

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

September 27, 2010

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

RE: Required Corrective Action Schedule Extension #3/ The Western Sugar Cooperative, Notice of Violation/ Cease and Desist Order Number: IO-100224-1

Dear Mr. Sullivan:

During an August 31, 2010 meeting between representatives of the Western Sugar Cooperative ("Western Sugar") and the Water Quality Control Division (the "Division"), Western Sugar requested an extension to the compliance dates required under paragraph 24 of the NOV/CDO. Paragraph 24 was previously revised in the Required Corrective Action Schedule Extension #2 letter ("Extension #2") from the Division to Western Sugar dated June 18, 2010. Extension #2 required Western Sugar to submit, within two hundred ten (210) calendar days of receipt of the Order, a final report on the findings of the evaluation of the Facility operation as identified and outlined in paragraph 22. In addition, Extension #2 revised paragraph 24 to require Western Sugar to identify specific short-term and long-term measures that will be taken by Western Sugar to rectify deficiencies identified by the evaluation. For each short-term and long-term measure identified, Western Sugar shall submit a time schedule for completion of each measure, and the implementation time schedule submitted must identify completion of all measures by no later than October 31, 2010.

As a result of discussion between the Division and Western Sugar during the August 31, 2010 meeting, Western Sugar decided to move forward with requesting a permit amendment to change the groundwater monitoring requirements of the current Western Sugar Permit (CDPS Permit Number CO-0041351) to surface water monitoring requirements. Western Sugar also submitted a formal request for permit variance under 5 CCR 1002-61, §61.12 on September 10, 2010. Since a permit amendment request will require Division evaluation, and a formal request for permit variance must be processed by both the Division and the Water Quality Control Commission, Western Sugar requested that the compliance dates under paragraph 24 of the NOV/CDO be extended.

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

By no later than December 31, 2010, Western Sugar shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 22 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures

that will be taken by Western Sugar to rectify deficiencies identified by the evaluation so that the Facility consistently produces effluent that meets the limitations identified in Part I.A.1 of the Amended Permit. For each short-term and long-term measure identified, Western Sugar shall also submit a time schedule for completion of each measure. The implementation time schedule submitted must identify completion of all measures by no later than January 31, 2011. 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
Andrew Neuhart, Permits Section, CDPHE
Gary Beers, Permits Section, CDPHE