

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 7320

PWSID# CO-0262466

Ruben J. Rodriguez, Registered Agent
RJML, LLC d/b/a La Maravilla Restaurant/Lounge
232 Elizabeth Ct.
Fort Lupton, CO 80621

RE: Service of Drinking Water Enforcement Order, Number: DT-110315-2

Dear Mr. Rodriguez:

RJML, LLC 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 RJML, LLC has violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order RJML, LLC 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 further 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 RJML, LLC 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: Weld County Department of Public Health & Environment

ec: Doug Camrud, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Lori Billeisen, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Nicole Grisham, Division of Environmental Health and Sustainability, CDPHE
Michael Beck, OPA
Lauren Worley, Case Person, CDPHE



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION

**ENFORCEMENT ORDER &
ADMINISTRATIVE PENALTY ASSESSMENT**

NUMBER: DT-110315-2

IN THE MATTER OF: RJML, LLC
d/b/a: LA MARAVILLA RESTAURANT/LOUNGE
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0262466
WELD 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. RJML, LLC ("RJML") owns and/or operates a drinking water system, known as La Maravilla Restaurant/Lounge, located at 232 Elizabeth Court, Fort Lupton, Colorado, in Weld County, Colorado (the "System").
2. RJML is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. RJML 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-0262466.
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 RJML provides piped water for human consumption from the System to at least twenty-five (25) people, but the System does not regularly serve at least twenty-five (25) of the same persons over six (6)

months per year. The System is therefore classified as a “transient, non-community water system” as defined by 5 CCR 1003-1, §1.5.2(137).

8. The System’s source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).
9. On June 5, 2009, the Weld County Department of Public Health & Environment (“Division Representative”) conducted a compliance inspection of the System, pursuant to 5 CCR 1003-1, §11.1(c), on behalf of the Division, 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
(Failure to Monitor and/or Report for Microbiological Contaminants)

10. Pursuant to 5 CCR 1003-1, §5.1.1(a), the System must collect total coliform samples at sites that are representative of water throughout the distribution system, according to a written sample-siting plan.
11. Pursuant to 5 CCR 1003-1, §5.1.1(e)(1), the System, which serves less than 1,000 persons, must monitor in each calendar quarter that the system provides water to the public.
12. 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 shorter.
13. Division records establish that the System failed to provide the Department with the results of its routine total coliform analyses for the following monitoring periods:

| Quarter | Year | Number of Samples Required | Number of Samples Received |
|-------------------------|------|----------------------------|----------------------------|
| 2 nd Quarter | 2010 | 1 | 0 |
| 3 rd Quarter | 2010 | 1 | 0 |
| 4 th Quarter | 2010 | 1 | 0 |

14. RJML’s failure to submit the results of the System’s 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 RJML failed to perform routine total coliform monitoring during the identified periods, such failure to perform the monitoring constitutes violation(s) of 5 CCR 1003-1, §5.1.1(e)(1).

Second Violation
(Failure to Measure/Report Residual Disinfection Concentration)

15. Pursuant to 5 CCR 1003-1, §13.2(a)(1), a groundwater source must be disinfected at all times that it is used to serve water to the public. The groundwater system must use disinfection methods that are approved by the Department. Groundwater source disinfection methods may include physical treatment methods but must include at least one chemical treatment method.
16. Pursuant to 5 CCR 1003-1, §13.2(a)(2), the groundwater system must maintain a residual disinfectant concentration whenever serving water from a groundwater source to the public.
17. Pursuant to 5 CCR 1003-1, §13.2(b)(2), the residual disinfectant concentration in the distribution system must be measured at least at the same points and at the same time as total coliforms are sampled. The System must monitor for total coliform in each calendar quarter that the System provides water to the public pursuant to 5 CCR 1003-1, §5.1.1(e)(1).
18. Pursuant to 5 CCR 1003-1, §§13.6(a)(2) and 1.6.4(a), the System shall report to the state the results of any test measurement or analysis required by the *Colorado Primary Drinking Water Regulations* within (1) the first ten calendar days following the month in which the result is received, or (2) the first ten calendar days following the end of the required monitoring period, as stipulated by the Department, whichever of these is shorter.
19. Review of bacteriological sampling results submitted to the Division establishes that the System did not measure and/or report its residual disinfection concentration in the 2nd, 3rd and 4th quarters of calendar year 2010.
20. RJML's failure to report for residual disinfectant concentrations in the distribution system constitutes violation(s) of 5 CCR 1003-1, §§13.6(a)(2) and 1.6.4(a). Furthermore, if RJML failed to measure the residual disinfectant concentration in the distribution system, such failure constitutes violations of 5 CCR 1003-1, §13.2(b)(2).

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

21. 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.
22. During the June 5, 2009, compliance inspection of the System, the Division Representative observed that RJML had constructed and installed a reverse osmosis system without submitting plans and specifications for the treatment equipment design to the Department.

23. In an inspection follow-up letter, dated June 5, 2009, addressed to RJML, the Division Representative advised RJML of the requirement for the plans and specifications approval for the System and requested that RJML provide a written response addressing the failure to submit plans and specifications for the System improvements for reverse osmosis treatment.
24. Division records to-date establish that the System did not respond to the Division Representative's June 5, 2009, letter and did not submit plans and specifications for the System improvements for Department approval.
25. Division records establish that RJML has not received plans and specifications approval from the Department for the System's reverse osmosis treatment.
26. RJML'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).

Fourth Violation

(Failure to Prepare a Written Microbiological Contaminants Sample-Siting Plan)

27. 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.
28. During the June 5, 2009, compliance inspection of the System, the Division Representative determined that the System lacked a properly designed bacteriological sampling plan pursuant to 5 CCR 1003-1, §5.1.1(a).
29. In a letter reporting the results of the compliance inspection, dated June 5, 2009, addressed to RJML, the Division Representative advised RJML of the requirement for the written microbiological contaminants sample-siting plan and requested that RJML respond in writing to the Division Representative by July 20, 2009, with an outline of the course of action that will be taken and the date by which the System will brought into compliance with the written microbiological contaminants sample-siting plan requirement.
30. Pursuant to 5 CCR 1003-1, §1.12.1(e), each monitoring plan prepared by the System must contain Individual Rule Sampling Plans.
31. Division records to date establish that the System did not respond in writing to the Division Representative's June 5, 2009, letter and RJML has not prepared an adequate written microbiological contaminants sample-siting plan.
32. RJML's failure to develop a written microbiological contaminants sample-siting plan for the System constitutes violation(s) of 5 CCR 1003-1, §5.1.1(a).

Fifth Violation
(Failure to Develop/Submit a Monitoring Plan)

33. Pursuant to 5 CCR 1003-1, §1.12, each public water system shall develop and implement a monitoring plan. The public water system shall maintain the plan and make it available for inspection by the Department.
34. Pursuant to 5 CCR 1003-1, §1.12.2(a)(4), the System was required to submit a monitoring plan to the Department by April 10, 2006.
35. Pursuant to 5 CCR 1003-1, §1.12.1(e), each monitoring plan prepared by the System must contain 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.
36. During the June 5, 2009, compliance inspection of the System, the Division Representative determined that the System lacked a monitoring plan detailing the System's background information, sources, treatment and distribution system.
37. In a letter reporting the results of the compliance inspection, dated June 5, 2009, addressed to RJML, the Division Representative requested that RJML provide a written response addressing the inspection identified deficiencies by July 20, 2009.
38. Division records establish that RJML has neither developed nor submitted the required monitoring plan to the Division.
39. RJML's failure to develop a monitoring plan for the System constitutes a violation of 5 CCR 1003-1, §1.12. If RJML subsequently developed its monitoring plan, but failed to submit a copy of the monitoring plan for the System to the Division, such failure constitutes a violation of 5 CCR 1003-1, §1.12(a)(4).

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

40. 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.
- 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.

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 June 5, 2009, compliance inspection of the System, the Division Representative noted that the System did not have a written Cross-Connection Control Program.
42. In a letter reporting the results of the compliance inspection, dated June 5, 2009, addressed to RJML, the Division Representative advised RJML of the requirement for the System to implement a cross-connection control program and requested that RJML respond in writing to the Division Representative by July 20, 2009, with an outline of the course of action that will be taken and the date by which the System will be brought into compliance with the cross-connection control program requirement.
43. 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.
44. RJML'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 Retain System Records)

45. 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:
 - i. Records of microbiological analyses and turbidity 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:
 - (1) The date, place, and time of sampling, and the name of the person who collected the sample;

- (2) 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;
 - (3) Date of analysis;
 - (4) Laboratory and person responsible for performing analysis;
 - (5) The analytical technique/method used, and
 - (6) The results of the analyses.
- ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.
 - vi. 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.
 - vii. 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*.
46. During the June 5, 2009, compliance inspection of the System, the Division Representative determined that written records or log sheets to indicate that the operator in charge, or that a delegated person, is making the appropriate adjustments to chemical feeding equipment to ensure its operation dating back to December 9, 2008, were not available on the site for review.
 47. In a letter reporting the results of the compliance inspection, dated June 5, 2009, and addressed to RJML, the Division Representative advised RJML of the requirement for the System to make System monitoring records available for review requested RJML to respond in writing to the Division Representative by July 20, 2009, with an outline of the course of action that will be taken and the date by which the System will brought into compliance with the record keeping requirements.

48. 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.
49. RJML's failure to retain System records on the premises, or at a convenient location near its premises, constitutes violation(s) 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, RJML is hereby ordered to:

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

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

51. Immediately take steps to comply with the microbiological contaminant and residual disinfectant concentration monitoring/reporting obligations as required by 5 CCR 1003-1, Articles 5 and 13.
52. Within thirty (30) calendar days after receipt of this Order, RJML shall submit the results of any microbiological contaminant (total coliform) and residual disinfectant concentration monitoring performed for the second, third and fourth quarters of 2010.
53. If the second, third and fourth quarter 2010 total coliform and residual disinfectant concentration sampling has not been conducted by the System, RJML shall collect a total coliform sample from the distribution system, and/or at the entry point to the distribution system, according to the System's written sample-siting plan within 20 calendar days of receipt of this Order. The total coliform and residual disinfectant concentration samples must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. RJML shall provide the Department with the results of the total coliform and residual disinfectant concentration analyses within ten (10) calendar days of receipt of the results from the laboratory.
54. Within sixty (60) calendar days after receipt of this Order, RJML 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.
55. Within thirty (30) calendar days from the date of this Order, RJML shall develop, implement and submit to the Division a monitoring plan pursuant to 5 CCR 1003-1, §1.12, which includes an individual rule sampling plan/microbiological contaminant sample-siting plan, 5 CCR 1003-1, §§1.12.1(e) and 5.1.1(a), to reflect the System's current configuration, treatment and operation. The plan shall specifically outline how RJML 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.

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

56. Within thirty (30) calendar days after receipt of this Order, RJML shall provide a written description of how the System's Cross-Connection Control Program is being implemented.

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

57. Within sixty (60) calendar days after receipt of this Order, RJML shall submit for Department review and approval, plans and specifications for the System's recently constructed reverse osmosis system. Upon review of the submitted plans and specifications, if the Department determines that the implemented system improvements are deficient, RJML shall within sixty (60) calendar days of the Department's notice certify in writing that the deficiencies have been corrected, as necessary, and that the System is now constructed in accordance with the Department approved design plans, specifications and the Regulations.

The Division's application for Construction Approval can be found at the following internet location:

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

58. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, RJML shall issue a 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, RJML shall submit to the Division, along with the mandatory certification, a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by the system and/or to the media.

Additional guidance for proper public notification can be viewed at the following Internet location:

http://www.cdphe.state.co.us/wq/drinkingwater/pdf/PublicNotice/PN_Guidance_Mar2003.pdf

ORDER FOR ADMINISTRATIVE PENALTY

59. 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.
60. 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 six-hundred and sixty dollars (\$660.00) 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

61. If RJML 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:

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

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

62. Payment or appeal of the administrative penalty in this manner does not relieve RJML of its obligation to perform the activities required by this enforcement action.

NOTICES AND SUBMITTALS

63. For all documents, plans, records, reports and replies required to be submitted by this order, RJML 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).

64. 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

65. RJML 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 RJML 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

66. 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

67. 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 RJML 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

68. 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.
69. 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

70. 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.
71. 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

Exhibit A

RJML, LLC d/b/a LA MARAVILLA RESTAURANT/LOUNGE
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0262466
WELD COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(March 15, 2011)

Penalty Summary

Penalty Calculation - Violation Number 1..... \$360.00

Violation: Failure to Monitor and/or Report for Microbiological Contaminants
Regulation Violated: 5 CCR 1003-1, §§1.6.4(a), 5.1.1(b) and (e)(1)

Penalty Calculation - Violation Number 2..... \$300.00

Violation: Failure to Measure/Report Residual Disinfection Concentration
Regulation Violated: 5 CCR 1003-1, §§1.6.4(a), 13.2(a)(2) and (b)(2)

TOTAL PENALTY.....\$660.00

Exhibit A
ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1

| | |
|--|---------------------------------|
| System Name: La Maravilla Restaurant/Lounge | PWSID Number: CO-0262466 |
|--|---------------------------------|

| | |
|--|----------------------------|
| Date of Enforcement Order: March 15, 2011 | Number: DC-110315-2 |
|--|----------------------------|

| | |
|--|-------------------------------|
| Regulation Violated: Failure to Monitor and/or Report for Microbiological Contaminants, 5 CCR 1003-1, §§1.6.4(a), 5.1.1(b) and (e)(1) | Population Served: 125 |
|--|-------------------------------|

Part I – Base Penalty Calculation

| | Violation Type | Population Range | Amount in Dollars |
|--------|--|------------------|-------------------|
| Line 1 | Failure to Monitor and/or Report for Microbiological Contaminants, 5 CCR 1003-1, §§1.6.4(a), 5.1.1(b) and (e)(1) | < 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 |

Exhibit A

Part III – Determination of Days of Violation

| | | Days of Violation |
|---------|---|-------------------|
| Line 11 | Total Days of Violation | 3 |
| | <i>Justification: The Division has chosen to consider the 2nd, 3rd and 4th Quarter 2010 failure to monitor and/or report for microbiological contaminant violations as a single day violations respectively.</i> | |

Part IV – Determination of Multi-Day Penalty Amount

| | | Amount in Dollars |
|---------|---|-------------------|
| Line 12 | Multi-Day Penalty Amount | \$180.00 |
| | <i>Calculations: Total Days of Violation (3) x (\$60.00) = \$180.00</i> | |

Part V – Economic Benefit Consideration

| | | Amount in Dollars |
|---------|---|-------------------|
| Line 13 | Economic Benefit: | \$180.00 |
| | <i>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.</i> | |
| | <i>Calculations: Laboratory Cost for Analysis of Microbiological Contaminants (\$20.00) x (3) = \$60.00 Sampling and Handling Costs (40.00) x (3) = \$120.00</i> | |

Part VI – Violation Penalty Total

| | | Amount in Dollars |
|---------|--|-------------------|
| Line 14 | Total Administrative Penalty: (Line 12 + Line 13) | \$360.00 |

Part VII – Ability to Pay Adjustment

| | | Amount in Dollars |
|---------|--|-------------------|
| Line 15 | Ability to Pay Reduction: | \$0.00 |
| | <i>Justification: Not Applicable. The Division does not have any documented information suggesting that the RJML, LLC has an inability to pay the assessed penalty amount.</i> | |

Part VIII – Final Adjusted Penalty

| | | Amount in Dollars |
|---------|--|-------------------|
| Line 16 | Total Administrative Penalty: (Line 14 - Line 15) | \$360.00 |

Exhibit A
ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 2

| | |
|--|---------------------------------|
| System Name: La Maravilla Restaurant/Lounge | PWSID Number: CO-0262466 |
|--|---------------------------------|

| | |
|--|----------------------------|
| Date of Enforcement Order: March 15, 2011 | Number: DC-110315-2 |
|--|----------------------------|

| | |
|--|-------------------------------|
| Regulation Violated: Failure to Measure/Report Residual Disinfection Concentration, 5 CCR 1003-1, §§1.6.4(a), 13.2(a)(2) and (b)(2) | Population Served: 125 |
|--|-------------------------------|

Part I – Base Penalty Calculation

| | Violation Type | Population Range | Amount in Dollars |
|--------|---|------------------|-------------------|
| Line 1 | Failure to Measure/Report Residual Disinfection Concentration | < 500 Served | \$30.00 |

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) | | \$30.00 |

Exhibit A

Part III – Determination of Days of Violation

| | | Days of Violation |
|---------|--|-------------------|
| Line 11 | Total Days of Violation | 3 |
| | <i>Justification: The Division has chosen to consider the 2nd, 3rd and 4th Quarter 2010 failure to measure/report residual disinfection concentration violations as single day violations respectively.</i> | |

Part IV – Determination of Multi-Day Penalty Amount

| | | Amount in Dollars |
|---------|--|-------------------|
| Line 12 | Multi-Day Penalty Amount | \$90.00 |
| | <i>Calculations: Total Days of Violation (3) x (\$30.00) = \$90.00</i> | |

Part V – Economic Benefit Consideration

| | | Amount in Dollars |
|---------|---|-------------------|
| Line 13 | Economic Benefit: | \$210.00 |
| | <i>Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has delayed 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.</i> | |
| | <i>Calculations: Laboratory Cost for Analysis of Chlorine (\$30.00) x (3) = \$90.00 Sampling and Handling Costs (40.00) x (3) = \$120.00</i> | |

Part VI – Violation Penalty Total

| | | Amount in Dollars |
|---------|--|-------------------|
| Line 14 | Total Administrative Penalty: (Line 12 + Line 13) | \$300.00 |

Part VII – Ability to Pay Adjustment

| | | Amount in Dollars |
|---------|---|-------------------|
| Line 15 | Ability to Pay Reduction: | \$0.00 |
| | <i>Justification: Not Applicable. The Division does not have any information suggesting that the RJML, LLC has an inability to pay the assessed penalty amount.</i> | |

Part VIII – Final Adjusted Penalty

| | | Amount in Dollars |
|---------|--|-------------------|
| Line 16 | Total Administrative Penalty: (Line 14 - Line 15) | \$300.00 |