

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. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
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<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

November 2, 2012

Pacific Registered Agents, Inc.
Rocky Mountain Vista Limited Partnership
44 Cook St., Suite 100
Denver, CO 80206

Certified Mail Number: 7012 1010 0002 1774 3651

RE: Service of Operator Certification Notice of Violation, Number: OW-121102-1

Dear Pacific Registered Agents, Inc.:

Rocky Mountain Vista Limited Partnership ("RMVLP") is hereby served with the enclosed Operator Certification Notice of Violation (the "NOV"). This NOV 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 NOV upon findings that you have violated the 5 CCR 1003-2, §100 ("Regulation 100") *Water and Wastewater Facility Operators Certification Requirements* as described in the enclosed NOV.

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

As a recipient of an NOV, RMVLP may request a formal hearing to contest the NOV 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 NOV. Such requests, at a minimum, shall contain the information specified in 5 CCR 1003-2, §100.21.1(a-c). Hearings on NOVs 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 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 NOV or the issuance of additional enforcement actions.

Should RMVLP desire to informally discuss this matter with the Department or if you have any questions regarding the NOV, please don't hesitate to contact Joe Campbell at (303) 692-2356 or by electronic mail at joseph.campbell@state.co.us.

Sincerely,



Michael Harris, Interim Unit Manager
Clean Water Compliance & Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure

- cc: Enforcement File
- ec: Trevor Jiricek, Weld County Dept. of Public Health and Environment
Gary Halbersleben, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Jackie Whelan, Facility Operators Program, CDPHE
Natasha Davis, EPA Region VIII
Nicole Grisham, Division of Environmental Health and Sustainability, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Joe Campbell, Case Lead, CDPHE
Tania Watson, Clean Water Compliance & Enforcement Unit, CDPHE



**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
WATER QUALITY CONTROL DIVISION**

OPERATOR CERTIFICATION NOTICE OF VIOLATION

NUMBER: OW-121102-1

**IN THE MATTER OF: ROCKY MOUNTAIN VISTA LIMITED PARTNERSHIP
ROCKY MOUNTAIN VISTA MOBILE HOME PARK
UNPERMITTED
WELD 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, Rocky Mountain Vista Limited Partnership ("RMV") was an Arizona limited partnership in good standing and registered to conduct business in the State of Colorado.

Domestic Wastewater Treatment Facility/Collection System

2. RMV owns and operates Rocky Mountain Vista Mobile Home Park and its wastewater treatment system, located at 12623 County Road 6, near the Town of Brighton, Weld County, Colorado, (the "Facility").
3. 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).
4. 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).
5. Pursuant to 5 CCR 1003-2, §100.5.2, the Facility's domestic wastewater treatment facility is classified as "Class D."
6. 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

7. 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.
8. In accordance with 5 CCR 1003-2, §100.18.5, RMV shall operate the Facility with an operator-in-responsible-charge certified at or above the Class D Wastewater Treatment and Class 1 Wastewater Collection certifications.
9. 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.
10. Division records to-date establish that RMV 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 D Wastewater Treatment and Class 1 Wastewater Collection certifications.
11. RMV's failure to operate its domestic wastewater treatment facility 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.
12. RMV's failure to operate its wastewater collection system 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 RMV to comply with the following specific terms and conditions of this Operator Certification Notice of Violation:

13. Within thirty (30) calendar days from the date of this Notice of Violation, RMV 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.
14. Within forty-five (45) calendar days from the date of this Notice of Violation, RMV 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 Wastewater Operator in Responsible Charge Report form 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

15. For all documents, plans, records, reports and replies required to be submitted by this Operator Certification Notice of Violation, RMV 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-CWE-B2
Clean Water Compliance and Enforcement Unit
Attention: Joseph Campbell
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303-692-2356
Email: joseph.campbell@state.co.us
Fax: (303) 782-0390

(For any facsimile transmittals, please include a cover sheet addressed to Mr. Campbell.)

16. 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

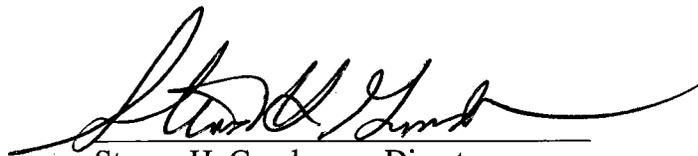
17. You are also advised that any owner of a water treatment facility, a domestic or industrial wastewater treatment facility, a wastewater collection system, or a water distribution system in the State of Colorado who violates the Act at §25-9-110(2), C.R.S., shall be subject to a civil penalty of not 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

18. 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.
19. 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 2nd day of November, 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: _____

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 permittee 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.