# 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

August 29, 2011

***Certified Mail Number: 7007 0220 0001 0159 6031***

PWSID# CO-0207504
Barry D. Mauerman, Registered Agent
Meadow Mountain Water Supply Co.
P.O. Box 462
Allenspark, CO 80510

**RE: Service of Drinking Water Enforcement Order, Number: DC-110829-1**

Dear Mr. Mauerman:

Meadow Mountain Water Supply Co. 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 Meadow Mountain Water Supply Co. has violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order, Meadow Mountain Water Supply Co. 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 Meadow Mountain Water Supply Co. 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: Boulder County Public Health
Steve Tedford, ORC, P.O. Box 394, Allenspark, CO 80510

ec: Dennis Pontius, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Lori Moore, Facility Operators Program, CDPHE
Shawn McCaffrey, EPA Region VIII
Nicole Grisham, Division of Environmental Health and Sustainability, CDPHE
Michael Beck, Financial Solutions Unit, CDPHE
Lauren Worley, Case Lead, CDPHE

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**WATER QUALITY CONTROL DIVISION**

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**ENFORCEMENT ORDER** **NUMBER: DC-110829-1**

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**IN THE MATTER OF: MEADOW MOUNTAIN WATER SUPPLY CO.**
**PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0207504**
**BOULDER 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. At all times relevant to the violations cited herein, Meadow Mountain Water Supply Co. ("Meadow Mountain WSC") was a nonprofit corporation in good standing and registered to conduct business in the State of Colorado (Colorado Secretary of State ID Number: 19871231333).

2. Meadow Mountain WSC owns and/or operates a drinking water system at or near 125 Meadow Mountain Drive, Allenspark, Colorado in Boulder County, Colorado and in the vicinity of Latitude 40.199833, Longitude -105.538167 (the "System").

3. Colorado Secretary of State records establish that, as of August 31, 2007, the officers of Meadow Mountain WSC are Richard Opperman (President), Jim Johnson (Vice President) and Barry Mauerman (Treasurer).

4. Meadow Mountain WSC is a person as defined by 5 CCR 1003-1, §1.5.2(98).

5. Meadow Mountain WSC 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).

6. 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).

7. The Public Water System Identification Number ("PWSID") assigned to the System by the Division is PWSID #: CO-0207504.

8. 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.

9. 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 Meadow Mountain WSC serves 80 year-round residents and is therefore classified as a community water system.

10. The System's source of water is surface water as defined by 5 CCR 1003-1, §1.5.2(129).

11. On August 5, 2011, 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 and 11.2(d), to determine the System's compliance with the Regulations.

## First Violation
## (Failure to Comply with the Treatment Technique Limits for Turbidity)

12. Pursuant to 5 CCR 1003-1, §2.8, the treatment technique requirements for turbidity are applicable to all public water systems using surface water sources in whole or in part.

13. Pursuant to 5 CCR 1003-1, §7.1.3(b), a public water system that uses a surface water source or a groundwater source under the direct influence of surface water and serves fewer than 10,000 people must provide treatment consisting of both disinfection, as specified in 5 CCR 1003-1, §7.1.2, and filtration treatment which complies with the requirements of 5 CCR 1003-1, §7.1.3(f) or (g) or 5 CCR 1003-1, §7.3.4(a), (b) or (c).

14. Department records establish that the System performs "Bag Filtration Treatment", as defined by 5 CCR 1003-1, §1.5.2(6), as part of the treatment process of its surface water source.

15. Pursuant to 5 CCR 1003-1, §2.8, Table 2-9(3), and §§7.3.4(b)(1 – 2), Table 7-4(v) and Table 7-5(v), for systems serving less than 10,000 people, using bag filtration, the turbidity treatment technique limit of representative samples of a system's filtered water must be less than or equal to 1 nephelometric turbidity unit ("NTU") in at least 95 percent of the measurements taken each month and at no time shall the combined filter effluent turbidity exceed 5 NTU during the month ("maximum turbidity limit").

16. Pursuant to 5 CCR 1003-1, §7.1.4(a)(1), the System must perform turbidity measurements every four hours (or more frequently) on samples of water collected from a location representative of the combined filtered water provided to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department.

17. Pursuant to 5 CCR 1003-1, §7.1.5(a)(1), a public water system that uses a surface water source must provide the Department with the results of all turbidity measurements within ten (10) days after the end of each month that the System serves water to the public.

18. A review of the turbidity monitoring data, provided to the Department by the System, identifies the following instances in which turbidity measurements were not less than or equal to 1 NTU in at least 95 percent of the measurements taken each month:

| Monitoring Period | Number of Samples Taken | Number of Samples >1 NTU | % of Samples With NTU ≤ 1 NTU |
|---|---|---|---|
| April 2011 | 30 | 3 | 90% |
| May 2011 | 31 | 12 | 61% |
| June 2011 | 30 | 4 | 87% |

19. Meadow Mountain WSC's failure to maintain compliance with the treatment technique limits for turbidity constitutes violations of 5 CCR 1003-1, §2.8, Table 2-9(3) and §7.3.4(b)(1), Table 7-4(v).

## COMPLIANCE REQUIREMENTS

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

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

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

21. In order to achieve long-term compliance with the *Colorado Primary Drinking Water Regulations*, specifically including the treatment technique limits for turbidity (Articles 2 and 7) for public water supplies, the Meadow Mountain WSC shall evaluate the System's water sources, distribution system and operational practices, and/or treatment processes and modify, alter or upgrade them, as needed, 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 turbidity treatment technologies, distribution system and operational improvements and/or upgrades, or alternate water sources to the Meadow Mountain WSC to ensure compliance with the treatment technique limits for turbidity.

b. Within sixty (60) calendar days from the date of this order, submit a proposed implementation schedule for the System improvements, upgrades and/or maintenance for Department review and approval, which shall include, but not be limited to, dates for completion of the following:

   i. If deemed necessary by Meadow Mountain WSC, the date of submittal of a Preliminary Engineering Report for System improvements to comply with the treatment technique limits for turbidity for Department review and approval.

   ii. If it is determined that Final Design Plans and Specifications are necessary for the System improvements, pursuant to 5 CCR 1003-1, §§1.11 and 1.11.2, the 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. The date Meadow Mountain WSC will begin construction/implementation of the System improvements.

   iv. The date Meadow Mountain WSC will achieve substantial completion of the System improvements.

   v. The date Meadow Mountain WSC will complete construction/implementation of the System improvements.

   The implementation schedule shall become a condition of this order unless Meadow Mountain WSC is notified by the Division, in writing, that an alternate implementation schedule or activities are appropriate. If the System does not submit a proposed implementation schedule, then the Division shall impose an alternate implementation schedule. If the Division imposes an alternate implementation schedule or activities, they shall also become a condition of this order.

c. If Final Design Plans and Specifications are submitted for Department review and approval, submit a completed *Construction As Approved Certification Form* within fourteen (14) calendar days of completion/implementation of the System improvements certifying that the System improvements to comply with the treatment technique limits for turbidity were constructed/installed as approved by the Department. This form is available at:

   *http://www.cdphe.state.co.us/wq/engineering/pdf/2010/ConstructionCertFormDrinkingWater.pdf*

22. Meadow Mountain WSC shall submit "System Improvement Project - Progress Reports" to the Department each calendar quarter. The first report shall be submitted to the Department by October 1, 2011. At a minimum, each report shall clearly indicate the status of Meadow Mountain WSC's compliance with this Enforcement Order and outline activities to be undertaken by Meadow Mountain WSC 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, §2.8, Table 2-9(3) and §7.3.4(b)(1), Table 7-4(v).

23. Within thirty (30) calendar days after receipt of this Order, if it has not already done so, Meadow Mountain WSC 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, Meadow Mountain WSC 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*

24. Resolve all deficiencies identified during the August 5, 2011 sanitary survey of the System upon written notification from the Division of such deficiencies and in accordance with the schedule for corrective action provided in the notice.

25. 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

26. For all documents, plans, records, reports and replies required to be submitted by this order, Meadow Mountain WSC 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) 758-1398

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

27. 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

28. Meadow Mountain WSC 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 Meadow Mountain WSC 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

29. 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

30. 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

31. 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

32. 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.

33. 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 29th day of August, 2011.

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

Lori M Gerzina

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