

# 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.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

June 14, 2011

Certified Mail Number: 7006 2760 0003 4263 9359

PWSID# CO-0130035

Mr. Scott Jones, District Manager  
Genesee Water & Sanitation District  
17301 West Colfax Avenue, Suite 220  
Golden, Colorado 80401-4800

**RE: Service of Drinking Water Enforcement Order, Number: DC-110614-1**

Dear Mr. Jones:

Genesee Water & Sanitation District 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 Genesee Water & Sanitation District violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order, Genesee Water & Sanitation District 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 Genesee Water & Sanitation District 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](mailto:lauren.worley@state.co.us).

Sincerely,



Russell Zigler, Legal Assistant  
Enforcement Unit  
Compliance Assurance Section  
WATER QUALITY CONTROL DIVISION

Enclosure

cc: Jefferson County Public Health  
John McWilliams, ORC, 17301 W. Colfax Ave., Suite 220, Golden, CO 80401-4800  
Drinking Water Enforcement File

ec: Jon Erickson, Engineering Section, CDPHE  
Dick Parachini, Watershed Program, CDPHE  
Lori Billeisen, Facility Operators Program, CDPHE  
Shawn McCaffrey, EPA Region VIII  
Lauren Worley, Case Lead, CDPHE



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

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**ENFORCEMENT ORDER**

**NUMBER: DC-110614-1**

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**IN THE MATTER OF: GENESEE WATER & SANITATION DISTRICT  
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0130035  
JEFFERSON COUNTY, COLORADO**

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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. Genesee Water & Sanitation District ("Genesee WSD") owns and/or operates a drinking water system at or near the intersection of Bear Creek Road (Highway 74) and Cold Springs Gulch Road, Latitude 39.668611, Longitude -105.276666, located in Jefferson County, Colorado (the "System").
2. Genesee WSD is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Genesee WSD 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-0130035.
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 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 Genesee WSD serves 4,100 residents and 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 January 7, 2011, 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**

**(Exceedance of the Maximum Contaminant Level for Total Trihalomethanes)**

10. Pursuant to 5 CCR 1003-1, §2.4, Table 2-5(1), the maximum contaminant level of 0.080 mg/L for total trihalomethanes ("TTHM") is applicable to all community and non-transient, non-community water systems.
11. Pursuant to 5 CCR 1003-1, §7.6.3(b)(1), the System must monitor for TTHM 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 running annual arithmetic averages for the System:

Total Trihalomethanes in mg/L				Running Annual Average in mg/L
4 <sup>th</sup> Q 2009 0.0696	1 <sup>st</sup> Q 2010 0.0386	2 <sup>nd</sup> Q 2010 0.096	3 <sup>rd</sup> Q 2010 0.1245	<b>0.082</b>
1 <sup>st</sup> Q 2010 0.0386	2 <sup>nd</sup> Q 2010 0.096	3 <sup>rd</sup> Q 2010 0.1245	4 <sup>th</sup> Q 2010 0.0436	<b>0.076</b>
2 <sup>nd</sup> Q 2010 0.096	3 <sup>rd</sup> Q 2010 0.1245	4 <sup>th</sup> Q 2010 0.0436	1 <sup>st</sup> Q 2011 0.0451	<b>0.077</b>

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. Genesee WSD's failure to comply with the maximum contaminant level for total trihalomethanes during the third quarter of 2010 constitutes violation of 5 CCR 1003-1, §2.4, Table 2-5(1).

**Second Violation**  
**(Failure to Comply with Treatment Technique for Control of**  
**Disinfection Byproduct Precursors)**

17. Pursuant to 5 CCR 1003-1, §7.6.6(a)(1), surface water or groundwater under the direct influence of surface water systems using conventional filtration treatment (as defined in 5 CCR 1003-1, §1.5.2(27)) must operate with enhanced coagulation or enhanced softening to achieve the total organic carbon ("TOC") percent removal levels specified in 5 CCR 1003-1, §7.6.6(b) unless the system meets at least one of the alternative compliance criteria listed in 5 CCR 1003-1, §§7.6.6(a)(2) or (a)(3).
18. Pursuant to 5 CCR 1003-1, §7.6.6(b)(1), systems must achieve the percent reduction of TOC specified in 5 CCR 1003-1, §7.6.6(b)(2) between the source water and the combined filter effluent, unless the Department approves a system's request for alternative minimum TOC removal (Step 2) requirements under 5 CCR 1003-1, §7.6.6(b)(3).
19. In a letter dated April 19, 2006, addressed to the System, the Division approved Genesee WSD's request for an alternative minimum TOC removal level (Step 2) in accordance with 5 CCR 1003-1, 7.6.6(b)(3), and set the alternative minimum TOC removal at 30 percent. Once approved by the Department, this minimum TOC removal requirement supersedes the minimum TOC removal required by the table in 5 CCR 1003-1, §7.6.6(b)(2), pursuant to 5 CCR 1003-1, §7.6.6(b)(4)(i), as represented in the table below:

<b>State-approved Step 2 TOC Percent Removal Table for Genesee WSD</b>			
<b>Source-water TOC, mg/L</b>	<b>Source-water alkalinity, mg/L as CaCO<sub>3</sub></b>		
	<b>0-60</b>	<b>&gt;60-120</b>	<b>&gt;120</b>
	<b>TOC Required Removal (in percentages)</b>		
>2.0-4.0	30.0	25.0	15.0
>4.0-8.0	30.0	30.0	25.0
>8.0	30.0	30.0	30.0

20. Pursuant to 5 CCR 1003-1, §7.6.6(c)(1), surface water or groundwater under the direct influence of surface water systems other than those identified in 5 CCR 1003-1, §§7.6.6(a)(2) or (a)(3) must comply with requirements contained in section 5 CCR 1003-1, §§7.6.6(b)(2) or (b)(3). Systems must calculate compliance quarterly, beginning after the system has collected twelve (12) months of data, by determining an annual average using the methods provided in 5 CCR 1003-1, §§7.6.6(c)(1)(i-v) or (c)(2)(i-v).

21. Division records establish the following TOC percent running annual average (“RAA”) removal ratios reported by the System:

<b>Total Organic Carbon % RAA Removal Ratios</b>		
<b>Monitoring Period</b>	<b>TOC % RAA Removal Ratio</b>	<b>Minimum TOC % RAA Removal Ratio</b>
3 <sup>rd</sup> Q 2010	0.74	1.00
4 <sup>th</sup> Q 2010	0.78	1.00
1 <sup>st</sup> Q 2011	0.69	1.00

22. Genesee WSD’s failure to comply with the minimum TOC percent removal ratio constitute violations of 5 CCR 1003-1, §7.6.6(c)(1).

**COMPLIANCE REQUIREMENTS**

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Genesee WSD 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 Genesee WSD 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 total trihalomethanes maximum contaminant level and total organic carbon percent removal requirement (Articles 2 and 7) for public water supplies, the Genesee WSD 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 total trihalomethane and disinfection byproducts precursor treatment technologies or alternate water sources to the Genesee WSD to ensure compliance with the maximum contaminant level for total trihalomethanes and minimum total organic carbon percent removal requirement.
- b. Within sixty (60) calendar days from the date of this order, submit a proposed implementation schedule for the System improvements for Department review and approval, which shall include the following:
  - i. Date of submittal of a Preliminary Engineering Report for System improvements to comply with the maximum contaminant level for total trihalomethanes and the minimum total organic carbon percent removal requirement for Department review and approval—if deemed necessary by the Professional Engineer retained by Genesee WSD.

- ii. Date of submittal of the 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*.
- iii. Date Genesee WSD will begin construction of the System improvements.
- iv. Date Genesee WSD will achieve substantial completion of the System improvements.
- v. Date Genesee WSD will complete construction/implementation of the System improvements.

The implementation schedule shall become a condition of this order unless Genesee WSD is notified by the Division, in writing, that an alternate implementation schedule or activities are appropriate. If the Division imposes an alternate implementation schedule or activities, they shall also become a condition of this order.

- c. 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 level for total trihalomethanes and total organic carbon removal requirement were constructed/installed as approved by the Department.
25. Genesee WSD 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 Genesee WSD's compliance with this Enforcement Order and outline activities to be undertaken by Genesee WSD 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) and 7.6.6(c)(1).
26. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, Genesee WSD 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, Genesee WSD 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.cdphs.state.co.us/wq/drinkingwater/pdf/PublicNotice/PN\\_Guidance\\_Mar2003.pdf](http://www.cdphs.state.co.us/wq/drinkingwater/pdf/PublicNotice/PN_Guidance_Mar2003.pdf)*

27. 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**

28. For all documents, plans, records, reports and replies required to be submitted by this order, Genesee WSD 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).*

29. 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**

30. Genesee WSD 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 Genesee WSD 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**

31. 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**

32. 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**

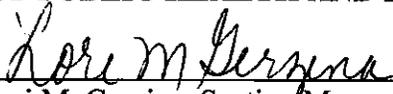
33. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests,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

34. 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.
35. 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 14<sup>th</sup> day of June, 2011.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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