STATE OF COLORADO

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Executive Director and Chief Medical Officer

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Colorado Department
of Public Health
and Environment

September 21, 2012

Certified Mail Number: 7012 1010 0002 1774 3453

Zack Alan Canary and Harold Claire
Florissant Water & Sanitation District
P.O. Box 565
Florissant, CO 80816

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-120921-1, and Service of Operator Certification Notice of Violation, Number: OC-120921-1

Dear Sirs:

Florissant Water & Sanitation District 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 Florissant Water & Sanitation District has violated the Act, and/or regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Florissant Water & Sanitation District is required, within thirty (30) calendar days of receipt 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.

Moreover, Florissant Water & Sanitation District is hereby served with the enclosed Operator Certification Notice of Violation (the "OCNOV"). This OCNOV is issued by the Colorado Department of Public Health and Environment's (the "Department") Water Quality Control Division (the "Division") pursuant to the authority given to the Division by § 25-9-110(3) of the

Colorado Revised Statutes ("C.R.S."). The Division bases this OCNOV upon findings that Florissant Water & Sanitation District has violated the 5 CCR 1003-2, §100 ("Regulation 100") *Water and Wastewater Facility Operators Certification Requirements* as described in the enclosed OCNOV.

Pursuant to §25-9-110(3), C.R.S., Florissant Water & Sanitation District is required, within thirty (30) calendar days of receipt of this OCNOV, to submit to the Division an answer to each alleged violation.

As a recipient of an OCNOV, Florissant Water & Sanitation District may request a formal hearing to contest the OCNOV in accordance with §25-9-110(4), C.R.S., and 5 CCR 1003-2, §100.21.1. Requests for such a hearing shall be filed in writing with the Division no later than thirty (30) days after service of the OCNOV. Such requests, at a minimum, shall contain the information specified in 5 CCR 1003-2, §100.21.1(a-c). Hearings on OCNOVs shall be conducted before the Colorado Water and Wastewater Facility Operators Certification Board in accordance with §24-4-105, C.R.S. The filing of an answer does not constitute a request for hearing.

This operator certification violation could result in the imposition of civil penalties. The Department is authorized pursuant to §25-9-110(5), C.R.S., to impose a penalty of up to $300 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 OCNOV or the issuance of additional enforcement actions.

Should Florissant Water & Sanitation District desire to informally discuss the NOV/CDO or the OCNOV with the Department or if you have any questions regarding NOV/CDO or the OCNOV, please don't hesitate to contact Aly Moores at (303) 692-3163 or by electronic mail at alysia.moores@state.co.us.

Sincerely,

Russell Zigler

Russell Zigler, Legal Assistant
Clean Water Compliance & Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure

cc: Enforcement File
Dave Barwick, 645 Ancestra Dr., Fountain, CO 80817

ec: Aaron Dousset, Teller County Environmental Health Department
Kurt Dahl, Teller County Environmental Health Department
Monique Morey, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE

Janet Kieler, Permits Section, CDPHE
Jackie Whelan, Facility Operators Program, CDPHE
Barry Cress, DOLA
Olive Hofstader, EPA Region VIII
Natasha Davis, EPA Region VIII
Michael Beck, Grants and Loans Unit, CDPHE
Tania Watson Compliance Assurance, CDPHE
Aly Moores, Case Lead, CDPHE

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER **NUMBER: IO-120921-1**

IN THE MATTER OF: **FLORISSANT WATER AND SANITATION DISTRICT**
CDPS PERMIT NO. CO-0041416
TELLER 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 violations cited herein, the Florissant Water and Sanitation District (the "District") was a "Special District" formed in Teller County, Colorado pursuant to the Special District Act, §§32-1-101 through 32-1-1702 C.R.S.

2. The District 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. The District owns and/or operates a Domestic Wastewater Treatment Works, located in the SW ¼, SE ¼, Section 2, T13S, R71W, 6th P.M., 38° 56.72' latitude North and 105° 17.85' longitude West, 2244 W Highway 24, near the Town of Florissant, Teller County, Colorado, (the "Facility").

4. The Facility is subject to the Colorado Discharge Permit System, Permit No. CO-0041416 (the "Permit"). The current Permit became effective on July 1, 2005 and was set to expire on June 30, 2010. The Permit has been administratively extended until issuance of a renewal permit. Amendments to the Permit were made effective on January 1, 2006 (Amendment 1), March 1, 2006 (Amendment 2) and June 1, 2007 (Amendment 3).

5. The Permit authorizes the District to discharge treated wastewater from the Facility through Outfall 001A into Twin Creek. Outfall 001A is physically located following disinfection and prior to mixing with the receiving stream. Outfall 001A is the only discharge outfall authorized by the Permit. The discharge is subject to the specific effluent limitations and other conditions of the Permit.

6. Pursuant to 5 CCR 1002-61, §61.8, the District 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

7. Outfall 001A is a "point source" as defined by §25-8-103(14), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (75).

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

Failure to Properly Monitor and Report

9. Pursuant to Part I.D.2. of the Permit, regardless of whether or not effluent discharge occurs at the Facility, the District is required to report monitoring results on a monthly basis. Monitoring results shall be summarized for each calendar month and reported on Division approved Discharge Monitoring Report (DMR) forms. If no discharge occurs during the reporting period, "No Discharge" shall be reported.

10. Pursuant to Part I.D.2. of the Permit, the DMRs are required to be filled out accurately and completely, and the District is required to ensure that the DMRs are mailed to the Division so that they are received no later than the 28th day of the month following the monitoring period.

11. Division records, as supplemented by the District's DMRs, establish that the District failed to submit DMRs for the following reporting periods:

Reporting Period	Monitoring Point
October 1 – October 31, 2010	001A
November 1 – November 30, 2010	001A
December 1 – December 31, 2010	001A
January 1-January 31, 2011	001A
February 1-February 28, 2011	001A
March 1-March 31, 2011	001A
April 1-April 30, 2011	001A
May 1-May 31, 2011	001A
June 1-June 30, 2011	001A
July 1-July 31, 2011	001A
August 1-August 31, 2011	001A
September 1 - September 30, 2011	001A
October 1-October 31, 2011	001A
November 1 – November 30, 2011	001A
December 1 – December 31, 2011	001A
January 1-January 31, 2012	001A
February 1-February 29, 2012	001A
March 1-March 31, 2012	001A
April 1-April 30, 2012	001A

Reporting Period	Monitoring Point
May 1-May 31, 2012	001A
June 1-June 30, 2012	001A
October 1 – October 31, 2010	300I
November 1 – November 30, 2010	300I
December 1 – December 31, 2010	300I
January 1-January 31, 2011	300I
February 1-February 28, 2011	300I
March 1-March 31, 2011	300I
April 1-April 30, 2011	300I
May 1-May 31, 2011	300I
June 1-June 30, 2011	300I
July 1-July 31, 2011	300I
August 1-August 31, 2011	300I
September 1 - September 30, 2011	300I
October 1-October 31, 2011	300I
November 1 – November 30, 2011	300I
December 1 – December 31, 2011	300I
January 1-January 31, 2012	300I
February 1-February 29, 2012	300I
March 1-March 31, 2012	300I
April 1-April 30, 2012	300I
May 1-May 31, 2012	300I
June 1-June 30, 2012	300I

12. The District's failure to monitor and/or submit DMR data for each influent parameter, for each reporting period, constitutes violations of Part I.B.1. and/or Part I.D.2. of the Permit.

13. The District's failure to monitor and/or submit DMR data for each effluent parameter, for each reporting period, constitutes violations of Part I.B.2. and/or Part I.D.2. of the Permit.

14. The District's failure to submit DMRs to the Division by the 28th day of the month following each reporting period constitutes violations of Part I.D.2. of the Permit.

Failure to Adhere to Permit Compliance Schedules

Ammonia Monitoring Study

15. Pursuant to Part I.A.7.a. of the Permit, the District was required to complete an ammonia study and submit all data to the Division by November 30, 2009.

16. Pursuant to Part I.A.7.a. of the Permit, the District was required to submit to the Division by August 31, 2005 a preliminary report prior to beginning the ammonia monitoring study. This report would specify the exact in-stream locations where the District intends to perform the monitoring and what equipment will be utilized in the study.

17. Pursuant to Part I.A.7.a. of the Permit, the District was required to submit annual progress reports on the ammonia monitoring study to the Division by July 31, 2006, July 31, 2007, July 31, 2008 and July 31, 2009.

18. Division records establish that the District failed to submit to the Division by August 31, 2005 its preliminary report referenced in paragraph 16 above. Division records further establish that the District, to-date, has not submitted the preliminary report to the Division.

19. Division records establish that the District failed to timely submit to the Division any of the progress reports, referenced in paragraph 17 above, on its ammonia monitoring study. Division records further establish that the District, to-date, has not submitted any of the progress reports to the Division.

20. Division records establish that the District failed to submit to the Division by November 30, 2009 all data associated with its ammonia monitoring study. Division records further establish that the District, to-date, has not submitted to the Division any data associated with its ammonia monitoring study.

21. The District's failure to submit the required compliance schedule reports constitutes violations of Part I.A.7.a.

Ammonia Treatment Evaluation

22. Pursuant to Part I.A.7.c. of the Permit the District was required to complete an ammonia treatment evaluation in accord with the following schedule to determine what improvements the Facility may require in order to comply with new ammonia limits that would go into effect on August 1, 2006.

    i. By **July 31, 2005**, the permittee shall submit a plan to evaluate the ammonia removal capabilities of the existing facility. The plan should include an evaluation of the impact of seasonal fluctuations in ammonia, flow and facility performance, as well as the ability of the facility to meet the new ammonia limits.

    ii. By **January 31, 2006**, the permittee shall submit a progress report summarizing facility evaluation efforts.

    iii. By **July 31, 2006**, the permittee shall submit facility evaluation report with definitive conclusions concerning appropriate and effective methods to treat ammonia.

    iv. Starting on **August 1, 2006**, the facility shall meet the new ammonia limitations.

23. Division records establish that the District failed to submit to the Division by July 31, 2005 its plan to evaluate the ammonia removal capabilities of the existing facility. Division records further establish that the District, to-date, has not submitted to the Division its plan to evaluate the ammonia removal capabilities of the existing facility.

24. Division records establish that the District failed to submit to the Division by January 31, 2006, its progress report summarizing its Facility evaluation efforts. Division records further establish that the District, to-date, has not submitted to the Division its progress report summarizing its Facility evaluation efforts.

25. Division records establish that the District failed to submit to the Division by July 31, 2006, its Facility evaluation report with definitive conclusions concerning appropriate and effective methods to treat ammonia. Division records further establish that the District, to-date, has not submitted to the Division its Facility evaluation report with definitive conclusions concerning appropriate and effective methods to treat ammonia.

26. The District's failure to submit the required compliance schedule reports constitutes violations of Part I.A.7.c.

Lagoon Liners

27. Pursuant to Part I.A.7.e.i. of the Permit (Amendment 3), the District was required by June 30, 2007 to investigate and submit conclusive information on the seepage from the lagoon system that definitively determines if the allowable exfiltration rate of 10^{-6} centimeters per second is exceeded. If liner integrity is the basis for determination that the seepage meets the criteria, then the report must be prepared by a professional engineer registered in the State of Colorado.

28. Pursuant to Part I.A.7.e.ii. of the Permit (Amendment 3), the District was required by June 30, 2007, to submit a plan to the Division for the installation of liners if the aerated lagoons are found to be seeping in excess of the maximum rate. The plan must specify that installation of the liner will begin by December 30, 2007 and be completed by June 30, 2009. For the polishing pond/lagoon, the facility has the option of installing a liner or submitting an application for discharge to groundwater. Thus, the plan must specify the selection of either of these options and indicate such will be completed by June 30, 2009.

29. Pursuant to Part I.A.7.e.iii. of the Permit (Amendment 3), the District was required by December 30, 2007, to begin installation of the lagoon liners where the aerated lagoons were found to exceed the allowable seepage rate.

30. Pursuant to Part I.A.7.e.iv. of the Permit (Amendment 3), the District was required by September 30, 2008, to submit a progress report summarizing the efforts to install the lagoon liners.

31. Pursuant to Part I.A.7.e.v. of the Permit (Amendment 3), the District was required by June 30, 2009, to submit a report completed by a professional engineer registered in the state of Colorado indicating that the liners of the aerated lagoons had been replaced. The report was to certify that the liner material meets the allowable seepage rate of 10^{-6} centimeters per second or less, and that the placement was accomplished according to the manufacturer's requirements (i.e., all welds were tested and the liners were checked for holes prior to backfilling). Furthermore, if the facility opted not to line the polishing pond/lagoon the facility was to submit a completed permit application for discharge to groundwater.

32. Pursuant to Part I.A.7.e. of the Permit, the District was required by no later than 14 calendar days following each date identified in the schedules of compliance referenced in paragraphs 27-31, to submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

33. Division records establish that the District failed to submit to the Division by June 30, 2007 the required conclusive information on the seepage from the lagoon system that determined if the allowable exfiltration rate of 10^{-6} centimeters per second was exceeded as referenced in paragraph 27. Division records further establish that the District, to-date, has not submitted the information to the Division.

34. Division records establish that the District failed to submit to the Division by June 30, 2007, a plan for the installation of liners if the aerated lagoons were found to be seeping in excess of the maximum rate.

35. Division records establish that the District failed to submit to the Division by December 30, 2007, confirmation that installation of lagoon liners had begun, where the aerated lagoons had been found to exceed the allowable seepage rate.

36. Division records establish that the District failed to submit to the Division by September 30, 2008, a progress report summarizing the efforts to install the lagoon liners.

37. Division records establish that the District failed to submit to the Division by June 30, 2009, a report completed by a professional engineer registered in the state of Colorado indicating that the liner of the aerated lagoon had been replaced, as referenced in paragraph 31. Division records further establish that the District, to-date, has not submitted a completed permit application for discharge to groundwater, if the facility opted not to line the polishing pond/lagoon.

38. The District's failure to submit the required compliance schedule reports constitutes violations of Part I.A.7.e.

NOTICE OF VIOLATION

39. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that the District has violated the following sections of the Permit.

Part I.B.1. of the Permit which states in part: "Regardless of whether or not an effluent discharge occurs and in order to obtain an indication of the current influent loading as compared to the approved capacity specified in Part I, Section A.2.; the permittee shall monitor influent parameters at the following required frequencies, the results to be reported on the Discharge Monitoring Report (See Part I, Section D.2)..."

Part I.B.2. of the Permit which states in part: "In order to obtain an indication of the probable compliance or non-compliance with the effluent limitations specified in Part I, Section A.5, the permittee shall monitor effluent parameters at the following required frequencies, the results to be reported on the Discharge Monitoring Report (See Part I, Section D.2)..."

Part I.D.2. of the Permit which states in part: "Monitoring results shall be summarized for each month and reported on the Discharge Monitoring Report forms (EPA forms 3320-1). One form

shall be mailed to the Water Quality Control Division, as indicated below, so that the DMR is received no later than the 28th day of the following month. If no discharge occurs during the reporting period, "No Discharge" shall be reported…"

Part I.A.7.a. of the Permit which states in part: "A compliance schedule will be required for gathering of flow, pH, temperature and ammonia data. For the four year period beginning **October 2005,** the permittee will be required to perform weekly flow, pH and temperature monitoring of the effluent and of Twin Creek at two locations: (1) above the discharge before any mixing has occurred, and (2) downstream of the confluence of Grape Creek with Twin Creek…….All data shall be submitted to the Division by **November 30, 2009** with the renewal application…"

Part I.A.7.a. of the Permit which states in part: "The permittee shall submit a preliminary report prior to beginning the monitoring study. The report shall be submitted by **August 31, 2005**. This report shall specify the exact in-stream locations where the permittee intends to perform the monitoring and what equipment will be utilized in the study."

Part I.A.7.a.vii. of the Permit which states: "Submit annual progress reports by **July 31, 2006, July 31, 2007, July 31, 2008 and July 31, 2009.**"

Part I.A.7.c.i. of the Permit which states in part: "By **July 31, 2005**, the permittee shall submit a plan to evaluate the ammonia removal capabilities of the existing facility…"

Part I.A.7.c.ii. of the Permit which states: "By **January 31, 2006**, the permittee shall submit a progress report summarizing facility evaluation efforts."

Part I.A.7.c.iii. of the Permit which states: "By **July 31, 2006**, the permittee shall submit facility evaluation report with definitive conclusions concerning appropriate and effective methods to treat ammonia."

Part I.A.7.c.iv. of the Permit which states: "Starting on **August 1, 2006**, the facility shall meet the new ammonia limitations."

Part I.A.7.e.i. of the Permit (Amendment 3) which states in part: "By **June 30, 2007,** the permittee shall investigate and submit conclusive information on the seepage from the lagoon system that definitively determines if the allowable exfiltration rate of 10^{-6} centimeters per second is exceeded…"

Part I.A.7.e.ii. of the Permit (Amendment 3) which states: "By **June 30, 2007,** the permittee shall submit a plan for the installation of liners if the aerated lagoons are found to be seeping in excess of the maximum rate. The plan must specify that installation of the liner will begin by **December 30, 2007** and be completed by **June 30, 2009**. For the polishing pond/lagoon, the facility has the option of installing a liner or submitting an application for discharge to groundwater. Thus, the plan must specify the selection of either of these options and indicate such will be completed by **June 30, 2009**."

Part I.A.7.e.iii. of the Permit (Amendment 3) which states: "By **December 30, 2007,** the permittee shall begin installation of lagoon liners for the aerated lagoons, where the aerated lagoons are found to exceed the allowable seepage rate."

Part I.A.7.e.iv. of the Permit (Amendment 3) which states: "By **September 30, 2008,** the permittee shall submit a progress report summarizing the efforts to install the lagoon liners."

Part I.A.7.e.v. of the Permit (Amendment 3) which states in part: "By **June 30, 2009,** the permittee shall submit a report completed by a professional engineer registered in the state of Colorado indicating that the liners of the aerated lagoons have been replaced... Furthermore, if the facility opted not to line the polishing pond/lagoon, the facility must submit a completed permit application for discharge to groundwater."

REQUIRED CORRECTIVE ACTION

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

40. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, C.R.S., its implementing regulations promulgated thereto and the Permit.

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

41. The District shall immediately initiate efforts to monitor and report pursuant to the terms and conditions of the Permit. Within thirty (30) calendar days of receipt of this Order, the District shall submit a written certification to the Division outlining the District's actions to ensure that monitoring and reporting is timely performed pursuant to the terms and conditions of the Permit.

42. Within thirty (30) calendar days of receipt of this Order, the District shall retain the services of a professional engineer registered in the State of Colorado and experienced in domestic wastewater treatment to perform an evaluation of the Facility and recommend measures to ensure adequate treatment is provided such that all Permit-required effluent limitations are consistently met at Outfall 001A and that the Facility complies with all other terms and conditions of the Permit. The evaluation shall include, but not be limited to:

    a. An evaluation of all lagoons and other treatment processes to identify any deficiencies in the current Facility design;

    b. An evaluation to determine conclusive information on the seepage from the lagoon system that definitively determines if the allowable exfiltration rate of 10^{-6} centimeters per second is exceeded;

    c. A plan for installation of lagoon liners if the aerated lagoons are found to be seeping in excess of the maximum rate.

d. An evaluation of the Facility's current operation and maintenance practices to identify any deficiencies that impact the Facility's ability to comply with effluent limitations, and;

e. An evaluation, recommendation, and plan for upgrades and expansion of the domestic wastewater treatment works to address both the hydraulic and organic loading to the Facility and to ensure the Facility can attain current and future ammonia limitations.

43. Within forty five (45) calendar days of the receipt of this Order, The District shall provide documentation to the Division that it has retained the services of the qualified individual or entity described in paragraph 42. The 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.

44. Within ninety (90) calendar days of receipt of this Order, The District shall submit to the Division a report summarizing the results of the engineering evaluation identified in paragraph 42 above. The report shall also include a plan and time schedule for the implementation of specific interim and long-term measures that The District will complete to address the deficiencies identified through the evaluation and to ensure the Facility consistently meets effluent limitations and other terms and conditions of the Permit. This includes a specific plan and time schedule for commencing and completing construction of a treatment expansion and/or upgrades. The submitted plan and time schedule shall become a condition of this Order and The District shall implement the plan and time schedule as submitted unless notified by the Division, in writing, that an alternate plan or time schedule is appropriate. If the Division imposes an alternate plan or time schedule, it shall also become a condition of this Order.

45. The District shall submit written monthly progress reports to the Division outlining efforts taken to achieve compliance with this Order. The first report shall be submitted to the Division on or before October 1, 2012 and subsequent reports shall be due every month thereafter on the 1st day of the associated month. At a minimum, each report shall describe the activities undertaken since the last report and shall specify what activities will be undertaken within the next monthly reporting period in order to remain in compliance with this Order. The progress reports shall be required until closure of this Order or until the issuance of written notice from the Division that the reports are no longer necessary.

46. If any of the corrective measures require Division Site Location and Design Approval, the District shall timely file a completed Site Location and/or Design Approval request, in accordance with "Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, Regulation #22 (5 CCR 1002-22)." The District shall not initiate construction until such time as it has obtained the necessary Site Location and Design Approval as required by Section 25-8-702, C.R.S., or unless otherwise specifically authorized, in writing, by the Division.

47. If the District becomes aware of any situation or circumstances that cause the District to become unable to comply with any condition or time schedules set forth by this Order, the District shall provide written notice to the Division within seven (7) calendar days of the District becoming aware of such circumstances. The District's notice shall describe what, if any, impacts will occur on the District's ability to comply with the Colorado Water Quality Control Act and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.

48. All documents submitted under this Order shall be under the signature of the District and 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, the District 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, the District 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-WPC
Water Pollution Control Program Compliance and Enforcement Unit
Attention: Aly Moores
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-3163
Email: alysia.moores@state.co.us
Fax: (303) 782-0390

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

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 you are 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 803, 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 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 21st day of September, 2012.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Steven H. Gunderson, Director
WATER QUALITY CONTROL DIVISION

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL DIVISION

OPERATOR CERTIFICATION NOTICE OF VIOLATION **NUMBER: OC-120921-1**

IN THE MATTER OF: FLORISSANT WATER AND SANITATION DISTRICT
PUBLIC WATER SYSTEM IDENTIFICATION #: CO-0160175
COLORADO DISCHARGE PERMIT SYSTEM PERMIT #: CO-0041416
TELLER COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") by § 25-9-110(3) of the Colorado Revised Statutes ("C.R.S."), the Division hereby makes the following findings and issues this Operator Certification Notice of Violation:

GENERAL FINDINGS

1. At all times relevant to the violations cited herein, the Florissant Water and Sanitation District (the "District") was a "Special District" formed in Teller County, Colorado pursuant to the Special District Act, §§ 32-1-101 through 32-1-1702, C.R.S.

Drinking Water Treatment Facility/Distribution System

2. The District owns a drinking water system located in the vicinity of 220 West U.S. Highway 24, in or near the Town of Florissant, Teller County, Colorado (the "System").

3. The System is a public water system as defined by Colorado's drinking water statute, § 25-1.5-201(1), C.R.S., and its implementing regulation, 5 CCR 1003-1, § 1.5.2(107).

4. The Public Water System Identification Number ("PWSID") assigned to the System by the Division is PWSID #: CO-0160175.

5. The System's source of water is groundwater, as defined by 5 CCR 1003-1, § 1.5.2(63).

6. Division records establish that the System serves fewer than 3,300 persons.

7. The System includes a water treatment facility as defined by the Colorado Water and Wastewater Treatment Facility Operators Act (the "Act") at § 25-9-102(7), C.R.S., and its implementing regulation, 5 CCR 1003-2, § 100.2(32).

8. The System includes a water distribution system as defined by the Act at § 25-9-102(6), C.R.S., and its implementing regulation, 5 CCR 1003-2, § 100.2(31).

9. Pursuant to 5 CCR 1003-2, § 100.4.2, the System's water treatment facility is classified as "Class B."

10. Pursuant to 5 CCR 1003-2, § 100.7.2, the System's distribution system is classified as "Class 1."

Domestic Wastewater Treatment Facility/Collection System

11. The District owns domestic wastewater treatment and collection system infrastructure in the vicinity of the SW ¼, SE ¼, Section 2, T13S, R71W, 6th P.M., 38° 56.72' latitude North and 105° 17.85' longitude West, 2244 W Highway 24 , near the Town of Florissant, Teller County, Colorado (the "Facility").

12. The Facility is subject to the Colorado Discharge Permit System, Permit No. CO-0041416 (the "Permit"). The current version of the Permit became effective on July 1, 2005 and was set to expire on June 30, 2010. The Division has administratively extended the Permit until issuance of a renewal permit.

13. The Facility includes a domestic wastewater treatment facility as defined by the Act at § 25-9-102(4.5), C.R.S., and its implementing regulation, 5 CCR 1003-2, § 100.2(11).

14. The Facility includes a wastewater collection system as defined by the Act at § 25-9-102(4.9), C.R.S., and its implementing regulation, 5 CCR 1003-2, § 100.2(28).

15. Pursuant to 5 CCR 1003-2, § 100.5.2, the Facility's domestic wastewater treatment facility is classified as "Class C."

16. Pursuant to 5 CCR 1003-2, § 100.8.2, the Facility's domestic wastewater collection system is classified as "Class 1."

Failure to Have a Certified Operator in Responsible Charge

17. Pursuant to the Act at § 25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, § 100.18.1(a), no owner of a water treatment facility, water distribution system, wastewater collection system, and/or domestic or industrial wastewater treatment facility shall allow the facility to be operated without the direct supervision of an operator-in-responsible-charge certified in a classification equivalent to or higher than the classification of the facility as specified in 5 CCR 1003-2, §§ 100.4 through 100.8.

18. In accordance with 5 CCR 1003-2, § 100.18.5, the District shall operate the System with an operator-in-responsible-charge certified at or above the Class B Water Treatment and Class 1Water Distribution certifications.

19. In accordance with 5 CCR 1003-2, § 100.18.5, the District shall operate the Facility with an operator-in-responsible-charge certified at or above the Class C Wastewater Treatment and Class 1 Wastewater Collection certifications.

20. Pursuant to 5 CCR 1003-2, § 100.18.4(a), each owner of a water or wastewater facility shall submit in writing to the Division, no later than thirty (30) days following the date the facility is initially placed on-line and thereafter, no later than thirty (30) days after changes to any of the following information:

    a. Name, mailing address, phone number, and email address (if available) of the facility representative providing the information;
    b. Name, mailing address, phone number, email address (if available) and the classification and expiration of certification of all operator(s)-in-responsible-charge employed by the owner;
    c. Identification of the facility or facilities for which each operator-in-responsible-charge employed or contracted by the owner has responsibility;
    d. The Public Water System Identification (PWSID) number and the Colorado Discharge Permit System (CDPS) permit or certification number for all facilities listed.

21. Division records to-date establish that the District has failed to provide the Division with information or documents demonstrating that the System is operated under the direct supervision of an operator-in-responsible-charge, certified in a classification equivalent to or higher than Class B Water Treatment and Class 1 Water Distribution certifications.

22. Division records to-date establish that the District has failed to provide the Division with information or documents demonstrating that the Facility is operated under the direct supervision of an operator-in-responsible-charge, certified in classification equivalent to or higher than Class C Wastewater Treatment and Class 1 Wastewater Collection certifications.

23. The District's failure to operate its <u>water treatment facility</u> under the supervision of a certified operator with the proper classification constitutes violation(s) of § 25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, § 100.18.1(a) and § 100.18.5.

24. The District's failure to operate its <u>water distribution system</u> under the supervision of a certified operator with the proper classification constitutes violation(s) of § 25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, § 100.18.1(a) and § 100.18.5.

25. The District's failure to operate its <u>domestic wastewater treatment facility</u> under the supervision of a certified operator with the proper classification constitutes violation(s) of § 25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, § 100.18.1(a) and § 100.18.5.

26. The District's failure to operate its <u>wastewater collection system</u> under the supervision of a certified operator with the proper classification constitutes violation(s) of § 25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, § 100.18.1(a) and § 100.18.5.

REQUIRED ACTION

The Division hereby orders the District to comply with the following specific terms and conditions of this Operator Certification Notice of Violation.

27. Within twenty (20) calendar days from the date of this Notice of Violation, the District shall retain an operator-in-responsible-charge certified in classifications equivalent to or higher than the classifications of the System and an operator-in-responsible-charge certified in classifications equivalent to or higher than the classifications of the Facility as specified in the *Water and Wastewater Facility Operators Certification Requirements*, 5 CCR 1003-2.

28. Within forty-five (45) calendar days from the date of this Notice of Violation, the District shall submit to the Division the information specified in 5 CCR 1003-2, § 100.18.4(a), documenting that the System and the Facility are being operated under the supervision of an operator with the proper certification(s). The attached Contact Information form (for the drinking water System's operator-in-responsible-charge) and Operator in Responsible Charge Report form (for the wastewater Facilities' operator-in-responsible charge) may be used to report the required information. *(Please note that the System's and/or the Facility's classification(s) may change upon completion of any System/Facility improvements.)*

NOTICES AND SUBMITTALS

29. For all documents, plans, records, reports and replies required to be submitted by this Operator Certification Notice of Violation, the District shall submit an original and one copy (electronic is preferred) to the Division at the following address:

    Colorado Department of Public Health and Environment
    Water Quality Control Division / WQCD-B2-WPC
    Clean Water Compliance and Enforcement Unit
    Attention: Alysia Moores
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530
    Telephone: 303-692-3163
    Email: alysia.moores@state.co.us
    Fax: (303) 782-0390

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

30. For any person submitting documents, pursuant to this Operator Certification Notice of Violation, 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."

POTENTIAL CIVIL PENALTIES

31. You are also advised that any owner of a water treatment facility, a domestic or industrial wastewater treatment facility, a wastewater collection system, or a water distribution system in the State of Colorado who violates the Act at § 25-9-110(2), C.R.S., shall be subject to a civil penalty of not more than three hundred dollars ($300) per day for each day during which such violation occurs. By virtue of issuing this Operator Certification Notice of Violation, the Department has not waived its right to bring an action for civil penalties under the Act at § 25-9-110(5), C.R.S., and may bring such action in the future.

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

32. Pursuant to the Act at § 25-9-110(3), C.R.S., you are required to submit to the Division an answer to each alleged violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

33. Pursuant to the Act at § 25-9-110(4), C.R.S., and 5 CCR 1003-2, § 100.21.1, an alleged violator of the Act at § 25-9-110(2)(a), C.R.S., may request a public hearing to contest the contents of this Notice of Violation. Such request shall be filed in writing with the Division no later than thirty (30) days after service of this action, and shall contain, at a minimum, the information specified in 5 CCR 1003-2, §100.21.1(a-c). Hearings held pursuant to the Act at § 25-9-110(4), C.R.S., shall be conducted before the Colorado Water and Wastewater Facility Operators Certification Board in accordance with § 24-4-105, C.R.S. The filing of an answer does not constitute a request for hearing.

Issued at Denver, Colorado, this 21st day of September, 2012.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Steven H. Gunderson, Director
Water Quality Control Division

Colorado Department of Public Health and Environment

WASTEWATER OPERATOR IN RESPONSIBLE CHARGE REPORT

Return Form To:
Facility Operator Certification - WQCD
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

PLEASE Use Ink or Type

Classification of Treatment Facility: ☐ A ☐ B ☐ C ☐ D

Classification of Collection System: ☐ 1 ☐ 2 ☐ 3 ☐ 4

Customers Served (Population): _____

Discharge Permit or Certification #: _____

Permit Name: _____

Permittee Name: _____

Telephone: _____ E-mail: _____

ORC Wastewater Treatment

Operator ID#: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Name: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Mailing Address: _____

City, State Zip Code: _____

Telephone: _____ E-mail: _____

ORC Signature (Treatment): _____

ORC Wastewater Collection

Operator ID#: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Name: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Mailing Address: _____

City, State Zip Code: _____

Telephone: _____ E-mail: _____

ORC Signature (Collection System): _____

"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."

Name (please print): _____

Position: _____

Authorized Signature: _____

Date: _____

Telephone: 303-692-3510

PERMITTEE RESPONSIBILITIES

Article 9 of Title 25, C.R.S., requires that every domestic or industrial wastewater treatment facility and collection system be under the supervision of a certified operator, holding a certificate in a class equal to or higher than the class of the facility or system. A permittee who fails to comply with this requirement is subject to a penalty of $300 per day per violation.

"Direct supervision" means that the operator in responsible charge has supervisory responsibility and authority with respect to the operation of the wastewater facility and for the activities and functions of other facility operators.

The operator in responsible charge (ORC) is the person designated by the permitee of a wastewater facility to be the certified operator(s) who has ultimate responsibility for decisions regarding the daily operational activities of the facility that will directly impact the quality and/or quantity of treated wastewater or treated effluent."

There must be a designated operator in responsible charge or another designated operator certified at or above the level of the facility available for all operating shifts. "Available" means that the designated certified operator must either be on-site or must be able to be contacted as needed to make decisions and to initiate appropriate actions in a timely manner.

Section 100.18.4, Regulation 100, requires the owner(s) of each facility or system to formally designate the Operator in Responsible Charge and to report to the Division any changes no later than thirty days following any changes.

System Name - _____ *PWSID#* - _____

Contact Information

Revision? ☐ Actual date of changes described in this revision: - _____

Signature: _____ Date: - _____

System Physical Address: - _____

City: - _____ County: - _____ State: - Zip: - _____

System Phone: - _____ Ext: - _____ Fax: - _____

E-mail: - _____

Administrative Contact Name: - _____

(The administrative contact is the primary contact person for all Department mail or other communications regarding drinking water compliance.)

Mailing Address: - _____

City: - _____ State: - _____ Zip: - _____

Phone: - _____ Ext: - _____ Fax: - _____

E-mail: - _____

Legally Responsible Water System Owner Name: - _____

(The legal owner is an individual, corporation, partnership, association, state or political subdivision thereof, municipality, or other legal entity.)

Mailing Address: - _____

City: - _____ State: - _____ Zip: - _____

Phone: - _____ Ext: - _____ Fax: - _____

E-mail: - _____

Emergency Contact Name: - _____

(The emergency contact should be someone that the Department can contact in an emergency if the administrative contact is unavailable.)

Mailing Address: - _____

City: - _____ State: - _____ Zip: - _____

Phone: - _____ Ext: - _____ Fax: - _____

E-mail: - _____

Operator in Responsible Charge Name: - _____

(a certified operator designated by the owner to have ultimate responsibility for decisions regarding operational activities)

Operator ID#: - _____ (not the certificate number)

Certification Type: ☐ Treatment Level: - _____ Expiration Date: - _____

☐ Distribution Level: - _____ Expiration Date: - _____

Mailing Address: - _____

City: - _____ State: - _____ Zip: - _____

Phone: - _____ Ext: - _____ Fax: - _____

E-mail: - _____

Operator signature (if changing ORC): _____