

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

June 27, 2011

Shawn Sullivan, Environmental Manager
The Western Sugar Cooperative
18317 Highway 144
Fort Morgan, Colorado 80701

RE: Required Corrective Action Schedule Extension #6/ The Western Sugar Cooperative, Notice of Violation/ Cease and Desist Order Number: IO-100224-1

Dear Mr. Sullivan:

In an April 13, 2011 letter to The Western Sugar Cooperative ("Western Sugar"), the Water Quality Control Division (the "Division") issued an extension ("Extension #5") to the compliance dates required under paragraph 24 of the Notice of Violation/ Cease and Desist Order Number IO-100224-1 (the "NOV/CDO"). Extension #5 required Western Sugar to submit, by no later than July 31, 2011, a final report on the findings of the evaluation of the Facility operation as identified and outlined in paragraph 22. Along with the findings of the evaluation, the report must identify 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 renewed Permit. Extension #5 also required Western Sugar to submit a time schedule for completion of each measure identified in the report.

The current permit (CDPS Permit Number CO-0041351, the "Permit") expired January 31, 2011 and has subsequently been administratively extended. The Division has initiated a permit renewal action and the proposed renewed Permit has a significantly different approach in addressing the discharge from the Western Sugar facility. The proposed renewed Permit applies surface water protection requirements and revises the implementation of federal Effluent Limitations Guidelines (the "ELGs") as they apply to the Facility. Under current operations, Western Sugar is unable to immediately comply with the ELG limitations and will need additional time to implement Facility improvements necessary to comply with the ELGs. In order to establish a compliance schedule for Western Sugar to come into compliance with the ELGs, the Division and Western Sugar must execute a Compliance Order on Consent (the "COC") that will be issued and effective concurrently with the renewed Permit. In order to allow time for the development and execution of a COC, the compliance dates required by Extension #5 must be extended.

The Division hereby formally revises Paragraph 24 of the NOV/CDO to read as follows:

By no later than October 31, 2011, 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 renewed Permit. For each short-term and long-term measure identified, Western Sugar shall also submit a time schedule for completion of each measure. 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.

Please note that all other compliance dates referenced in or required by the NOV/CDO remain unchanged and in effect.

Should you or representatives of Western Sugar have any further questions regarding these matters, please do not hesitate to contact me at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,



Lori Gerzina
Section Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

cc: Dennis Arfmann (Hogan & Hartson, LLP, 1470 Walnut Street Suite 200, Boulder, CO 80302)
Enforcement File

cc: Tom Roan, Assistant Attorney General