

STATE OF COLORADO

Bill Ritter, Jr., Governor
Martha E. Rudolph, Executive Director

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

February 24, 2010

Corporation Services Company
The Western Sugar Cooperative
1560 Broadway, Suite 2090
Denver, CO 80202

Certified Mail Number: 7005 1820 0000 3212 8373

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-100224-1

To Whom it May Concern:

The Western Sugar Cooperative is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). This NOV/CDO is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §§25-8-602 and 25-8-605, C.R.S. of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases this NOV/CDO upon findings that The Western Sugar Cooperative has violated the Act, and/or Permit regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., The Western Sugar Cooperative is required, within thirty (30) calendar days of issuance of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S. to impose a penalty of \$10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.

Should you or representatives of The Western Sugar Cooperative desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact Kelly Morgan of this office by phone at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,



Kelly Morgan
Compliance Assurance Section
Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Northeast Colorado Health Department
Enforcement File

ec: Aaron Urdiales, EPA Region VIII
Dennis Pontius, DE, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Gary Beers, Permits Unit, CDPHE
Carolyn Schachterle, OPA



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: IO-100224-1

IN THE MATTER OF: THE WESTERN SUGAR COOPERATIVE
CDPS PERMIT NUMBER: CO-0041351
MORGAN COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the alleged violations identified herein, the Western Sugar Cooperative ("Western Sugar") was a Colorado Cooperative in good standing.
2. Western Sugar is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
3. Western Sugar owns and/or operates a beet sugar refinery and associated treatment works (the "Facility"), which is located at approximately 18317 Highway 144 (Riverside Avenue), Morgan County, Colorado. Sucrose is extracted from sugar beets, and purified and white (or refined) sugar is produced. Industrial processes include diffusion, evaporation, filtration, vacuum pan boiling and centrifugal separation, juice purification, and crystallization.
4. The Facility consists of a treatment works for four separate treatment trains- the Condenser Ponds, the Ash Pond, the Lime Pond, and the Mud Ponds. The Condenser Pond primarily treats non-contact and contact condenser cooling water as well as water treated in the ash pond. Treatment in the Condenser Ponds includes aeration, evaporation, cooling and settling. None of the Condenser Ponds are lined. The Ash Pond receives the ash transport water from the boiler. The condenser water is the source water that sluices the waste ash from the boilers, thereby comprising the ash transport waters. After evaporation and settling, the Ash Pond water is pumped to the Condenser Pond. The Ash Pond is not lined. The lime slurry is disposed of in the Lime Pond where evaporation and settling occur. The lime slurry is recycled many times and stored in the pond for later uses. The Lime Pond is not lined. The water utilized in the beet transport and washing is discharged into one of the four Mud Ponds. Evaporation and settling occur in the Mud Ponds. One of the Mud Ponds is aerated. The Mud Ponds are not lined.

5. The Facility is the subject of Colorado Discharge Permit System, Permit No. CO-0041351 (the "Permit"). The current Permit was issued and became effective December 27, 2005. The Permit was subsequently amended and reissued effective on March 1, 2009 and is due to expire January 31, 2011 (the "Amended Permit").
6. The Permit authorized Western Sugar to discharge treated wastewater from the Facility through Outfall 001 (the outfall from the final Condenser Pond, prior to entering the ditch that empties to the South Platte River). The Permit also authorized Western Sugar to discharge via the pond system to groundwater, with compliance being monitored at Outfall 002 (the point of inflow to the first of the Condenser Ponds); Outfall 003 (the point of inflow to the Ash Pond); Outfall 004 (the point of inflow to the Lime Pond); and Outfall 005 (the point of inflow to the first of the Mud Ponds). The Amended Permit authorizes Western Sugar to discharge from Outfall 001A (the outfall from the final condenser pond, prior to entering the ditch that empties to the South Platte River); Outfall 050B (MW-2 located downgradient of the Precipitated Calcium Carbonate {Lime pond} and the Condenser Pond); Outfall 050D (MW-4 located downgradient of the Mud Pond Aeration System); and Outfall 050E (MW-5 located downgradient of the Mud Ponds). Monitoring of ambient groundwater quality is required at Outfall 050A (MW-1 located upgradient of all onsite ponds).
7. The South Platte River and groundwater are "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
8. Pursuant to 5 CCR 1002-61, §61.8, Western Sugar must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S

Failure to Comply with Permit Effluent Limitations

9. Pursuant to Part I.A.1. of the Permit and the Amended Permit, among other parameters, Western Sugar's permitted discharge at Outfall 001A shall not exceed the effluent limitations specified below:

<u>Effluent Parameter</u>	<u>Discharge Limitations</u>		
	<u>30-Day Average</u>	<u>7-Day Average</u>	<u>Daily Maximum</u>
Flow, MGD	2.6	NA	Report
Temperature, degrees Celcius	NA	NA	32
5-day BOD, lb/day	3300	NA	4950
Total Suspended Solids, mg/l	30	45	NA
Fecal Coliform Bacteria, Number/ 100 ml	731	1462	NA
pH, s.u. (minimum-maximum)	NA	NA	6.5-9.0
Oil and Grease, mg/l	NA	NA	10
Chloride, mg/l	Report	NA	Report
Sulfate, mg/l	Report	NA	Report
Dissolved Manganese, ug/l	Report	NA	Report

<u>Effluent Parameter</u>	Discharge Limitations		
	30-Day Average	7-Day Average	Daily Maximum
Total Ammonia as N, mg/l			
January	30	NA	30
February	30	NA	30
March	23	NA	30
April- August	NA	NA	NA
September	10	NA	23
October	14	NA	26
November	27	NA	30
December	30	NA	30
Whole Effluent Toxicity, Chronic	NA	NA	Statistical Difference or IC25>IWC

10. Pursuant to Part I.A.1. of the Permit, among other parameters, Western Sugar's permitted discharge at Outfalls 002, 003, 004, and 005 through March 31, 2008 shall not exceed the effluent limitations specified below:

<u>Effluent Parameter</u>	Discharge Limitations		
	30-Day Average	7-Day Average	Daily Maximum
Flow, MGD	Report	NA	Report
pH, s.u. (minimum-maximum)	NA	NA	Report-Report
5-day BOD, lb/day	Report	Report	NA
Total Coliforms, Number/ 100 ml	Report	NA	Report
Total Nitrate plus Nitrite, mg/l as N	Report	NA	Report
Total Dissolved Solids	Report	NA	Report
Dissolved Chloride, mg/l	Report	NA	Report
Dissolved Sulfate, mg/l	Report	NA	Report
Dissolved Manganese, mg/l	Report	NA	Report

11. Pursuant to Part I.A.1. of the Permit, among other parameters, Western Sugar's permitted discharge at Outfalls 002, 003, 004, and 005 beginning April 1, 2008 shall not exceed the effluent limitations specified below:

<u>Effluent Parameter</u>	<u>Discharge Limitations</u>		
	<u>30-Day Average</u>	<u>7-Day Average</u>	<u>Daily Maximum</u>
Flow, MGD	Report	NA	Report
pH, s.u. (minimum-maximum)	NA	NA	6.5-8.5
5-day BOD, lb/day	Report	Report	NA
Total Coliforms, Number/ 100 ml	1.0	NA	Report
Total Nitrate plus Nitrite, mg/l as N	10	NA	Report
Total Dissolved Solids	Report	NA	1650
Dissolved Chloride, mg/l	250	NA	Report
Dissolved Sulfate, mg/l	250	NA	Report
Dissolved Manganese, mg/l	Report	NA	Report

12. Pursuant to Part I.A.1. of the Amended Permit, among other parameters, beginning March 1, 2009 Western Sugar's permitted discharge at Outfalls 050B, 050D, and 050E shall not exceed the effluent limitations specified below:

<u>Effluent Parameter</u>	<u>Discharge Limitations</u>		
	<u>30-Day Average</u>	<u>7-Day Average</u>	<u>Daily Maximum</u>
5-day BOD, lb/day	152	Report	228
pH, s.u. (minimum-maximum)	NA	NA	6.5-8.5
Oil and Grease, mg/l	NA	NA	10
Total Coliforms, Number/ 100 ml	1.0	NA	23
Total Nitrate plus Nitrite, mg/l as N	10	NA	Report
Dissolved Chloride, mg/l	250	NA	Report
Dissolved Sulfate, mg/l			
Until 12/31/13	Report	NA	Report
Beginning 01/01/14	420	NA	Report
Dissolved Manganese, mg/l			
Until 12/31/13	Report	NA	Report
Beginning 01/01/14	50	NA	Report
Total Dissolved Solids			
Until 12/31/13	Report	NA	Report
Beginning 01/01/14	1650	NA	Report

13. Pursuant to Part I.A.1. of the Amended Permit, among other parameters, beginning March 1, 2009 Western Sugar's permitted discharge at Outfalls 050A shall be monitored for:

<u>Effluent Parameter</u>	Discharge Limitations		
	30-Day Average	7-Day Average	Daily Maximum
Dissolved Sulfate, mg/l	Report	NA	Report
Dissolved Manganese, mg/l	Report	NA	Report
Total Dissolved Solids, mg/l	Report	NA	Report

14. Pursuant to Part I.B.1 of the Permit, Western Sugar is required to monitor defined effluent parameters at specified frequencies to provide an indication of compliance or non-compliance with the effluent limitations identified in the Permit.
15. Pursuant to Part I.E.1 of the Permit, Western Sugar is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly discharge monitoring reports ("DMRs"). Each discharge monitoring report is to include a certification by Western Sugar that the information provided therein is true, accurate and complete to the knowledge and belief of Western Sugar.
16. Western Sugar's DMRs submitted to the Division include, among other information and data, the following effluent concentration summary data for total nitrate plus nitrite (as N), total dissolved solids, pH, dissolved chloride, total coliform, and oil and grease which exceeded the effluent limitations imposed by Part I.A.1. of the permit:

Western Sugar			
EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
NITRATE PLUS NITRITE, AS N		--	30-DAY AVG. LIMIT = 10 mg/l
September 1-30, 2008	002A	--	11.90 mg/l
September 1-30, 2008	005A	--	13.20 mg/l
October 1-31, 2008	002A	--	11.10 mg/l
November 1-30, 2008	003A	--	46.00 mg/l
November 1-30, 2008	004A	--	32.60 mg/l
November 1-30, 2008	050B	--	1,100.00 mg/l
January 1-31, 2009	002A	--	11.30 mg/l
TOTAL DISSOLVED SOLIDS		DAILY MAXIMUM = 1650 mg/l	
September 1-30, 2008	003A	1,740 mg/l	--
September 1-30, 2008	004A	1,690 mg/l	--

**Western Sugar
EFFLUENT SELF-MONITORING DATA**

DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
September 1-30, 2008	005A	8,060 mg/l	--
October 1-31, 2008	003A	1,690 mg/l	--
October 1-31, 2008	004A	1,760 mg/l	--
October 1-31, 2008	005A	11,000 mg/l	--
November 1-30, 2008	003A	1,940 mg/l	--
November 1-30, 2008	004A	13,700 mg/l	--
November 1-30, 2008	005A	10,800 mg/l	--
December 1-31, 2008	003A	1,850 mg/l	--
December 1-31, 2008	004A	4,120 mg/l	--
December 1-31, 2008	005A	9,840 mg/l	--
January 1-31, 2009	003A	1,840 mg/l	--
January 1-31, 2009	004A	2,480 mg/l	--
January 1-31, 2009	005A	8,340 mg/l	--
February 1-28, 2009	003A	1,850 mg/l	--
February 1-28, 2009	004A	2,810 mg/l	--
February 1-28, 2009	005A	6,960 mg/l	--
PH			MAXIMUM = 8.5 SU
September 1-30, 2008	004A	--	11.22
September 1-30, 2008	005A	--	11.80
October 1-31, 2008	004A	--	11.20
October 1-31, 2008	005A	--	11.50
November 1-30, 2008	004A	--	10.50
November 1-30, 2008	005A	--	9.0
December 1-31, 2008	004A	--	10.81
December 1-31, 2008	005A	--	10.55
January 1-31, 2009	004A	--	10.87
January 1-31, 2009	005A	--	10.60
February 1-28, 2009	004A	--	10.34

Western Sugar EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT	SAMPLE MEASUREMENT
February 1-28, 2009	005A	--	11.37
CHLORIDE (DISSOLVED)			30-DAY AVG. LIMIT = 10 mg/l
November 1-30, 2008	004A	--	593 mg/l
TOTAL COLIFORM, #/100 ML		DAILY MAXIMUM = 23/100 ml	30-DAY AVG. LIMIT = 1.0/100 ml
March 1-31, 2009	050D	--	2.0/100 ml
April 1-30, 2009	050B	--	2.0/100 ml
April 1-30, 2009	050D	--	2.0/100 ml
April 1-30, 2009	050E	--	3.0/100 ml
May 1-31, 2009	050B	--	2.0/ 100 ml
May 1-31, 2009	050E	130/ 100 ml	130/ 100 ml
June 1-30, 2009	050E	68/ 100 ml	68/ 100 ml
September 1-30, 2009	050E	120/ 100 ml	120/ 100 ml
October 1-31, 2009	050B	--	2.0/ 100 ml
OIL AND GREASE			INSTANTANEOUS MAXIMUM = 10 mg/l
August 1-31, 2009	050B	--	22.0 mg/l

17. Total nitrate plus nitrite (as N), total dissolved solids, pH, dissolved chloride, total coliform, and oil and grease are "pollutants" as defined by §25-8-103(15), C.R.S.
18. Division records establish that the Permit or the Amended Permit do not authorize the pollutant discharge levels identified above in paragraph 16 and Western Sugar does not have any other permits authorizing such discharge into State Waters.
19. Western Sugar's failure to comply with the effluent limitations set forth in the Permit and the Amended Permit constitutes violations of Part I.A.1. of the Permit and the Amended Permit.

NOTICE OF VIOLATION

20. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that the Western Sugar have violated the following sections of the Permit:

Part I.A.1 of CDPS permit number CO-0041351, which states in part: “In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), 5 C.C.R. 1002-61, the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations, discharge more than the mass pollutant loadings specified below, or exceed the specified flow limitation.

REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Western Sugar is hereby ordered to:

21. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-703, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Western Sugar to comply with the following specific terms and conditions of this Order:

22. Within thirty (30) calendar day of receipt of this Order, Western Sugar shall retain the services of a qualified individual or entity specifically experienced in wastewater treatment and operation, impoundment construction, and impoundment liners and their integrity to evaluate the design, condition and integrity of the Facility operation. The evaluation shall consider, but not be limited to, the groundwater hydrology in the area of the Facility along with the design and physical construction of the impoundments and wastewater treatment systems, to evaluate and recommend system improvements to ensure compliance with the terms and conditions of the Amended Permit. The evaluation must consider in detail the following:
 - a. An evaluation of the personnel requirements and qualifications for the operation and management of the Facility, including an evaluation of each individual's role, duties, and responsibilities in ensuring the proper operation and maintenance of the Facility;
 - b. An evaluation of influent pollutant concentrations for all parameters/ pollutants that could influence treatment process, and what techniques or technologies may be utilized to consistently comply with the Amended Permit limits;
 - c. An evaluation of whether the Facility's treatment system as a whole is adequate to properly treat the influent pollutants to a level that consistently complies with the limitations of the Amended Permit.
 - d. An evaluation of whether lining the impoundments and discontinuing the groundwater discharge is feasible.

23. Within forty five (45) calendar days of receipt of this Order, Western Sugar shall provide documentation to the Division that it has retained the services of the qualified individual or entity identified in paragraph 22. This documentation shall include at, a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for such services, including a copy of the scope of services to be provided.
24. Within ninety (90) calendar days of receipt of this Order, Western Sugar shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 22 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures that will be taken by Western Sugar to rectify deficiencies identified by the evaluation so that the Facility consistently produces effluent that meets the limitations identified in Part I.A.1 of the Amended Permit. For each short-term and long-term measure identified, Western Sugar shall also submit a time schedule for completion of each measure. The implementation time schedule submitted must identify completion of all measures by no later than May 31, 2010. The measures and time schedule submitted shall become a condition of this Order, and Western Sugar shall implement the measures and time schedule as submitted unless notified by the Division, in writing, that alternate measures and/or time schedules are appropriate. If the Division imposes alternate measures and/or time schedules, they shall also become a condition of this Order.
25. Beginning thirty (30) calendar days from receipt of this Order, and every thirty (30) calendar days thereafter, until such time as this Order is closed or the Division decrees so in writing, Western Sugar shall submit written progress reports to the Division. At a minimum, each report shall describe the activities undertaken in the previous thirty (30) calendar days and shall specify what activities will be undertaken within the next thirty (30) calendar days to comply with this Order.
26. If Western Sugar becomes aware of any situation or circumstances that cause Western Sugar to become unable to comply with any condition or time schedules set forth by this Order, Western Sugar shall provide written notice to the Division within five (5) calendar days of Western Sugar becoming aware of such circumstances. Western Sugar's notice shall describe what, if any, impacts will occur on Western Sugar's ability to comply with the Colorado Water Quality Control Act, its Permit and any impacts on the remaining conditions and/or time schedules specified by this Order and what steps Western Sugar is taking to mitigate such impacts.
27. All documents submitted under this Order shall use the same titles as stated in this Order, and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required. Within thirty (30) calendar days of receiving Division comments on submitted documents, Western Sugar shall revise the submitted document(s) to properly address the Division's comments and resubmit the document(s) for Division review.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, Western Sugar shall submit an original and an electronic copy to the Division at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-B2
Compliance Assurance and Data Management Section
Attention: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
kelly.morgan@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11 Western Sugar is required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 703, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

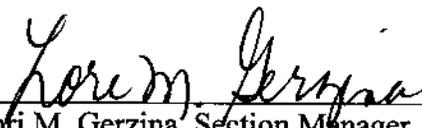
EFFECT OF ORDER

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 24th day of February, 2010.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Lori M. Gerzina, Section Manager
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION