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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Denver, Colorado 80246-1530
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Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

Colorado Department
of Public Health
and Environment

March 29, 2010

Mitchell M. Chambers, District Manager
Stonegate Village Metropolitan District
c/o Mulhern MRE, Inc.
2 Inverness Drive East, Suite 200
Englewood, CO 80112

RE: Compliance Order on Consent, Number: MC-100326-1

Dear Mr. Chambers:

Enclosed for Stonegate Village Metropolitan District's records you will find your copy, with original signatures, of the recently executed Compliance Order on Consent. Please remember that this agreement is subject to a thirty-day public comment period (paragraph 42). Upon initiation, if the Division receives any comments during this period we will contact your office to discuss. Also, please be advised that the first page of the Order was changed in order to place the assigned Order Number on the final document.

If you have any questions, please don't hesitate to contact Ginny Torrez at (303) 692-3612 or by electronic mail at ginny.torrez@state.co.us.

Sincerely,

Russell Zigler

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

Enclosure(s)

cc: Tri-County Health Department

ec: Aaron Urdiales, EPA Region VIII
Paul Kim, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Gary Beers, Permits Unit, CDPHE
Barry Cress, DOLA
Carolyn Schachterle, OPA

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT **NUMBER: MC-100326-1**

IN THE MATTER OF: **STONEGATE VILLAGE METROPOLITAN DISTRICT**
CDPS PERMIT NO. CO-0040291
DOUGLAS COUNTY, COLORADO

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Compliance Order on Consent ("Consent Order"), pursuant to the Division's authority under §§25-8-602 and 605, C.R.S. of the Colorado Water Quality Control Act ("the Act") §§ 25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of the Stonegate Village Metropolitan District ("Stonegate"). The Division and Stonegate may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

1. The mutual objective of the Parties in entering into this Consent Order is to resolve, without litigation, the civil penalties associated with the alleged violations cited herein and in the Notice of Violation and Cease and Desist Order (Number MO-070831-1) issued to Stonegate on August 31, 2007 and amended May 9, 2008 (the "NOV/CDO").

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Stonegate, the Facility and Stonegate's compliance with the Act and its implementing regulations and Stonegate's Colorado Discharge Permit System permit.

3. At all times relevant to the violations cited herein, Stonegate was a "Special District" formed in Douglas County, Colorado pursuant to the Special District Act, §§32-1-101 through 32-1-1807 C.R.S.

4. Stonegate 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).

5. Stonegate owns and/or operates a wastewater treatment facility (the "Facility"), located in the Northeast ¼ of the Northeast ¼ of Section 8, Township 6 South, Range 66 West, Douglas County, Colorado.

6. The Facility's treatment train consists of influent flow measuring, preliminary treatment facilities (bar screen, grit chamber); secondary treatment (aeration basins, clarifiers); advance wastewater treatment (chemical addition, adsorption clarifiers and multimedia filters); disinfection (liquid sodium hypochlorite) and flow measurement with SCADA transmitter.

7. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO-0040291 (the "Permit"). The current Permit became effective on August 1, 2003 and was due to expire July 31, 2008 at which time it was extended until a renewed permit is issued.

8. The Permit authorizes Stonegate to discharge treated wastewater from the Facility to storage for land application through Outfall 001A and to Cherry Creek through Outfall 002A. The Permit also reflects Outfall 002F which refers to the outfall designated for reporting the calculated monthly volume discharged to the land application sites and to direct discharge; and the calculated annual phosphorus wasteload discharged to the land application sites and to Cherry Creek.

9. The Permit requires that Stonegate properly operate and maintain all components of the Facility which are necessary to achieve compliance with the conditions of the Permit.

10. Outfall 001A and 002A are each a "point source" as defined by §25-8-103(14), C.R.S.

11. Cherry Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).

12. Section 61.8, 5 CCR 1002-61, states in part that "A permittee must comply with all the terms and conditions of the permit."

Failure to Comply with Permit Effluent Limitations

13. Pursuant to Part I.A.5.a, Part I.A.5.b and Part I.A.5.c of the Permit, Stonegate's discharge at outfalls 001A, 002A and 002F should not have exceeded the effluent limitations specified below:

EFFLUENT PARAMETER	**DISCHARGE LIMITATION**		
	30-Day Average	**7-Day Average**	**Daily Minimum or Daily Maximum (Annual Total)**
OUTFALL 001A			
Total Phosphorus (mg/l)	0.25	N/A	N/A
E. Coli. (#/100ml)	126	N/A	235
Flow (MGD)	1.1	N/A	N/A

EFFLUENT PARAMETER	DISCHARGE LIMITATION		
	30-Day Average	7-Day Average	Daily Minimum or Daily Maximum (Annual Total)
OUTFALL 002A			
Total Phosphorus (mg/l)	0.05	N/A	N/A
Total Ammonia (mg/l)			
May - August	2.0	N/A	N/A
April & September	4.0	N/A	N/A
March, October & November	6.0	N/A	N/A
December - February	8.0	N/A	N/A
Total Suspended Solids (mg/l)	30	45	N/A
Total Nitrate (mg/l)	N/A	N/A	10 (maximum)
pH (s.u.)	N/A	N/A	6.5 (minimum)
OUTFALL 002F			
Total Phosphorus (lbs.)	N/A	N/A	(161)

14. Pursuant to the requirements of the Permit, Stonegate collects specific samples at points described in the Permit as Outfall 001A, following treatment and prior to entering storage, and Outfall 002A, following treatment and prior to mixing with the receiving stream.

15. The analytical results of the samples collected at Outfall 001A and Outfall 002A are summarized by Stonegate and reported to the Division via monthly discharge monitoring reports ("DMRs"). The calculated annual phosphorus wasteload discharged to the land application sites and to Cherry Creek is reported on the DMR for Outfall 002F.

16. The DMRs submitted by Stonegate include a certification by Stonegate that the information provided therein is true, accurate and complete, to the knowledge and belief of Stonegate.

17. The DMRs for the months of February 2007 through April 2009 include, in addition to other data not subject of this action, the following effluent measurement and/or calculated data for total suspended solids, total phosphorus, E. coli., pH, total ammonia, total nitrate and flow in violation of the effluent limits established in the Permit:

REPORTING PERIOD	REPORTED RESULT		
	30-Day Average	7-Day Average	Daily Minimum or Daily Maximum (Annual Total)
OUTFALL 001A – TOTAL PHOSPHORUS (mg/l)			
February 1-February 28, 2007	0.71	-	-
June 1-June 30, 2007	0.44	-	-
July 1-July 31, 2007	0.34	-	-
August 1-August 31, 2007	1.16	-	-
OUTFALL 001A – E. COLL (#/100ml)			
June 1-June 30, 2007	-	-	403
August 1-August 31, 2007	-	-	375
OUTFALL 001A – FLOW (MGD)			
February 1-February 28, 2007	1.30	-	-
OUTFALL 002A – TOTAL PHOSPHORUS (mg/l)			
February 1-February 28, 2007	0.58	-	-
March 1-March 31, 2007	1.48	-	-
April 1-April 30, 2007	0.56	-	-
May 1-May 31, 2007	0.33	-	-
November 1-November 30, 2007	0.15	-	-
December 1-December 31, 2007	0.07	-	-
January 1-January 31, 2008	0.45	-	-
February 1-Febraury 29, 2008	0.07	-	-
March 1-March 31, 2008	0.29	-	-
April 1-April 30, 2008	0.61	-	-
May 1-May 31, 2008	0.46	-	-
OUTFALL 002A – TOTAL AMMONIA (mg/l)			
February 1-February 28, 2007	10.8	-	-
March 1-March 31, 2007	24.7	-	-
April 1-April 30, 2007	16.4	-	-

REPORTING PERIOD	REPORTED RESULT		
	30-Day Average	7-Day Average	Daily Minimum or *Daily Maximum* (Annual Total)
OUTFALL 002A – TOTAL AMMONIA (mg/l) [Continued]			
May 1-May 31, 2007	13.3	-	-
February 1-February 29, 2008	17.0	-	-
March 1-March 31, 2008	17.9	-	-
April 1-April 30, 2008	22.0	-	-
May 1-May 31, 2008	3.8	-	-
OUTFALL 002A – TOTAL SUSPENDED SOLIDS (mg/l)			
May 1-May 31, 2007	-	74	-
OUTFALL 002A – TOTAL NITRATE (mg/l)			
May 1-May 31, 2007	-	-	*11.9*
November 1-November 30, 2007	-	-	*10.6*
December 1-December 31, 2007	-	-	*11.2*
January 1-January 31, 2008	-	-	*22.1*
February 1-February 29, 2008	-	-	*19.7*
April 1-April 30, 2009	-	-	*12.36*
OUTFALL 002A – pH (s.u.)			
February 1-February 28, 2007	-	-	6.30
OUTFALL 002F – Total Phosphorus (lbs./yr.)			
January 1-December 31, 2007	-	-	(485)
January 1-December 31, 2008	-	-	(295.96)

18. Total suspended solids, total phosphorus, E. coli., pH, total ammonia, total nitrate and flow are "pollutants" as defined by §25-8-103(15), C.R.S., or indicators thereof.

19. Stonegate's failure to comply with the effluent limitations identified in paragraph 13 above constitutes violations of Part I.A.5.a, Part I.A.5.b and Part I.A.5.c of the Permit.

Operation and Maintenance

20. On February 17, 2007 the Division received notification from the company providing certified wastewater treatment operator services (the "operator") to Stonegate advising that due to elevated influent flows to the facility, the filters which provide advance wastewater treatment (the "AWT filters") were overloading and ultimately became plugged. The operator further advised that wastewater from the aeration basins overflowed. (Further notification on February 22, 2007 advised that the volume released was 1,000 gallons.) At this point flows to the AWT filters were partially diverted around this treatment component of the facility. The operator pointed out that if the AWT filters had been functioning properly at the time elevated flows were received, they should have been able to handle the flows without problem.

21. The partial diversion described in paragraph 20 continued through June 2007.

22. On March 20, 2007 a representative of the Division conducted an on-site inspection of the Facility. The following observations were made:

    a) A portion of the flow that would normally flow through the AWT filters for treatment was being bypassed around the AWT filters.

    b) Clarifier No. 3 was out of service.

    c) The aeration basins were short-circuiting as a result of improperly set valves.

    d) Rag and debris was entering the aeration basins as a result of the mechanical bar screen not functioning properly.

    e) One RAS pump was not functioning at the time of the inspection.

    f) The pH buffers were expired.

    g) The Operation and Maintenance Manual on site was outdated and did not reflect the current operating and maintenance practices and information.

    h) Severe scaling of concrete in area of caustic tanks resulting from leaks of caustic chemicals in the area of the AWT building which could eventually impact the structural integrity of the AWT building.

    i) Housekeeping and facility organization was in poor condition.

23. The circumstances listed in paragraphs 20 through 22 above constitute violations of Part I.A.4. of the Permit which states in part: "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee as necessary to achieve compliance with the conditions of this permit."

Unauthorized Land Application

24. Pursuant to 5 CCR 1002-61, §61.14(1)(a), Stonegate is required to obtain a permit for all land application discharges unless:

    a. The discharge is exempted under 5 CCR 1002-61, §61.14(1)(b);
    b. The discharge is subject to regulation by one of the implementing agencies described in 61.14(2);
    c. The impoundment has received a waiver from the Division pursuant to section 61.14(9)(a); or
    d. The owner of a land application system can demonstrate that: (i) the design and operation of the system will result in complete evapotranspiration of the effluent; (ii) there is adequate storage provided for the effluent during periods of inclement weather or where the ground has been frozen unless the provisions of (i) above can be met during the entire year; and; (iii) any augmentation plan or substitute supply plan for the land application site does not provide a credit for return of the effluent to ground water.
    e. Land application of reclaimed water is occurring under the provision of a notice of authorization issued pursuant to Regulation 84, including any return flow.

25. Division records establish that Stonegate has reported the following releases to the Division from May 7, 2005 through January 5, 2008.

Release Date	Location	Quantity Discharged/Released (Gallons)	Receiving Water
May 7, 2005	17391 Lincoln Avenue	500	Land Application
January 19, 2006	Manhole #SG2A-19 North of Lincoln Avenue	100	Land Application
February 17, 2007	A-Basin	1000	Land Application
April 13, 2007	Market and Las Pambles St.	100	Land Application
June 1, 2007	Stone Willow Drive	100	Land Application
June 27, 2007	10423 Stone Willow Drive	600	Land Application
January 5, 2008	9145 South Jordan Road	50	Land Application

26. Stonegate's land application discharges, as identified in paragraph 25 above, do not meet any of the exemption criteria of 5 CCR 1002-61, §61.14(1)(a), and therefore are subject to the land application discharge permit requirements.

27. Division records establish that Stonegate does not have any permits authorizing the land application of wastewater from the locations listed in paragraph 25 above.

28. Stonegate's release of wastewater to the land, as identified in paragraph 25 above, constitutes unauthorized land application in violation of 5 CCR 1002-61, §61.14(1)(a).

ORDER AND AGREEMENT

29. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order (Number: MO-070831-1), the Division orders Stonegate to comply with all provisions of this Consent Order, including all requirements set forth below.

30. Stonegate agrees to the terms and conditions of this Consent Order. Stonegate agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Stonegate also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Stonegate against the Division:

    a. The issuance of this Consent Order;
    b. The factual and legal determinations made by the Division herein; and
    c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.

31. Notwithstanding the above, Stonegate does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Stonegate pursuant to this Consent Order shall not constitute evidence of fault by Stonegate with respect to the conditions of the Facility.

CIVIL PENALTY AND SUPPLEMENTAL ENVIRONMENTAL PROJECTS

32. Based upon the application of the Division's Civil Penalty Policy (May 1, 1993), and consistent with Departmental policies for violations of the Act, the Division has determined that a penalty of One Hundred Sixty Four Thousand Eight Hundred Ninety Eight Dollars ($164,898.00) is appropriate for the violations cited herein and in the Notice of Violation / Cease and Desist (Number: MO-070831-1).

33. Through the application of the criteria set forth in the Colorado Department of Public Health and Environment's Final Agency-Wide Policy on Settling Administrative and/or Civil Penalties Against Eligible Governmental Entities, the Division has determined that the entire penalty can be mitigated through the completion of a Supplemental Environmental Project ("SEP") identified by Stonegate and which is valued at One Hundred Sixty Four Thousand Eight Hundred Ninety Eight Dollars ($164,898.00).

34. In order to achieve settlement of this matter and in addition to all other funds necessary to comply with the requirements of this Consent Order, Stonegate shall perform the SEP identified below, which the Parties agree is intended to secure significant environmental or public health protection and improvements. Stonegate's total expenditure for the SEP shall be not less than One Hundred Sixty Four Thousand Eight Hundred Ninety Eight Dollars ($164,898.00).

    a. Stonegate shall encourage water conservation by offering rebates directly to its customers for performing/installing smartscape renovation, smart controllers, ET controllers, rain sensors,

rotary nozzles and high efficiency clothes washers. The SEP is further described in the attached Exhibit A which is incorporated herein by reference.

35. Stonegate shall not deduct the expenses associated with the implementation of the above-described SEP for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project.

36. Stonegate hereby certifies that, as of the date of this Consent Order, it is not under any existing legal obligation to perform or develop the SEP. Stonegate further certifies that it has not received, and will not receive, credit in any other enforcement action for the SEP. In the event that Stonegate has, or will receive credit under any other legal obligation for the SEP, Stonegate shall pay One Hundred Sixty Four Thousand Eight Hundred Ninety Eight Dollars ($164,898.00) to the Division as a civil penalty within thirty (30) calendar days of receipt of a demand for payment by the Division. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

    Ms. Ginny Torrez
    Colorado Department of Public Health and Environment
    Water Quality Control Division
    Mail Code: WQCD-CADM-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530

37. The SEP must be completed to the satisfaction of the Division no later than twenty-six (26) months after the effective date of this Consent Order. In the event that Stonegate fails to comply with any of the terms or provisions of this Consent Order relating to the performance of the SEP, Stonegate shall be liable for penalties as follows:

    a. Payment of a penalty in the amount of One Hundred Sixty Four Thousand Eight Hundred Ninety Eight Dollars ($164,898.00). The Division, in its sole discretion, may elect to reduce this penalty for environmental benefits created by the partial performance of the SEP.
    b. Stonegate shall pay this penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be as specified in paragraph 36 above.

38. Stonegate shall submit a SEP Completion Report to the Division no later than twenty-eight (28) months after the effective date of this Consent Order. The SEP Completion Report shall contain the following information:

    a. A detailed description of the SEP as implemented;
    b. A description of any operating problems encountered and the solutions thereto;
    c. Itemized costs, documented by copies of purchase orders and receipts or canceled checks or other forms of proof of payment;
    d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and
    e. A description of the environmental and public health benefits resulting from implementation of the SEP (with quantification of the benefits and pollutant reductions, if feasible).

39. Failure to submit the SEP Completion Report with the required information, or any periodic report, shall be deemed a violation of this Consent Order.

40. Stonegate shall include the following language in any public statement, oral or written, making reference to the SEP: "This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for alleged violations of the Colorado Water Quality Control Act."

SCOPE AND EFFECT OF CONSENT ORDER

41. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations cited herein and in the August 31, 2007 Notice of Violation / Cease and Desist Order (Number: MO-070831-1).

42. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Stonegate each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.

43. This Consent Order constitutes a final agency order or action upon a determination by the Division following the public comment period. Any violation of the provisions of this Consent Order by Stonegate, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars ($10,000.00) per day for each day during which such violation occurs.

44. Notwithstanding paragraph 31 above, the violations described in this Consent Order will constitute part of Stonegate's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Stonegate. Stonegate agrees not to challenge the use of the cited violations for any such purpose.

45. This Consent Order does not relieve Stonegate from complying with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and shall obtain all necessary approvals and/or permits to conduct the activities required by this Consent Order. The Division makes no representation with respect to approvals and/or permits required by Federal, State, or local laws other than those specifically referred to herein.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

46. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to the specific instances of penalties for the violations cited herein and in the August 31, 2007 Notice of Violation / Cease and Desist Order (Number: MO-070831-1). The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.

47. This Consent Order does not grant any release of liability for any violations not specifically cited herein.

48. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.

49. Upon the effective date of this Consent Order, Stonegate releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.

50. Stonegate shall not seek to hold the State of Colorado or its employees, agents or representatives liable for any injuries or damages to persons or property resulting from acts or omissions of Stonegate, or those acting for or on behalf of Stonegate, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Stonegate shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by Stonegate in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

51. Delay in the achievement of one requirement shall not necessarily justify or excuse delay in the achievement of subsequent requirements. In the event any performance under this Consent Order is found to have been delayed by a force majeure, Stonegate shall perform the requirements of this Consent Order that were delayed by the force majeure with all due diligence.

NOTICES

52. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CADM-B2
Attention: Ginny Torrez
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3612
E-mail: ginny.torrez@state.co.us

For Stonegate:

Mitchell M. Chambers, District Manager
Stonegate Village Metropolitan District
c/o Mulhern MRE, Inc.
2 Inverness Drive East, Suite 200
Englewood, CO 80112

MODIFICATIONS

53. This Consent Order may be modified only upon mutual written agreement of the Parties.

COMPLETION OF REQUIRED ACTIONS

54. Stonegate shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Consent Order. The Division shall either accept or reject Stonegate's Notice of Completion in writing within thirty (30) calendar days of receipt. If the Division rejects Stonegate's 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. Stonegate shall, within fifteen (15) calendar days of receipt of the Division's rejection, either:

    a. Submit a notice of acceptance of the determination; or
    b. Submit a notice of dispute.

    If Stonegate fails to submit either of the above notices within the specified time, it will be deemed to have accepted the Division's determination.

55. If Stonegate files any notice of dispute pursuant to paragraph 54 the notice shall specify the particular matters in the Division's determination that Stonegate seeks to dispute, and the basis for the dispute. Matters not identified in the notice of dispute shall be deemed accepted by Stonegate. The Division and Stonegate shall have thirty (30) calendar days from the receipt by the Division of the notification of dispute to reach an agreement. If agreement cannot be reached on all issues within this thirty (30) calendar day period, the Division shall confirm or modify its decision within an additional fourteen (14) calendar days, and the confirmed or modified decision shall be deemed effective and subject to appeal in accordance with the Act and the Colorado State Administrative Procedures Act, §§ 24-4-101 through 108, C.R.S.

NOTICE OF EFFECTIVE DATE

56. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon notice from the Division following closure of the public comment period referenced in paragraph 42.

BINDING EFFECT AND AUTHORIZATION TO SIGN

57. This Consent Order is binding upon Stonegate and its elected officials, employees, agents, representatives, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. Stonegate agrees to provide a copy of this Consent Order to any contractors and other agents performing work pursuant to this Consent Order and require such agents to comply with the requirements of this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

FOR STONEGATE METROPOLITAN DISTRICT:

_____ Date: 2/26/10
Mike Sjobakken, President of the Board

_____ Date: 2/26/10
Dennis E. Jackson, Assistant Secretary

_____ Date: 2/26/10
Chris Kannawin, Assistant Secretary

_____ Date: 2/26/10
Jon Rich, Secretary/Treasurer

_____ Date: 2/26/10
Norman L. Shaw, Assistant Secretary

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

_____ Date: 3/24/10
Lori M. Gerzina, Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

Exhibit "A"

Stonegate Village Metropolitan District
Supplemental Environmental Project (SEP) Proposal

- **Enforcement Action** – Stonegate Village Metropolitan District -Notice of Violation/Cease and Desist Order No. MO-070831-1 dated August 31, 2007 and Amendment to Notice of Violation/Cease and Desist Order No. MO-070831-1 dated May 9, 2008, Douglas County, Colorado.
- **Project Name** – Water Conservation Rebate Program
- **Project Manager** –

  Mitchell M. Chambers, District Manager
  Stonegate Village Metropolitan District
  C/o Mulhern MRE, Inc
  2 Inverness Drive East, Suite 200
  Englewood, Colorado 80112
  (303) 649-9857

- **CDPHE Contact Person** – None
- **Geographical Area to Benefit From Project** – South Metro Area including Arapahoe and Douglas Counties in Colorado. The lower South Platte watershed would benefit from the water conservation.
- **Type of Project:**
  - Water Conservation
- **Project Description** –Encourage water conservation by offering rebates directly to the customers of Stonegate Village Metropolitan District ("SVMD"). The program will include the following rebates:
  - Smartscape Renovation – This rebate encourages residential water customers to convert water thirsty plant materials into water wise landscapes. A rebate of $3/square foot (maximum of $600) of high water use plant materials removed, such as Kentucky bluegrass.
  - Smart, Evapotransportation or ET Controllers and rain sensors - SVMD will provide a rebate of up to $500 for purchase and installation of an approved ET controller and rain sensor.
  - Rotary Nozzle – A rebate of up to $5 per nozzle with a household maximum of $200 for the purchase and installation of approved nozzles.

- High Efficiency Clothes Washers – SVMD will rebate residential customers up to $300 on the cost of a high efficiency clothes washer meeting the July 1, 2009 Energy Star rating. Specifically, the minimum Modified Energy Factor (MEF) shall be 1.8 or greater and a Water Factor (WF) of 7.5 or lower.

- **Expected Environmental and/or Public Health Benefits** – SVMD is solely dependent on Denver Basin groundwater for its potable water supply, as are the other water providers in the South Metro Area. The water providers in the South Metro Area have determined the aquifers in the Denver Basin are not capable of providing a long term and sustainable water supply for the area. Therefore, the SVMD and 12 other water suppliers have formed the South Metro Water Supply Authority for the purpose of importing renewable water. One of the areas of focus is the middle South Platte River near Brighton.

  In 1997, Nebraska, Wyoming, Colorado and the Department of the Interior entered into the "Cooperative Agreement for Platte River Research and Other Efforts Relating to Endangered Species Habitat Along the Central Platte River, Nebraska". As a result of that agreement, the three states, federal government, environmental organizations and water users have been developing the "Platte River Recovery Implementation Program" for the purpose of providing benefits for the endangered interior least tern, whooping crane and pallid sturgeon and the threatened piping plover.

  In addition to the efforts of the states and the federal government, SVMD believes that reducing the amount of renewable water that needs to be imported from the South Platte should have a positive impact of the target species.

  Providing rebates that promote water conservation is one method that SVMD will utilize to reduce the amount of water imported from the South Platte thus reducing depletions and impacts to the Central Platte River Basin.

- **Project Budget** - $164,898 in direct rebates to customers of SVMD for the purchase and installation of water saving devices. Administrative costs, salaries, marketing expenditures will be paid separately and are not included in the project budget. If the total amount of direct rebates to customers is less than $164,898, SVMD shall remit the balance to the Division along with the Rebate Program Final Report as of the date defined below.

- **Project Schedule** –
  - Develop Rebate details and requirements – One Month after the date of Consent Order
  - Announce Rebate Program Two Months after the date of Consent Order
  - Rebate Program Interim Report 14 Months after the date of the Consent Order
  - Rebate Program Completion 26 Months after the date of the Consent Order
  - Rebate Program Final Report 28 Months after the date of the Consent Order