

STATE OF COLORADO

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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

May 26, 2011

Certified Mail Number: 7006 2760 0003 4263 9397

PWSID# CO-0251466

Mr. Brad Henley, Administrator

Department of Natural Resources

Division of Parks and Outdoor Recreation/Lake Pueblo State Park

640 Pueblo Reservoir Road
Pueblo, CO 81005

RE: Service of Drinking Water Enforcement Order, Number: DN-110526-1

Dear Mr. Henley:

Lake Pueblo State Park 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 Lake Pueblo State Park violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order, Lake Pueblo State Park 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 Lake Pueblo State Park desire to informally discuss this matter with the Department or if Lake Pueblo State Park has any questions regarding the Order, please don't hesitate to contact Amy Schultz at (303) 691-4927 or by electronic mail at amy.schultz@state.co.us.

Sincerely,



Margaret E. Talbott, P.E.
Safe Drinking Water Enforcement Supervisor
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

Enclosure

cc: Scott Cowan-Pueblo City-County Health Department
Drinking Water Enforcement File

ec: Tyson Ingles, Engineering Section, CDPHE
Gary Saldano, Engineering Section, CDPHE
David Knope, Engineering Section, CDPHE
Joseph Talbott, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Lori Billeisen, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Mark Dunnington – System Operator
Amy Schultz, Case Lead, CDPHE



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

ENFORCEMENT ORDER

NUMBER: DN-110526-1

**IN THE MATTER OF: DEPARTMENT OF NATURAL RESOURCES
DIVISION OF PARKS AND OUTDOOR RECREATION /
LAKE PUEBLO STATE PARK
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0251466
PUEBLO 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 Department of Natural Resources, Division of Parks and Outdoor Recreation (“DPOR”) owns and/or operates a drinking water system, known as Lake Pueblo State Park, located in the vicinity of 640 Reservoir Road, Pueblo, Colorado, in Pueblo County, Colorado (the “System”).
2. DPOR is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. DPOR 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-0251466.
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 System 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. Construction is currently taking place on the north side of the system on both the distribution lines and treatment system.
9. The System's source of water is surface water as defined by 5 CCR 1003-1, §1.5.2(129).

First Violation
(Exceedance of the Maximum Contaminant Level
for Microbiological Contaminants)

10. Pursuant to 5 CCR 1003-1, §5.7(a), the maximum contaminant level for microbiological contaminants is based on the presence or absence of total coliforms in a sample, rather than coliform density.
11. Pursuant to 5 CCR 1003-1, §5.1.1(e)(4), a non-community water system using surface water, in total or in part, must monitor at the same frequency as a like-sized community water system, as specified in 5 CCR 1003-1, §5.1.1(d), Table 5-1, during the period surface water is being used, regardless of the number of persons it serves.
12. Pursuant to 5 CCR 1003-1, §5.1.1(d), Table 5-1, the System, which reported as serving a daily population of three-thousand and forty-six (3,046) persons, must take a minimum of three (3) sample(s) for total coliform per month.
13. Pursuant to 5 CCR 1003-1, §§2.3 and 5.7(a)(2), the System, which collects fewer than forty (40) total coliform samples per month, exceeds the maximum contaminant level for microbiological contaminants if more than one sample collected during a month is total coliform-positive.
14. Pursuant to 5 CCR 1003-1, §§5.1.1(b) and 5.1.2(i), the System is required to submit the results of all routine and repeat total coliform sampling and analyses to the Department for review.
15. Division records establish that the System reported total coliform-positive results for the following sample dates:

Sample Month/Day/Year	Type of Sample	Sample Location	Total Coliform	<i>E. Coli</i>
7/20/2010	Routine – TCR	Distribution	Present	Absent
7/22/2010	Repeat – TCR	Distribution	Present	Absent
7/22/2010	Repeat – TCR	Distribution	Present	Absent
7/22/2010	Repeat – TCR	Distribution	Present	Absent
8/9/2010	Routine – TCR	Distribution	Present	Absent
8/9/2010	Routine – TCR	Distribution	Present	Absent
8/11/2010	Repeat – TCR	Distribution	Present	Absent
8/11/2010	Repeat – TCR	Distribution	Present	Absent
8/11/2010	Repeat – TCR	Distribution	Present	Absent
8/11/2010	Repeat – TCR	Distribution	Present	Absent
8/11/2010	Repeat – TCR	Distribution	Present	Absent
9/29/2010	Routine – TCR	Distribution	Present	Absent

9/29/2010	Routine – TCR	Distribution	Present	Absent
9/30/2010	Repeat TCR	Distribution	Present	Absent
9/30/2010	Repeat TCR	Distribution	Present	Absent
5/17/2011	Routine-TCR	Distribution	Present	Absent
5/19/2011	Repeat-TCR	Distribution	Present	Absent

16. Colorado State Park’s failure to maintain compliance with the maximum contaminant level for microbiological contaminants during the months of July, August and September of calendar year 2010 and the month of May 2011 constitutes violation(s) of 5 CCR 1003-1, §§2.3 and 5.7(a).

COMPLIANCE REQUIREMENTS

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

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

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

18. In order to ensure long-term compliance with the Colorado Primary Drinking Water Regulations, specifically including the microbiological contaminant maximum contaminant level (Article 5) for public water supplies, the DPOR shall evaluate and upgrade, as needed, the System’s water source and/or treatment processes, on the south side of the park, in accordance with the following schedule.

- a. Within thirty (30) calendar days from the date of this order, retain a qualified engineering firm (experienced in drinking water treatment technologies and operational practices), or provide documentation that such a firm has been retained, to evaluate and recommend alternatives or improvements to the System’s water source or treatment processes to ensure ongoing compliance with the microbiological contaminant maximum contaminant level.
- b. Within ninety (90) days from the date of this order, submit Final Design Plans and Specifications for the proposed system improvements for Department review and approval in accordance with 5 CCR 1003-1, §1.11.2, and the State of Colorado Design Criteria for Potable Water Systems.
- c. Within one hundred twenty (120) calendar days from the date of the Department’s approval of Final Design Plans and Specifications, execute a signed construction contract and be prepared to commence construction of the Department-approved system improvements.
- d. By June 12, 2012, complete construction/implementation of the Department-approved system improvements to ensure long-term compliance with the microbiological contaminant maximum contaminant level.
- e. Within thirty (30) calendar days of completion, submit a written certification from the design firm (or person) stating that the system improvements were constructed/installed as approved by the Department.

19. DPOR shall submit “System Improvement Project - Progress Reports” to the Division every calendar quarter. The first report shall be submitted to the Division 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. These reports shall be required until the System has demonstrated reliable and consistent compliance with the microbiological contaminant maximum contaminant level outlined in 5 CCR 1003-1, §§2.3 and 5.7(a).
20. Until such time that the System completes the engineering improvements on the north side of the park, increased monitoring of microbial contaminants and chlorine residuals will be required, effective immediately, on the following schedule:

Monitoring Location	Frequency
North Ranger Station	1 st week of each month
Prairie Ridge Shower	1 st week of each month
North Boat Ramp Comfort Station	3 rd week of each month
North Tower	3 rd week of each month
North Booster Station	3 rd week of each month

Free and total chlorine measurements will be required at the outflow of the North Tower every Saturday, Tuesday and Thursday with results submitted to the CDPHE by email every Monday. These results are to be submitted to Amy Schultz (amy.schultz@state.co.us). This sampling will continue until construction on the north side is complete. DPOR must notify the Division in writing once the north side system is fully operational and must provide certification when the north side construction is complete. For times when the North Tower is offline, these samples are to be collected at the tap nearest the end of the park distribution system served by the Pueblo West water. These sampling requirements are in addition to the requirements of the routine monitoring plan, however, they may be used to satisfy a portion of the requirements for routine monitoring. This increased monitoring is required by the Division pursuant to 5 CCR 1003-1, §1.6.2.

21. The engineering improvements to be completed under this order will include rehabilitation or replacement of the tank on the south side in accordance with Division design requirements.
22. Within thirty (30) calendar days of this Order, DPOR shall update the cross-connection control program and shall submit a written update to the Division pursuant to 5 CCR 1003-1, Article 12.
23. DPOR shall review and revise its monitoring plan, including its microbiological contaminant sampling-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 DPOR 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. Within thirty (30) calendar days after the effective date of this Order, DPOR shall provide the Division with a copy of its revised and updated written monitoring plan.

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.
24. Within thirty (30) calendar days from the date of this Order, if it has not already done so, DPOR 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, DPOR 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

NOTICES AND SUBMITTALS

25. For all documents, plans, records, reports and replies required to be submitted by this order, DPOR 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: Amy Schultz
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: amy.schultz@state.co.us
Fax: (303) 782-0390

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

26. 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

27. DPOR 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 DPOR wishes to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) calendar days of receipt of the Division's rejection, submit a written statement as to its belief of full compliance, addressing in detail all concerns the Division raised in the rejection letter to the System's Notice of Completion.

PRIOR APPROVAL REQUIRED

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

POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES

29. You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars (\$1,000) per violation per day, to be imposed by the Department or a State District Court. Further, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an Enforcement Order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one

thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

REQUEST FOR HEARING OR APPEAL

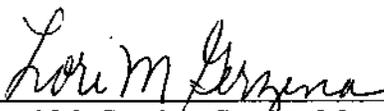
30. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests, at a minimum, shall contain the information specified in 5 CCR 1003-1, §1.6.7(g) and 5 CCR 1002-21, §21.4(B)(2). Hearings on Enforcement Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S. and the procedural rules promulgated in 5 CCR 1002-21.

ADDITIONAL ACTION

31. You are further advised that under §25-1-114.1(1), C.R.S., the Department may institute a civil action against any person who violates a final Enforcement Order of the Department issued for violation of any minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S.
32. Additionally, the Department may request the Attorney General to seek a temporary restraining order or permanent injunction to prevent or abate any violation of a minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S. Further information concerning the aforementioned action is contained in §25-1-114.1(3), C.R.S.

Issued at Denver, Colorado, this 26th 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