

STATE OF COLORADO

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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

April 20, 2011

Certified Mail Number: 7005 1820 0000 3213 7481

PWSID# CO-0202666

Mr. Karmjit S. Salh, Registered Agent
Rakhra Mushroom Farm Corp.
P.O. Box 2002
Alamosa, CO 81101

RE: Service of Drinking Water Enforcement Order, Number: DN-110420-1

Dear Mr. Salh:

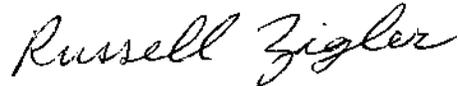
Rakhra Mushroom Farm Corp. is hereby issued the enclosed Enforcement Order (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that the Rakhra Mushroom Farm Corp. has violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order, the Rakhra Mushroom Farm Corp. 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 Rakhra Mushroom Farm Corp. 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: Alamosa County Public Health Department
George Coulson, ORC, 10719 County Road 5 South, Alamosa, CO 81101

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
Phyllis Woodford, CDPHE Environmental Agriculture Program
Michael Beck, OPA
Cathy Heald, Engineering Section, CDPHE
Lauren Worley, Case Lead, CDPHE



COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION

ENFORCEMENT ORDER

NUMBER: DN-110420-1

IN THE MATTER OF: RAKHRA MUSHROOM FARM CORP.
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0202666
ALAMOSA 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. Rakhra Mushroom Farm Corp. ("Rakhra MFC") owns and/or operates a drinking water system located in the vicinity of 10719 S CR 5, Alamosa, Colorado, in Alamosa County, Colorado, at or about Latitude 37.50472, Longitude -105.8394444 (the "System").
2. Rakhra MFC is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Rakhra MFC 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-0202666.
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. Rakhra MFC provides piped water for human consumption from the System to at least twenty-five (25) of the same persons over six (6) months per year. The System is therefore classified as a "non-transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(94).
8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).

9. On September 21, 2010, a Division Representative conducted a sanitary survey 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
(Exceedance of the Maximum Contaminant Level for Arsenic)

10. Pursuant to 5 CCR 1003-1, §2.2, Table 2-3(2), all non-transient, non-community public water systems are subject to the Arsenic maximum contaminant level of 0.010 mg/L.
11. Pursuant to 5 CCR 1003-1, §6.1.5(d)(1), the System must monitor for Arsenic by taking one sample at each sampling point, as defined in 5 CCR 1003, §6.1.5(b)(1), during each compliance period.
12. Pursuant to 5 CCR 1003-1, §6.1.5(d)(8), systems that exceed the maximum contaminant level for Arsenic, as calculated in accordance with 5 CCR 1003-1, §6.1.3(a), shall monitor quarterly beginning in the next quarter after the violation occurred.
13. Pursuant to 5 CCR 1003-1, §6.1.3(a)(1), for systems which are conducting monitoring at a frequency greater than annual, compliance with the maximum contaminant level for Arsenic is determined by a running annual average based on data from the most recent four consecutive quarters at any sampling point.
14. Pursuant to 5 CCR 1003-1, §6.1.2 and §1.6.4(a), the System shall report to the state the results of any test measurement or analysis required by the 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.
15. The following data submitted to the Division from the System establish the following Arsenic running annual averages for the System:

Arsenic (mg/L)				Running Annual Average (mg/L)
Maximum Contaminant Level = 0.010 mg/L				
2 nd Q 2009 0.00	3 rd Q 2009 0.019	4 th Q 2009 0.013	1 st Q 2010 0.012	0.011
3 rd Q 2009 0.019	4 th Q 2009 0.013	1 st Q 2010 0.012	2 nd Q 2010 0.029	0.018
4 th Q 2009 0.013	1 st Q 2010 0.012	2 nd Q 2010 0.029	3 rd Q 2010 0.029	0.021
1 st Q 2010 0.012	2 nd Q 2010 0.029	3 rd Q 2010 0.029	4 th Q 2010 0.014	0.021
2 nd Q 2010 0.029	3 rd Q 2010 0.029	4 th Q 2010 0.014	1 st Q 2011 0.008	0.020

16. Pursuant to 5 CCR 1003-1, §6.1.3(a)(1), for systems which are conducting monitoring at a frequency greater than annual, if the running annual average at any sampling point is greater than the maximum contaminant level, then the system is out of compliance.
17. Rakhra MFC's failure to comply with the maximum contaminant level for Arsenic constitutes violations of 5 CCR 1003-1, §2.2, Table 2-3(2).

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

18. 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.
19. 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.
20. During the September 21, 2010 sanitary survey of the System, the Division Representative determined that the Rakhra MFC did not have a written monitoring plan.
21. In a letter reporting the results of the sanitary survey, dated January 11, 2011, addressed to Rakhra MFC ("Sanitary Survey Report"), the Division Representative advised Rakhra MFC of the requirement for the System to develop a monitoring plan and submit a copy to the Division. The Division Representative requested Rakhra MFC to respond in writing to the Division by February 25, 2011, with a Corrective Action Plan and implementation schedule to bring the System into compliance with the monitoring plan requirements.
22. In a letter dated February 10, 2011, from the System to the Division, Rakhra MFC provided a written Corrective Action Plan, in response to the Sanitary Survey Report, outlining the course of action to be taken in regard to the monitoring plan deficiency.
23. In a Compliance Advisory dated March 7, 2011, from the Division to the System, the Division notified the System that the Corrective Action Plan submitted by the System was not approved because it did not adequately address the monitoring plan deficiency cited in the Sanitary Survey Report.
24. Rakhra MFC's failure to develop, maintain, and/or submit a copy of the monitoring plan for the System constitutes violation(s) of 5 CCR 1003-1, §1.12.

COMPLIANCE REQUIREMENTS

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

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

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

26. In order to ensure long-term compliance with the *Colorado Primary Drinking Water Regulations*, specifically including the Arsenic maximum contaminant level (Article 2 and 6) for public water supplies, Rakhra MFC 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 Professional Engineer (licensed in Colorado and experienced in drinking water systems) to evaluate and recommend inorganic chemical treatment technologies or alternate water sources to Rakhra MFC to ensure compliance with the maximum contaminant level for Arsenic.
 - b. Within sixty (60) 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*.
 - c. Within one hundred eighty (180) calendar days from the date of Division approval of design plans and specifications, complete construction/implementation of the Department approved System improvements to ensure long-term compliance with the maximum contaminant level for Arsenic.
 - d. Within fourteen (14) calendar days of completion/implementation of the System improvements, submit a Professional Engineer's Certification that the System improvements to comply with the maximum contaminant levels for Arsenic were constructed/installed as approved by the Department.
27. Submit "System Improvement Project - Progress Reports" to the Department every calendar quarter. The first report shall be submitted to the Department by July 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 calendar quarter. Each report shall also detail any public notification provided during that period. These reports shall be required until the System has demonstrated reliable and consistent compliance with the Arsenic maximum contaminant level outlined in 5 CCR 1003-1, §2.2, Table 2-3(2).
28. By May 22, 2011, Rakhra MFC shall develop and implement a monitoring plan pursuant to 5 CCR 1003-1, §1.12, which includes a microbiological contaminant sample-siting plan, 5 CCR 1003-1, §5.1.1(a), to reflect the System's current configuration, treatment and operation. The plan shall specifically outline how Rakhra MFC 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. Rakhra MFC shall provide the Division with a copy of its written monitoring plan upon completion.

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

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.
29. In accordance with 5 CCR 1003-1, §9.2, Rakrha MFC shall issue a public notice each calendar quarter for each ongoing Arsenic maximum contaminant level violation until Rakrha MFC has been notified in writing by the Division that the System has returned to compliance with the maximum contaminant levels for Arsenic. Within ten (10) calendar days of completion of each required public notification, Rakrha MFC 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.

NOTICES AND SUBMITTALS

30. For all documents, plans, records, reports and replies required to be submitted by this order, Rakhra MFC 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).

31. 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

32. Rakhra MFC 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 Rakhra MFC 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

33. 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

34. 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

35. 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

36. 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.
37. 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 20th day of April, 2011.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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