

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

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
Located in Glendale, Colorado (303) 692-3090
<http://www.cdphs.state.co.us>



Colorado Department
of Public Health
and Environment

May 20, 2011

Certified Mail Number: 7006 2760 0003 4263 9328

PWSID# CO-0154566
Ms. Nikki Knoebel, Mayor
Town of Oak Creek
P.O. Box 128
Oak Creek, CO 80467

RE: Service of Drinking Water Enforcement Order, Number: DC-110519-1

Dear Mayor Knoebel:

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

As a recipient of an Order, the Town of Oak Creek 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 5 CCR 1002-21, §21.4(B)(2). Hearings on Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S. and the procedural rules promulgated in 5 CCR 1002-21.

This action could result in the imposition of administrative or civil penalties. The Department or a State District Court is authorized pursuant to §25-1-114.1, C.R.S., to impose a penalty of up to \$1,000 per violation per day. Please be advised that the Department is continuing its investigation into this matter and the Department may identify supplementary violations that warrant amendments to this Order or the issuance of additional enforcement actions.

Should the Town of Oak Creek 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: Routt County Public Health Agency
Scott Smith (ORC), P.O. Box 1078, Clark, CO 80428

ec: Andy Poirot, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Lori Billeisen, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Michael Beck, OPA
Lauren Worley, Case Lead, CDPHE



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

ENFORCEMENT ORDER

NUMBER: DC-110519-1

**IN THE MATTER OF: TOWN OF OAK CREEK
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0154566
ROUTT COUNTY, COLORADO**

Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority is implemented through the Department's Water Quality Control Division (the "Division"), the Division hereby makes the following findings and issues the following Enforcement Order:

GENERAL FINDINGS

1. The Town of Oak Creek owns and/or operates a drinking water system located at 620 Lillian Lane, Oak Creek, Colorado, in Routt County, Colorado and in the vicinity of Latitude 40.270834 and Longitude -106.961111 (the "System").
2. The Town of Oak Creek is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. The Town of Oak Creek 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-0154566.
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. Pursuant to 5 CCR 1003-1, §1.5.2(15), if a public water system provides piped water for human consumption to at least fifteen (15) service connections used by year-round residents of the area served by the System and/or regularly serves at least twenty-five (25) year-round residents it is classified as a "community water system." Division records establish that the Town of Oak Creek serves eight-hundred fifty (850) year-round residents. The System is therefore classified as a "community water system."

8. The System's source of water is surface water as defined by 5 CCR 1003-1, §1.5.2(129).
9. On November 17, 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 Levels for Total Trihalomethanes and Haloacetic Acids (five))

10. Pursuant to 5 CCR 1003-1, §2.4, Table 2-5(1) and (2), the maximum contaminant levels of 0.080 mg/L for total trihalomethanes ("TTHM") and 0.060 mg/L for haloacetic acids (five) ("HAA5") are applicable to all community water systems.
11. Pursuant to 5 CCR 1003-1, §7.6.3(b)(1), the System must monitor for TTHM and HAA5 at the following frequency and locations:

Type of System	Minimum Monitoring Frequency	Sample Location in the Distribution System
Surface water or groundwater under the direct influence of surface water system serving from 500 to 9,999 persons.	One water sample per quarter per treatment plant.	Locations representing maximum residence time.

12. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(i), for systems monitoring quarterly, compliance with maximum contaminant levels in 5 CCR 1003-1, §2.4, Table 2-5, must be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as prescribed in 5 CCR 1003-1, §7.6.3(b)(1).
13. Pursuant to 5 CCR 1003-1, §7.6.5(a), Systems required to sample quarterly or more frequently must report to the Department within ten (10) days after the end of each quarter in which samples were collected, notwithstanding the provisions of 5 CCR 1003-1, §1.6.4.
14. Data submitted to the Division from the System establish the following TTHM and HAA5 running annual arithmetic averages:

Total Trihalomethanes in mg/L MCL = 0.080 mg/L				Running Annual Average in mg/L
4 th Q 2009 0.039	1 st Q 2010 0.024	2 nd Q 2010 0.153	3 rd Q 2010 0.113	0.082
1 st Q 2010 0.024	2 nd Q 2010 0.153	3 rd Q 2010 0.113	4 th Q 2010 0.038	0.082
2 nd Q 2010 0.153	3 rd Q 2010 0.113	4 th Q 2010 0.038	1 st Q 2011 0.030	0.084

Haloacetic Acids (five) in mg/L MCL = 0.060 mg/L				Running Annual Average in mg/L
3 rd Q 2009 0.079	4 th Q 2009 0.041	1 st Q 2010 0.031	2 nd Q 2010 0.091	0.061
4 th Q 2009 0.041	1 st Q 2010 0.031	2 nd Q 2010 0.091	3 rd Q 2010 0.050	0.053
1 st Q 2010 0.031	2 nd Q 2010 0.091	3 rd Q 2010 0.050	4 th Q 2010 0.044	0.054
2 nd Q 2010 0.091	3 rd Q 2010 0.050	4 th Q 2010 0.044	1 st Q 2011 0.028	0.053

15. Pursuant to 5 CCR 1003-1, §7.6.4(b)(1)(iii), if the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the maximum contaminant level, the system is in violation of the maximum contaminant level and must notify the public pursuant to 5 CCR 1003-1, §9.2, in addition to reporting to the Department pursuant to 5 CCR 1003-1, §7.6.5.
16. The Town of Oak Creek's failure to comply with the maximum contaminant level for total trihalomethanes during the 3rd, and 4th quarters of 2010 and the 1st quarter of 2011 and with the maximum contaminant level for haloacetic acids (5) during the 2nd quarter of 2010 constitutes violations of 5 CCR 1003-1, §2.4, Table 2-5(1) and (2).

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

17. 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.
18. Pursuant to 5 CCR 1003-1, §1.12.2(a)(3), the System was required to submit a monitoring plan to the Department by April 10, 2005.
19. During the November 17, 2010 inspection, the Division Representative noted that the Town of Oak Creek had failed to properly maintain its monitoring plan.
20. In a letter reporting the results of the compliance inspection, dated January 14, 2011, addressed to the Town of Oak Creek, the Division Representative advised the Town of Oak Creek of the requirement for the System to maintain a monitoring plan which includes individual rule sampling plans for the total coliform rule, lead and copper rule, the disinfection-by-products rule, the inorganics rule, the organics rule and the groundwater rule. The Division Representative requested that the Town of Oak Creek respond in writing to the Division by February 28, 2011 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 monitoring plan requirements.

21. Division records establish that the Town of Oak Creek has neither developed nor submitted the required monitoring plan to the Division.
22. The Town of Oak Creek'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, the Town of Oak Creek is hereby ordered to:

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

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

24. In order to ensure long-term compliance with the *Colorado Primary Drinking Water Regulations*, specifically including the trihalomethanes and haloacetic acids (5) maximum contaminant levels (Article 2 and 7) for public water supplies, the Town of Oak Creek 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 disinfection byproduct treatment technologies or alternate water sources to the Town of Oak Creek to ensure compliance with the maximum contaminant levels for trihalomethanes and haloacetic acids (5).
 - 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 levels for trihalomethanes and haloacetic acids (5).
 - 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 trihalomethanes and haloacetic acids (5) were constructed/installed as approved by the Department.

25. The Town of Oak Creek shall submit "System Improvement Project - Progress Reports" to the Department each 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 Town of Oak Creek's compliance with this Enforcement Order and outline activities to be undertaken by the Town of Oak Creek to maintain compliance with this Order within the next calendar quarter. These reports shall be required until the System has demonstrated reliable and consistent compliance with the requirements of 5 CCR 1003-1, §7.6.4(b)(1)(iii).
26. Within thirty (30) days from the date of this Order, the Town of Oak Creek shall develop and implement a monitoring plan pursuant to 5 CCR 1003-1, §1.12, which includes Individual Rule Sampling Plans pursuant to 5 CCR 1003-1, §1.12.1(e), and a Microbiological Contaminant Sample-siting Plan pursuant to 5 CCR 1003-1, §5.1.1(a), to reflect the System's current configuration, treatment and operation. The plan shall specifically outline how the Town of Oak Creek 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. The Town of Oak Creek 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

27. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, the Town of Oak Creek 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, the Town of Oak Creek 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

28. All documents submitted under this Order shall use the same titles as stated in the Order and shall reference both the Order number and the paragraph number pursuant to which the document is required.

NOTICES AND SUBMITTALS

29. For all documents, plans, records, reports and replies required to be submitted by this order, the Town of Oak Creek 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).

30. 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

31. The Town of Oak Creek shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Enforcement Order. The Division shall either accept or reject the Notice of Completion in writing. If the Division rejects the Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. If the Town of Oak Creek 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

32. Pursuant to 5 CCR 1003-1, §1.11.2, no person shall commence construction of any new waterworks, or make improvements to or modify the treatment process of an existing waterworks, or initiate use of a new source, until plans and specifications for such construction, improvements, modifications or use have been submitted to, and approved by the Department. A Professional Engineer registered in the State of Colorado shall design all treatment systems serving a community water supply. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with all applicable laws, standards, rules and regulations.

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

33. 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

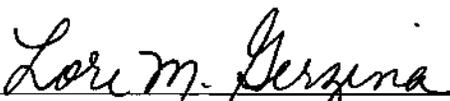
34. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests,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

35. 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.
36. 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 19th day of May, 2011.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT


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