLN 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. The Town of Genoa owns and/or operates a drinking water system located in Lincoln County, Colorado (the "System").
2. The Town of Genoa is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. The Town of Genoa 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 #: CO-0137005.
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 Town of Genoa 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.
9. The Town of Genoa serves a total calculated daily population of two-hundred and three (203) persons.

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

10. 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).
11. 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.
12. In a letter dated June 26, 2008, the Division notified the System that source water wells West Spring (ID#: WL004), Trench Well (ID#: WL007) and Ogallala Well (ID#: WL008) were being reclassified as groundwater under the direct influence of surface water. In the letter the System was further advised, by no later than December 31, 2009 (18 month deadline), to either abandon the sources, connect to another approved water system, develop another source that is free of surface water influence, or install Division approved surface water treatment.
13. In a letter received by the Division on February 24, 2009, the System requested the Division evaluate whether the filtration technology utilized by the System prior to the reclassification of the source water wells was sufficient to comply with the groundwater under the direct influence of surface water treatment requirements.
14. In a letter dated February 3, 2010, the Division notified the System that the filtration technology utilized by the System prior to the reclassification of the source water wells is currently not an accepted alternative filtration technology to comply with the groundwater under the direct influence of surface water treatment requirements.
15. In a letter dated February 10, 2010, the Division reminded the System that it was given until December 31, 2009, to abandon the sources and connect to another approved water system, develop another source that is free of surface water influence, or install treatment. In the letter the System was further advised that, as of January 1, 2010, the System was in violation of the filtration requirements of Article 7 of the Regulations.

16. Division records to-date establish that the System has not submitted complete plans and specifications for proposed System improvements and therefore the System has not installed Division approved filtration treatment to rectify the groundwater under the direct influence of surface water classification of the System's water sources.
17. The Town of Genoa's ongoing failure to provide approved filtration treatment on the System's groundwater under the direct influence of surface water sources 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, the Town of Genoa is hereby ordered to:

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

Further, the Division hereby orders the Town of Genoa to comply with the following specific terms and conditions of this Enforcement Order.

19. 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 (Article 7), the Town of Genoa shall evaluate and 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, retain a qualified engineer (licensed in Colorado and experienced in drinking water systems) to evaluate and recommend disinfection and filtration treatment to the Town of Genoa to ensure long-term compliance with the disinfection and filtration treatment requirements of Article 7.
 - b. Within sixty (90) calendar days from the date of this order, submit Final Design Plans and Specifications for the System improvements for Department review and approval in accordance with the *State of Colorado Design Criteria for Potable Water Systems*.
 - i. The Final Design Plans and Specifications submittal package must include specifications for treatment equipment and/or chemical additives that come in contact with the water that indicate ANSI standards 60 and 61 are met (NSF certification).
 - c. Within one-hundred and eighty (180) calendar days of Division approval of the Final Design Plans and Specifications, complete construction/implementation of the Department approved System improvements to ensure long-term compliance with the disinfection and filtration treatment requirements of Article 7.

23. Consistent with the Compliance Advisory dated February 10, 2010, from the Division to the System, the System shall continue issuing quarterly public notice in accordance with 5 CCR 1003-1, §9.2, for each violation identified in this Order. Within ten (10) calendar days of completion of each required public notification, the Town of Genoa 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. The System shall continue issuing such public notice until the System completes the improvements required in paragraph 19 of the Order.

*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*

24. The Town of Genoa shall submit "System Improvement Project - Progress Reports" to the Division every calendar quarter. The first report shall be submitted to the Division by June 1, 2011. At a minimum, each report shall clearly indicate the status of the system improvement project at the time the report is filed and outline activities to be undertaken within the next ninety (90) calendar days. Each report shall also detail any public notification provided during that period. These reports shall be required until the System has effectively addressed and returned to compliance with the disinfection and filtration treatment requirements outlined in 5 CCR 1003-1, §7.1.3(b).

NOTICES AND SUBMITTALS

25. For all documents, plans, records, reports and replies required to be submitted by this order, the Town of Genoa 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: Lauren Worley
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: lauren.worley@state.co.us
Fax: (303) 782-0390

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

26. 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

27. The Town of Genoa 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 the Town of Genoa 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

28. 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

29. 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

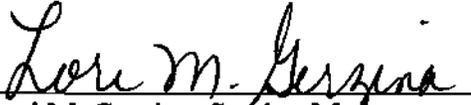
30. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests,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

31. 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.
32. 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 15th 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