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.
Denver, Colorado 80246-1530
Phone (303) 692-2000
Located in Glendale, Colorado

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

http://www.cdphe.state.co.us

Colorado Department
of Public Health
and Environment

April 19, 2011

Mr. Jerry Forte, P.E
Chief Operating Officer
Colorado Springs Utilities, an enterprise of the
City of Colorado Springs, Colorado
P.O. Box 1103, M/C 950
Colorado Springs, Colorado 80947-0931

Certified Mail Number: 7005 1820 0000 3213 7429

RE: Order for Civil Penalty, Number: MP-110419-2

Dear Mr. Forte:

The City of Colorado Springs is hereby served with the enclosed Order for Civil Penalty ("Penalty Order"). This Penalty Order 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 §25-8-608(2) of the *Colorado Revised Statutes*. Payment of the imposed civil penalty should be made in accordance with the methods referenced in the Penalty Order and Amendment Number One to Compliance Order on Consent, Number: MC-061204-1.

If you have any questions regarding the Penalty Order or the payment method, please do not hesitate to contact Scott Klarich of this office at (303) 692-3564 or by electronic mail at scott.klarich@state.co.us.

Sincerely,

Russell Zigler

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

Enclosure(s)

cc: El Paso County Public Health EH Division
Mr. Dave Padgett, Environmental Services Department Manager, Colorado Springs Utilities, City of Colorado Springs, P.O. Box 1103, M/C 940, Colorado Springs, CO 80947-0940
City of Colorado Springs, P.O. Box 1103, M/C 610, Colorado Springs, CO 80947

ec: Natasha Davis, EPA Region VIII
Joe Talbott, Engineering Section, CDPHE
Dave Knope, Engineering Section, CDPHE

Dick Parachini, Watershed Program, CDPHE
Michael Beck, FSU, CDPHE
Scott Klarich, Case Person, CDPHE

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY **NUMBER: MP-110419-2**

IN THE MATTER OF: CITY OF COLORADO SPRINGS AND COLORADO SPRINGS UTILITIES CDPS PERMIT NO. CO-0026735

This matter having come to my attention as the Designee of the Executive Director of the Colorado Department of Public Health and Environment upon petition for imposition of a civil penalty by the Water Quality Control Division's Compliance Assurance Section, and pursuant to §25-8-608 C.R.S, I hereby impose a civil penalty in the amount of Thirteen Thousand Two Hundred Sixty Six Dollars ($13,266.00) against the City of Colorado Springs and Colorado Springs Utilities for the violations cited in the August 18, 2010 Amendment Number One to Compliance Order on Consent Number MC-061204-1. A copy of Amendment Number One to Compliance Order on Consent Number MC-061204-1 is attached hereto as Exhibit A and is incorporated herein by reference. The City of Colorado Springs and Colorado Springs Utilities shall pay the civil penalty within thirty (30) calendar days of the date of this Order for Civil Penalty as set forth in Amendment Number One to Compliance Order on Consent Number MC-061204-1.

"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:

Mr. Scott Klarich
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CAS-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530"

Dated this 19th day of April 2011.

Steven H. Gunderson, Director
Water Quality Control Division
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Exhibit A

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

AMENDMENT NUMBER ONE
COMPLIANCE ORDER ON CONSENT **NUMBER: MC-061204-1**

IN THE MATTER OF: **CITY OF COLORADO SPRINGS**
COLORADO SPRINGS UTILITIES
CDPS PERMIT NUMBER CO-0026735

The Colorado Department of Public Health and Environment ("CDPHE"), through the Water Quality Control Division ("Division"), issues this Amendment Number One to the December 4, 2006 Compliance Order on Consent, Number: MC-061204-1, (*See attached copy marked as "Attachment A" for reference.)* which was executed between the Department and the City of Colorado Springs ("Colorado Springs"), on behalf of its enterprise, Colorado Springs Utilities (the "Utilities"). The Compliance Order on Consent became effective and a final agency action on February 28, 2007. This amendment is issued pursuant to the Division's authority under the Colorado Water Quality Control Act, sections 25-8-101 to 703, C.R.S. ("CWQCA"), and with the express consent of Colorado Springs and the Utilities. The Division, Colorado Springs and the Utilities may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

The mutual objectives of the Parties in amending Compliance Order on Consent Number: MC-061204-1 are:

1. To resolve, expeditiously and without litigation, the Utilities unauthorized reclaimed water discharge events that have occurred between December 7, 2006 and July 31, 2010.

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Division records establish that the Utilities reported the following eight (8) additional discharges of reclaimed water from its Facility or reclaimed water storage and distribution systems into state waters:

Exhibit A

Date	Location	Cause	Volume Released / Discharged (Gallons)	Receiving Water
7-Dec-06	North of Bijou Street bridge, along Monument Creek	Contractor Damaged Line	3,525	Monument Creek
8-Dec-06	North of Bijou Street bridge, along Monument Creek	Failure of Temporary Pipeline Plug Inserted to Plug 12/7/06 Hole	1,500	Monument Creek
19-Nov-07	3950 Mark Dabling Blvd.	Contractor Damaged Line	9,000 (50 gallons reached surface water.)	Monument Creek
24-Feb-08	855 E. Las Vegas Street (Las Vegas WWTF)	Line Failure / Power Outage Pump Failure	6,000 (50 gallons reached surface water.)	Fountain Mutual Irrigation Canal / Fountain Creek
15-Apr-08	825 E. Las Vegas Street (Las Vegas WWTF)	Damaged Hydrant	1,674	Fountain Mutual Irrigation Canal / Fountain Creek
7-Sep-08	825 E. Las Vegas Street (Las Vegas WWTF)	Line Failure	300	Fountain Mutual Irrigation Canal / Fountain Creek
16-Jun-09	825 E. Las Vegas Street (Las Vegas WWTF)	Failed Pressure Relief Valve	7,750 (1,750 gallons reached surface water.)	Fountain Creek
31-Jan-10	825 E. Las Vegas Street (Las Vegas WWTF)	Contractor Damaged Line	500	Fountain Mutual Irrigation Canal / Fountain Creek

3. Pursuant to §25-8-501(1), C.R.S., no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article.

4. Reclaimed water contains, among other substances, chlorine, total suspended solids ("TSS"), and fecal coliform bacteria, which are "pollutants" within the meaning of section 25-8-102(15), C.R.S.

5. Fountain Creek, Monument Creek and the Fountain Mutual Irrigation Canal are each "state waters" as defined by §25-8-103(19), C.R.S.

6. The Facility's reclaimed water treatment equipment and its associated storage and distribution systems, as they relate to each discharge event identified above in paragraph 2, are a "point source" as defined by §25-8-103(14), C.R.S.

7. Each of the Utilities' reclaimed water discharges identified above in paragraph 2 constitutes a "Discharge of Pollutants" as defined by section 25-8-103(3), C.R.S.

8. Division records establish that neither the Utilities' Colorado Discharge Permit System Permits, nor the Utilities Notice(s) of Authorization for the Use and Distribution of Reclaimed Water, issued by the Division under Control Regulation No. 84, authorize the reclaimed water discharges identified above in paragraph 2. The Utilities does not have any other permits authorizing the reclaimed water discharges identified above in paragraph 2 into state waters.

9. To-date the Utilities has satisfactorily implemented the injunctive requirements imposed by Notice of Violation / Cease and Desist Order, Number: MO-051007-1. These requirements were specifically designed to prevent or minimize future reclaimed water releases from the Utilities production facilities or its reclaimed water storage and distribution systems.

VIOLATIONS

10. Each of the Utilities' reclaimed water discharges identified in paragraph 2 above constitute an unauthorized discharge of pollutants from a point source into state waters in violation of section 25-8-501(1), C.R.S.

CIVIL PENALTY

11. Based upon the application of the Division's Civil Penalty Policy (May 1, 1993), and consistent with Departmental policies for violations of the Act, Utilities shall pay thirteen thousand two hundred sixty six dollars ($13,266.00) in civil penalties to resolve the specific matter of penalties associated with the violations cited in this amendment number one. The Division intends to petition the Executive Director, or her designee, to impose the thirteen thousand two hundred sixty six dollar ($13,266.00) civil penalty for the above violation(s) and Utilities agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his designee. 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:

    Mr. Scott Klarich
    Colorado Department of Public Health and Environment
    Water Quality Control Division
    Mail Code: WQCD-CAS-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530

NOTICE OF EFFECTIVE DATE OF AMENDMENT NUMBER ONE

12. This amendment shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty. If the penalty as described in this amendment is not imposed, or an alternate penalty is imposed, this amendment becomes null and void.

SCOPE OF AMENDMENT NUMBER ONE

13. The scope of this amendment to Compliance Order on Consent, Number MC-061204-1is expressly limited to the matters specifically identified herein. All other terms, conditions or requirements of Compliance Order on Consent, Number MC-061204-1 shall remain unchanged and in effect.

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

AUTHORIZATION TO SIGN

15. The undersigned warrant that they are authorized to bind legally their respective principals to this amendment to Compliance Order on Consent, Number MC-061204-1. This amendment to Compliance Order on Consent, Number MC-061204-1 may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same amendment. In the event that a party does not sign this amendment to Compliance Order on Consent, Number MC-061204-1within twenty (20) calendar days of the other party's signature, this amendment becomes null and void.

FOR THE CITY OF COLORADO SPRINGS / COLORADO SPRINGS UTILITIES:

Pam McDonald for JAF Date: 8/12/2010

Jerry A. Forte, Chief Executive Officer
Colorado Springs Utilities

Approved as to Form:

Date: 8/12/2010

Kenneth Burgess
City Attorney's Office – Utilities Division

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WATER QUALITY CONTROL DIVISION:

Lori M. Gerzina Date: 8/18/10

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

Exhibit A

Attachment A

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT **NUMBER: MC-061204-1**

IN THE MATTER OF: **CITY OF COLORADO SPRINGS**
COLORADO SPRINGS UTILITIES
CDPS PERMIT NUMBER CO-0026735

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 §25-8-605, 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 City of Colorado Springs ("Colorado Springs"), on behalf of its enterprise, Colorado Springs Utilities (the "Utilities"). The Division, Colorado Springs and the Utilities may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, expeditiously and without litigation, the civil penalties associated with the unauthorized reclaimed water discharges identified in the Notice of Violation / Cease and Desist Order that the Division issued to Colorado Springs and the Utilities on October 7, 2005 and the subsequent unauthorized reclaimed water discharges that have occurred from November 1, 2005 through November 17, 2006.

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Colorado Springs is, and was during all time relevant to the violations identified herein, a municipal corporation and home rule city organized pursuant to the Colorado Constitution.

3. The Utilities is an enterprise of Colorado Springs.

4. Colorado Springs and the Utilities are each a "person" as defined by the Water Quality Control Act, §25-8-103(13), C.R.S.

5. The Utilities currently operates a wastewater treatment facility, known as the Las Vegas Street Wastewater Treatment Plant, which is located at 825 East Las Vegas Street in the City of Colorado Springs, El Paso County [Southwest 1/4, Section 20, Township 14 South, Range 66 West, and Northwest 1/4, Section 29, Township 14 South, Range 66 West] (the "Facility").

6. The Utilities produces reclaimed water from its Facility. Reclaimed water is defined as domestic wastewater that has received secondary treatment by a domestic wastewater treatment works and such additional treatment as to enable the wastewater to meet the standards for approved uses.

7. From November 12, 2002 to the present, specific reclaimed water uses by the Utilities have been authorized in accordance with reclaimed water standards and monitoring requirements set forth in a Notice of Authorization for the Use and Distribution of Reclaimed Water (the "NOA"), issued by the Division under Control Regulation No. 84.

8. The Facility is the subject of Colorado Discharge Permit System Permit, Permit No. CO-0026735 (the "Permit"). The Permit, or previous versions thereof, authorized the Utilities to discharge treated wastewater from the Facility through eight identified outfall points. Discharges are or were authorized at Fountain Mutual Irrigation Canal, various points on the non-potable irrigation system, and to groundwater (monitoring location only) in accordance with effluent limitations, monitoring requirements, and other conditions set forth in the Permit.

9. Part II, section A(6) of CDPS permit number CO-0026735 states, "Any discharge to the waters of the State from a point source other than specifically authorized herein is prohibited."

10. Division records establish that the Utilities reported the following twenty two (22) discharges of reclaimed water from its Facility or reclaimed water storage and distribution systems into state waters:

Date	Location	Cause	Volume (Gallons)	Receiving Water
17-Nov-06	Colorado Avenue and Interstate 25	Construction contractor damaged line	3,071	Monument Creek
3-Aug-06	Las Vegas St. Wastewater Treatment Facility	Landscape contractor damaged line	50	Storm Drain, Fountain Creek
27-Jun-06	701 E. Las Vegas Street	Improper Installation	60	Storm drain, Fountain Creek
26-May-06	Las Vegas St. Wastewater Treatment Facility	Failed Pipe Nipple	300	Storm Drain, Fountain Creek
4-Apr-06	Las Vegas St. Wastewater Treatment Facility	Damaged Coupling	200	Storm Drain, Fountain Creek
28-Dec-05	Las Vegas St. Wastewater Treatment Facility	Pipeline Failure	100	Fountain Mutual Irrigation Canal, Fountain Creek

Exhibit A

Attachment A

Date	Location	Cause	Volume (Gallons)	Receiving Water
1-Nov-05	Las Vegas St. Wastewater Treatment Facility	Cracked Line	1,900	Fountain Mutual Irrigation Canal, Fountain Creek
31-Jul-05	Knob Hill Tank / Uintah St. between Iowa Ave. & Sunset Rd.	Operator Error	76,800	Storm drain, Shooks Run, Fountain Creek
21-Jul-05	Knob Hill Tank / Uintah St. between Iowa Ave. & Sunset Rd.	Equipment Failure	28,800	Storm drain, Shooks Run, Fountain Creek
12-May-05 through 17-May-05	Las Vegas St. Wastewater Treatment Facility	Improper Construction	32,400	Fountain Mutual Irrigation Canal, Fountain Creek
11-Nov-04	Knob Hill Tank / Uintah St. between Iowa Ave. & Sunset Rd.	Equipment Failure	138,000	Storm drain, Shooks Run, Fountain Creek
21-Mar-04	South of Cimarron St.	Pipeline Failure	11,550	Fountain Creek
31-Jul-03	Iowa St. between Platte Ave. & Bijou St.	Pipeline Failure	30,000	Storm drain, Shooks Run, Fountain Creek
24-Jul-02	3100 Block of E. Las Vegas Street	Operator Error	36,000	Fountain Creek
17-Jul-02	8" distribution line by the west system isolation valve near the Las Vegas St. Wastewater Treatment Facility	Pipeline Failure	296,000	Fountain Mutual Irrigation Canal, Fountain Creek
10-Jul-02	8" distribution line by the west system isolation valve near the Las Vegas St. Wastewater Treatment Facility	Pipeline Failure	2,200,000	Fountain Mutual Irrigation Canal, Fountain Creek
2-Sep-01	305 S. Union Blvd.	Pipeline Failure	1,800	Storm drain, Shooks Run, Fountain Creek
21-Aug-01	Near 1210 S. Hancock Expressway	Pipeline Failure	184,320	Fountain Mutual Irrigation Canal, Fountain Creek
18-Jun-01	Knob Hill Tank / Uintah St. between Iowa Ave. & Sunset Rd.	Debris Damage	9,000	Storm drain, Shooks Run, Fountain Creek
22-May-01	Kiowa St. & Iowa Ave.	Pipeline Failure	45,000	Storm drain, Shooks Run, Fountain Creek
27-Oct-00	700 Block of N. Sunset Road/ Otis Park	Pipeline Failure	12,000	Storm drain, unnamed open channel

Exhibit A

Attachment A

Date	Location	Cause	Volume (Gallons)	Receiving Water
12-Oct-00	Las Vegas St. Wastewater Treatment Facility	Pipeline Failure	900	Fountain Mutual Irrigation Canal, Fountain Creek

11. Pursuant to §25-8-501(1), C.R.S., no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article.

12. Reclaimed water contains, among other substances, chlorine, total suspended solids ("TSS"), and fecal coliform bacteria, which are "pollutants" within the meaning of section 25-8-102(15), C.R.S.

13. Shooks Run, Fountain Creek, Monument Creek and the Fountain Mutual Irrigation Canal are each "state waters" as defined by §25-8-103(19), C.R.S.

14. The Facility's reclaimed water treatment equipment and its associated storage and distribution systems, as they relate to each discharge event identified above in paragraph 10, are a "point source" as defined by §25-8-103(14), C.R.S.

15. Each of the Utilities' reclaimed water discharges identified above in paragraph 10 constitutes a "Discharge of Pollutants" as defined by section 25-8-103(3), C.R.S.

16. Division records establish that neither the Utilities Permit nor the NOA authorize the reclaimed water discharges identified above in paragraph 10. The Utilities does not have any other permits authorizing the reclaimed water discharges identified above in paragraph 10 into state waters.

17. The Utilities' discharges of reclaimed water as identified above in paragraph 10 each constitute an unauthorized discharge into state waters without a permit in violation of §25-8-501(1), C.R.S.

ORDER AND AGREEMENT

18. Based on the foregoing factual and legal determinations, pursuant to its authority under §25-8-605 C.R.S., and in satisfaction of the civil penalties associated with the violations cited herein, the Division orders Colorado Springs and the Utilities to comply with all provisions of this Consent Order, including all requirements set forth below.

19. Colorado Springs and the Utilities agree to the terms and conditions of this Consent Order. Colorado Springs and the Utilities agree 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. Colorado Springs and the Utilities also agree not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Colorado Springs and/or the Utilities 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.

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

CIVIL PENALTY

21. Based upon the application of the Division's Civil Penalty Policy (May 1, 1993), and consistent with Departmental policies for violations of the Act, Colorado Springs and the Utilities shall pay sixty one thousand four hundred sixty two dollars ($61,462.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the sixty one thousand four hundred sixty two dollars ($61,462.00) civil penalty for the above violation(s) and Colorado Springs and the Utilities agree to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his designee. 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:

Mr. Scott Klarich
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

SCOPE AND EFFECT OF CONSENT ORDER

22. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations herein and in the October 7, 2005 Notice of Violation / Cease and Desist Order (Number: MO-051007-1).

23. 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, Colorado Springs and the Utilities 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.

24. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty. Any violation of the provisions of this Consent Order by Colorado Springs and the Utilities, 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 per day for each day during which such violation occurs.

25. Notwithstanding paragraph 20 above, the violations described in this Consent Order will constitute part of Colorado Springs and the Utilities' 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 Colorado Springs and the Utilities. Colorado Springs and the Utilities agree not to challenge the use of the cited violations for any such purpose.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

26. 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 civil penalties for the specific instances of violations herein and in the October 7, 2005 Notice of Violation / Cease and Desist Order (Number: MO-051007-1).

27. For the reclaimed water discharges identified in paragraph 10 above, the Division releases Colorado Springs and the Utilities from all causes of action that are addressed, or could have been addressed, at the time of execution of this Consent Order. For reclaimed water discharges other than those identified in paragraph 10, above, the Division reserves the right to bring any action or to seek civil or administrative penalties for any past, present, or future violations of the Act, its implementing control regulations, or the Permit not specifically identified and addressed herein.

28. 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.

29. Upon the effective date of this Consent Order, Colorado Springs and the Utilities 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.

30. 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.

NOTICES

31. 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: Scott Klarich
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3564
E-mail: scott.klarich@state.co.us

For Colorado Springs and the Utilities:

Mr. Dave Padgett
Environmental Services Department Manager
Colorado Springs Utilities
City of Colorado Springs
P.O. Box 1103, M/C 940
Colorado Springs, CO 80497-0940

MODIFICATIONS

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

NOTICE OF EFFECTIVE DATE

33. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

BINDING EFFECT AND AUTHORIZATION TO SIGN

34. This Consent Order is binding upon Colorado Springs, the Utilities, its successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to 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.

Exhibit A

Attachment A

FOR THE CITY OF COLORADO SPRINGS / COLORADO SPRINGS UTILITIES

_____ Date: 12/4/06

Jerry A. Forte, Chief Executive Officer
Colorado Springs Utilities

Approved as to Form:

_____ Date: 12/04/06

John A. Fredell
City Attorney's Office – Utilities Division

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WATER QUALITY CONTROL DIVISION:

Lori M. Gerzina _____ Date: 12/4/06

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