

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 16, 2011

Certified Mail Number: 7005 1820 0000 3213 7344

PWSID# CO-0208120
Tracy Coleman, Owner
d/b/a: Alpine Lodge
12845 Highways 24 & 285
Buena Vista, Colorado 81211

RE: Service of Drinking Water Enforcement Order, Number: DT-110316-2

Dear Ms. Coleman:

You are hereby issued the enclosed Enforcement Order and Administrative Penalty Assessment (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 and §25-1-114.1 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that you have violated the Colorado Primary Drinking Water Regulations (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order and administrative penalty assessment, you may request a formal hearing to contest the action in accordance with 5 CCR 1003-1, §1.6.7(g) and/or §25-1-114.1(2.5)(b) C.R.S. Requests for such a hearing must be filed in writing with the Department and/or the Water Quality Control Commission within thirty (30) calendar days after service of the Order. Hearings on enforcement orders and penalty assessments shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

Should you 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
Russell Zigler, Legal Assistant
Enforcement Unit

Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

Enclosure

- cc: Chaffee County Public Health Department
Jord Gertson, ORC, 33198 Highway 24 N, Buena Vista, CO 81211
- ec: Andrew Rice, 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 &
DISINFECTION WAIVER WITHDRAWAL**

NUMBER: DT-110316-2

IN THE MATTER OF: TRACY COLEMAN
d/b/a: ALPINE LODGE
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0208120
CHAFFEE 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, Penalty Assessment and Disinfection Waiver Revocation:

GENERAL FINDINGS

1. Tracy Coleman owns and/or operates a drinking water system, known as the Alpine Lodge, located at 12845 US Highways 24 & 285, Buena Vista, Colorado, in Chaffee County, Colorado and in the vicinity of Latitude 38.813361 and Longitude -106.105472 (the "System").
2. Tracy Coleman is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Tracy Coleman 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-0208120
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. Tracy Coleman 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. The System serves a total calculated daily population of one-hundred and four (104) persons.
10. On July 14, 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
(Failure to Monitor and/or Report for Microbiological Contaminants)

11. 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.
12. 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.
13. Pursuant to 5 CCR 1003-1, §1.6.2, to establish compliance with the Regulations, the Department may require public water systems to conduct performance tests and monitoring, as the Department deems necessary to protect the public health.
14. In a letter dated October 17, 1996, from the Division to Tracy Coleman, the Division required the System to conduct monthly monitoring of microbiological contaminants beginning November, 1996.
15. Information supplied to the Department, from Tracy Coleman, shows that the System is active year round.
16. 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.
17. 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/Month	Year	Number of Samples Required	Number of Samples Received
February	2010	1	0
March	2010	1	0
April	2010	1	0
May	2010	1	0
June	2010	1	0
September	2010	1	0
October	2010	1	0
November	2010	1	0

18. Tracy Coleman'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 Tracy Coleman 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) and/or 1.6.2.

Second Violation
(Failure to Monitor and/or Report for Nitrate)

19. Pursuant to 5 CCR 1003-1, §6.1.5(e), all public water systems shall monitor to determine compliance with the maximum contaminant level for Nitrate.
20. Pursuant to 5 CCR 1003-1, §6.1.5(e)(4), the System is required to monitor for Nitrate annually.
21. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), the System is required to collect a minimum of one Nitrate sample at every entry point to the distribution system which is representative of each groundwater source after treatment.
22. *The Official 2010 Drinking Water Monitoring Schedule* provided to the System by the Department outlines that the System was required to monitor for Nitrate at each entry point to the distribution system (after treatment) during calendar year 2010.
23. Pursuant to 5 CCR 1003-1, §1.6.4(a), the System shall report to the Department the results of the System's annual Nitrate analysis 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.
24. Department records establish that the System failed to submit results of its annual Nitrate monitoring to the Department for calendar year 2010.
25. Tracy Coleman's failure to submit the results of its annual Nitrate analysis to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Tracy Coleman failed to perform its annual

Nitrate analysis during the identified period, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§6.1.5(e)(4) and 6.1.5(b)(1).

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

26. 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.

27. During the July 14, 2009, inspection, the Division Representative noted that there was no evidence available to demonstrate that the System was implementing a cross-connection control program.
28. In a letter reporting the results of the compliance inspection, dated October 28, 2009, addressed to Tracy Coleman, the Division Representative advised Tracy Coleman of the requirement for the System to implement a cross-connection control program and requested Tracy Coleman to respond in writing to the Division Representative by December 12, 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 cross-connection control program requirement.
29. 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.
30. Tracy Coleman's failure to implement a cross-connection control program for the System constitutes violation(s) of 5 CCR 1003-1, §12.1.

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

31. 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.
32. 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.
33. During the July 14, 2009, Division inspection of the System, the Division Representative determined that the System had not maintained a current General Monitoring Plan, including a Bacteriological Sample-Siting Plan.
34. In a letter reporting the results of the compliance inspection, dated October 28, 2009, addressed to Tracy Coleman, the Division Representative advised Tracy Coleman of the requirement for the System to maintain a General Monitoring Plan, including a Bacteriological Sample-Siting Plan, and requested Tracy Coleman to respond in writing to the Division Representative by December 12, 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 General Monitoring Plan requirement. The letter included a link to a monitoring plan template to assist the System in developing a monitoring plan.
35. Division records establish that Tracy Coleman has neither developed nor submitted the required monitoring plan to the Division.
36. Tracy Coleman's failure to develop a monitoring plan for the System constitutes a violation of 5 CCR 1003-1, §1.12. If Tracy Coleman 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).

DISINFECTION WAIVER WITHDRAWAL

37. Pursuant to 5 CCR 1003-1, §13.2(d)(6), if the System is not in compliance with 5 CCR 1003-1, §13.2(d)(1), or if based on the information obtained in 5 CCR 1003-1, §13.2(d)(2-5) and/or other information, it appears that the water being served to the public presents a potential public health risk, the Department may summarily withdraw the System's disinfection waiver, whereupon disinfection shall be required and the System must comply with the disinfection treatment technique requirements of 5 CCR 1003-1, §13.2(a-c).
38. The Tracy Coleman does not appear to have a protected source, consistent operations and maintenance, and a process to continuously introduce chlorine into the System during an emergency. Moreover, the Tracy Coleman is not chlorinating and flushing the entire System on a regular and planned basis.

39. Pursuant to 5 CCR 1003-1, §§13.2(d)(7)(ii), (iv) and (vii), the System's disinfection waiver may be withdrawn if the System:
 - a. (1) Fails to comply with the provisions of the 5 CCR 1003-1, Article 5, Microbial Contaminant requirements;
 - b. (2) fails to comply with the provisions of the 5 CCR 1003-1, Article 12, Hazardous Cross-Connection requirements; and/or
 - c. (3) is in violation of the Regulations.
40. Tracy Coleman failed to comply with the provisions of the 5 CCR 1003-1, Article 5, Microbial Contaminant requirements, as outlined in paragraphs 11-16.
41. Tracy Coleman failed to comply with the provisions of the 5 CCR 1003-1, Article 12, Hazardous Cross-Connection requirements, as outlined in paragraphs 24-28.
42. Tracy Coleman is in violation of the Regulations, as outlined in paragraphs 11-36.
43. The Department, upon consideration of the facts described in paragraph 38, has determined that the System's continued operation with a disinfection waiver presents a public health risk pursuant to 5 CCR 1003-1, §13.2(d)(6). Moreover, the Systems failure to comply with the Regulations, specifically the Microbial Contaminant requirements and the Hazardous Cross-Connection requirements, constitutes grounds for disinfection waiver withdrawal pursuant to 5 CCR 1003-1, §13.2(d)(7). As of the date of this order, Tracy Coleman's disinfection waiver is hereby withdrawn pursuant to 5 CCR 1003-1, §§13.2(d)(6-7).

COMPLIANCE REQUIREMENTS

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

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

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

45. In order to ensure long-term compliance with the groundwater disinfection treatment requirements of 5 CCR 1003-1, Article 13, the Tracy Coleman shall evaluate and upgrade, as needed, the System's treatment processes in accordance with the following schedule:
 - a. Within thirty (30) calendar days from the date of this order, retain a qualified engineer (experienced in drinking water treatment technologies and operational practices) to evaluate and recommend alternatives or improvements to the System's water source or treatment processes to ensure ongoing compliance with the groundwater disinfection requirements of 5

CCR 1003-1, §13.2(a-c).

- b. Within forty-five (45) calendar days from the date of this Order, Tracy Coleman shall submit, for Department review and approval, Final Design Plans and Specifications describing a proposed disinfection treatment process for the System meeting the requirements of 5 CCR 1003-1, §13.2(a-c).
 - c. Within thirty (30) calendar days from the date of the Department's approval of Final Design Plans and Specifications, begin construction of the Department approved System improvements.
 - d. Within ninety (90) calendar days of the Department's approval of Final Design Plans and Specifications, Tracy Coleman shall complete construction, installation and/or implementation of the Department approved System improvements.
 - e. Within fifteen (15) calendar days of completion of the Department approved System improvements, submit a written certification from the engineering firm stating that the system improvements were constructed/installed as approved by the Department.
46. Immediately take steps to comply with the microbiological contaminant monitoring/reporting obligations as required by 5 CCR 1003-1, Article 5.
47. Within thirty (30) calendar days after receipt of this Order, Tracy Coleman shall submit the results of any microbiological contaminant (total coliform) monitoring performed during the monitoring periods outlined in paragraph 15.
48. If the March 2011 total coliform sampling has not been conducted by the System, Tracy Coleman shall collect a total coliform sample from the distribution system according to the System's written sample-siting plan within ten (10) calendar days of the date of this Order. The total coliform sample must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. Tracy Coleman shall provide the Department with the results of the total coliform analysis within ten (10) calendar days of receipt of the results from the laboratory.
49. Within thirty (30) calendar days after receipt of this Order, Tracy Coleman shall submit the results of any Nitrate monitoring performed during the monitoring period outlined in paragraph 19.
50. If the calendar year 2011 Nitrate sampling has not been conducted by the System, Tracy Coleman shall collect a Nitrate sample at every entry point to the distribution system within ten (10) calendar days from the date of this Order. The Nitrate sample must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. Tracy Coleman shall provide the Department with the results of the Nitrate analysis within ten (10) calendar days of receipt of the results from the laboratory.

51. Within thirty (30) calendar days after receipt of this Order, Tracy Coleman shall develop and provide a copy of a written Cross-Connection Control Program, and a written description of how it is being implemented, to the Department.

A guidance document outlining a Sample Cross-Connection Control Program for Small Systems can be viewed at the following internet location:

http://www.cdph.state.co.us/wq/drinkingwater/pdf/cross_connection_control.pdf

52. Within forty-five (45) calendar days from the date of this order, Tracy Coleman shall develop, implement and submit a monitoring plan pursuant to 5 CCR 1003-1, §1.12, to reflect the System's current configuration, treatment and operation. 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:
- a. Frequency and approximate time of collection;
 - b. Sample site location identification and associated identification number;
 - c. If appropriate, justification for the site selection;
 - d. Sample preservation, quality assurance, and quality control procedures, including procedures for equipment calibration;
 - e. Analysis procedure (certified laboratory or on-site by a party approved by the Department);
 - f. Monitoring results presentation format;
 - g. Procedures to assess and report compliance status for MCLs, ALs, MRDLs, TTs and, if applicable, disinfection byproduct precursor removal efficiency;
 - h. The rationale used by the system to identify the sampling locations selected to represent the distribution system, and
 - i. 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.

A guidance document on how to prepare a monitoring plan can be viewed at the following internet location:

<http://www.cdph.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.cdph.state.co.us/wq/drinkingwater/pdf/Bulletin02_01BactSamplingPlanguidanceDoc.pdf

53. Within thirty (30) calendar days after receipt of this Order, Tracy Coleman 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, Tracy Coleman 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

54. 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.
55. 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 twelve-hundred and sixty-two dollars (\$1,262.00) 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

56. If Tracy Coleman 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.

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

NOTICES AND SUBMITTALS

58. For all documents, plans, records, reports and replies required to be submitted by this order, Tracy Coleman 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).

59. 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

60. Tracy Coleman 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 Tracy Coleman 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

61. 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

62. 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 Tracy Coleman 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

63. 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 with the Department 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.
64. 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.

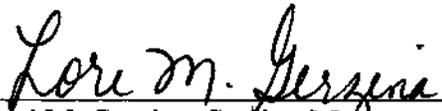
65. Pursuant to 5 CCR 1003-1, 13.2(d)(9), the System may request a hearing with the Department to contest the withdrawal of the its groundwater disinfection waiver. Request for such a hearing must be filed with the Department in writing within sixty (60) calendar days after service of this order. Such hearing must be conducted pursuant to the procedures established by the State Administrative Procedure Act, Article 4 of Title 24, C.R.S.

ADDITIONAL ACTION

66. 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.
67. 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 16th 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
TRACY COLEMAN
d/b/a: ALPINE LODGE
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0208120
CHAFFEE COUNTY, COLORADO

ADMINISTRATIVE PENALTY COMPUTATION WORKSHEET
(March 16, 2011)

Penalty Summary

Penalty Calculation -Violation Number 1..... \$1,032.00

Violation: Failure to Monitor and/or Report for Microbiological Contaminants
Regulation Violated: 5 CCR 1003-1, §§1.6.4(a), 1.6.2 and 5.1.1(b), (e)(1)

Penalty Calculation -Violation Number 2..... \$230.00

Violation: Failure to Monitor and/or Report for Nitrate
Regulation Violated: 5 CCR 1003-1, §§1.6.4(a), 6.1.5(e)(4) and 6.1.5(b)(1)

TOTAL PENALTY.....\$1,262.00

Exhibit A
PENALTY COMPUTATION WORKSHEET
VIOLATION NUMBER: 1

System Name: Alpine Lodge	PWSID Number: CO-0208120
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Date of Enforcement Order: March 16, 2011	Number: DT-110316-2
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Regulation Violated: Failure to monitor and/or report for microbiological contaminants, 5 CCR 1003-1, §§ 1.6.4(a), 5.1.1(b) and 5.1.1(e)(1)	Population Served: 104
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Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor and/or Report for Microbiological Contaminants	< 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: Tracy Coleman has demonstrated recidivism by its pattern of non-compliance with the monitoring and/or reporting requirements for microbiological contaminants.</i>	+15%	\$9.00
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 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$69.00

Exhibit A

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	8
	<i>Justification: The Division has chosen to consider the February 2010, March 2010, April 2010, May 2010, June 2010, September 2010, October 2010 and November 2010 failure to monitor for microbiological contaminants as single day violations respectively.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$552.00
	<i>Calculations: Total Days of Violation (8) x (\$69.00) = \$552.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$480.00
	<i>Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has avoided its cost for the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to the lab. Calculations: Laboratory Cost for Analysis of Microbiological Contaminants (\$20.00) x (8) = \$160.00 Sampling and Handling Costs (40.00) x (8) = \$320.00</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$1,032.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division has not been provided any information demonstrating an inability to pay by Tracy Coleman.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$1,032.00

Exhibit A
VIOLATION NUMBER: 2

System Name: Alpine Lodge	PWSID Number: CO-0208120
Date of Enforcement Order: March 16, 2011	Number: DT-110316-2
Regulation Violated: Failure to Monitor and/or Report for Nitrate, 5 CCR 1003-1, §§1.6.4(a) 6.1.5(e)(4) and 6.1.5(b)(1)	Population Served: 104

Part I – Base Penalty Calculation

	Violation Type	Population Range	Amount in Dollars
Line 1	Failure to Monitor and/or Report for Nitrate	< 500 Served	\$200.00

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 9		\$0.00
Line 10	Adjusted Base Penalty (Sum of Line 1 + Line 9)		\$200.00

Exhibit A

Part III – Determination of Days of Violation

		Days of Violation
Line 11	Total Days of Violation	1
	<i>Justification: The Division has chosen to consider the calendar year 2010 failure to monitor for Nitrate as single day violations respectively.</i>	

Part IV – Determination of Multi-Day Penalty Amount

		Amount in Dollars
Line 12	Multi-Day Penalty Amount	\$200.00
	<i>Calculations: Total Days of Violation (1) x (\$200.00) = \$200.00</i>	

Part V – Economic Benefit Consideration

		Amount in Dollars
Line 13	Economic Benefit:	\$30.00
	<i>Justification: The Division believes that the System realized an economic benefit by failing to monitor since it has avoided its cost for the test itself as well as the cost of the labor involved in obtaining sample bottles, conducting the testing, and transporting the samples to the lab. Calculations: Laboratory Cost for Analysis of Nitrate Concentration (\$30.00) x (1) = \$30.00 Sampling and Handling Costs (already covered by the bacteriological monitoring sampling and handling costs assessed in Violation 1)</i>	

Part VI – Violation Penalty Total

		Amount in Dollars
Line 14	Total Administrative Penalty: (Line 12 + Line 13)	\$230.00

Part VII – Ability to Pay Adjustment

		Amount in Dollars
Line 15	Ability to Pay Reduction:	\$0.00
	<i>Justification: Not Applicable – The Division has not been provided any information demonstrating an inability to pay by Tracy Coleman.</i>	

Part VIII – Final Adjusted Penalty

		Amount in Dollars
Line 16	Total Administrative Penalty: (Line 14 - Line 15)	\$230.00