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

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Colorado Department
of Public Health
and Environment

November 23, 2011

The Corporation Company, Registered Agent
PacifiCorp
1675 Broadway, Suite 1200
Denver, Colorado 80202

Certified Mail Number: 7005 1820 0000 3212 8502

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-111122-1

Dear Corporation Company:

PacifiCorp 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 PacifiCorp has violated the Act, and/or Permit regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., PacifiCorp 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.

Should you or representatives of PacifiCorp desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact Kelly Morgan of this office by phone at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,

Russell Zigler

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

Enclosure(s)

cc: San Miguel County Department of Public Health and Environment

ec: Natasha Davis, EPA Region VIII (davis.natasha@epa.gov)
Tom Schaffer, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Andrew Neuhart, Permits Unit, CDPHE
Michael Beck, OPA
Tania Watson, Compliance Assurance, CDPHE
Mark Rudolph, HMWMD, CDPHE
Jeff Tucker, PacifiCorp (jeff.tucker@pacificorp.com)

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER **NUMBER: IO-111122-1**

IN THE MATTER OF: **PACIFICORP**
CDPS PERMIT NUMBER: CO-0046931
SAN MIGUEL 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 PacifiCorp was an Oregon corporation in good standing and registered to conduct business in the State of Colorado.

2. PacifiCorp 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. PacifiCorp owns and/or operates the Silver Bell Tailings Impoundment, located at latitude 37° 51' 44" N., longitude 107° 52' 24" W, approximately 1.5 miles west of the Town of Ophir, San Miguel County, Colorado (the "Facility").

4. The Facility is a reclaimed mill tailings impoundment with a passive treatment system for the treatment of contaminated water discharging from the impoundment. The impoundment contains 90,000 to 117,000 cubic yards (146,000 to 189,000 tons) of mill tailing material and it is overlain by a two foot soil cover and vegetative cover. The total area of disturbance associated with the impoundment and surrounding disturbed area is approximately 7 acres. PacifiCorp previously performed remedial work at the Facility under the Colorado Voluntary Cleanup and Redevelopment Act, as administered by the Colorado Department of Public Health and Environment. The passive wastewater treatment system constructed as part of the "VCUP Remedial Action" consists of a system of piping that collects seepage from the tailings impoundment and delivers it to an anoxic limestone

drain (the "ALD"). The ALD is followed by two treatment cells; the first treatment cell is intended to settle iron and other metals and the second treatment cell is intended to provide additional water quality polishing and pH adjustment. Water from the second treatment cell discharges into the existing wetlands area and subsequently flows into the Howard Fork of the San Miguel River.

5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO-0046931 (the "Permit"). The current Permit became effective on October 1, 2005. The Permit was amended with Amendment #1 and reissued effective March 1, 2008 (the "Amendment #1 Permit"). The Permit was modified to transfer ownership of the Permit from Lee Wynne and PacifiCorp to just PacifiCorp effective March 3, 2009. The Permit was subsequently amended with Amendment #2 and reissued effective August 1, 2010 (the "Amendment #2 Permit"). The Permit expired September 30, 2010 and has been administratively extended, pending permit reissuance.

6. The Permit authorizes PacifiCorp to discharge treated wastewater from the Facility through Outfalls 001 (tailings pile seeps to the wetlands area) and Outfall 002 (flow monitoring point for the East Toe Seep), into the Howard Fork of the San Miguel River. Outfall 001 was historically physically located at a discharge point following the wetland area. In 2008 PacifiCorp moved the Outfall 001 monitoring location closer to the ALD in order to obtain a better representation of tailings pile seepage and segregate impacts from stormwater and natural seep flows not in contact with the tailings pile. Outfall 001 is currently physically located at the V-Notch weir that transfers water from the second constructed treatment cell to the existing wetlands area, at latitude 37° 51' 49" N., longitude 107° 52' 29" W. Outfall 002 is located at the limestone drain discharge on the east side of the tailings impoundment at latitude 37° 51' 45" N., longitude 107° 52' 20" W and is used as a point to measure and report flow from the East Toe Seep.

   (Note: When the Permit became effective on October 1, 2005, the Permit included an authorization for a discharge from Outfall MON1, which was a database distinction assigned to Outfall 001 for monitoring only effluent parameters required to support a reasonable potential ("RP") analysis. The Amendment #1 Permit included a RP analysis and removed the monitoring and reporting requirements at MON1.)

7. Pursuant to 5 CCR 1002-61, §61.8, PacifiCorp 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.

8. The Howard Fork of the San Miguel River is a "state water" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).

Failure to Comply with Permit Effluent Limitations

9. Pursuant to Part I.A.1 of the Permit, PacifiCorp's permitted discharge at Outfall 001A shall not exceed the effluent limitations specified below:

Effluent Parameter	Discharge Limitations		
	30- Day Average	7-Day Average	Daily Maximum
Flow, MGD	0.004335	NA	Report
Total Suspended Solids (TSS), mg/l	30	45	NA
pH, s.u. (minimum- maximum)	NA	NA	6.5 - 9
Oil and Grease, mg/l	NA	NA	10
Total Dissolved Solids, mg/l	Report	NA	Report
WET, Acute Lethality Until 06/30/2008 Beginning 07/01/2008	 NA NA	 NA NA	 Report Statistical Difference and IC25>IWC

10. Pursuant to Part I.A.1. of the Amendment #1 Permit, PacifiCorp's permitted discharge at Outfall 001A shall not exceed the effluent limitations specified below:

Effluent Parameter	Discharge Limitations		
	30- Day Average	7-Day Average	Daily Maximum
Flow, MGD	0.004	NA	Report
Total Suspended Solids (TSS), mg/l	30	45	NA
pH, s.u. (minimum- maximum)	NA	NA	6.5 - 9
Oil and Grease, mg/l	NA	NA	10
Total Dissolved Solids, mg/l	Report	NA	Report
WET, Acute Lethality Until 06/30/2008 Beginning 07/01/2008	 NA NA	 NA NA	 Report Statistical Difference and IC25>IWC
Total Recoverable Iron, ug/l Until 12/31/2009 Beginning 01/01/2010	 Report 433,292	 NA NA	 Report Report
Potentially Dissolved Manganese, ug/l Until 12/31/2009 Beginning 01/01/2010	 Report 882,609	 NA NA	 Report 1,390,042
Potentially Dissolved Zinc, ug/l Until 12/31/2009 Beginning 01/01/2010	 Report 18,720	 NA NA	 Report 18,720

11. Pursuant to part I.A.1. of the Amendment #2 Permit, PacifiCorp's permitted discharge at Outfall 001A shall not exceed the effluent limitations specified below:

Effluent Parameter	Discharge Limitations		
	30- Day Average	7-Day Average	Daily Maximum
Flow, MGD	0.004	NA	Report
Total Suspended Solids (TSS), mg/l	30	45	NA
pH, s.u. (minimum- maximum)	NA	NA	3.9 - 9.0
Oil and Grease, mg/l	NA	NA	10
Total Dissolved Solids, mg/l	Report	NA	Report
WET, Acute Lethality Until 06/30/2008 Beginning 07/01/2008	 NA NA	 NA NA	 Report Statistical Difference and IC25≥IWC
Total Recoverable Iron, ug/l Until 12/31/2009 Beginning 01/01/2010	 Report 433,292	 NA NA	 Report Report
Potentially Dissolved Manganese, ug/l Until 12/31/2009 Beginning 01/01/2010	 Report 882,609	 NA NA	 Report 1,390,042
Potentially Dissolved Zinc, ug/l Until 12/31/2009 Beginning 01/01/2010	 Report 18,720	 NA NA	 Report 18,720

12. Pursuant to Part I.B.1. of the Permit, the Amendment #1 Permit, and the Amendment #2 Permit, PacifiCorp is required to monitor defined effluent parameters at specified frequencies to provide an indication of compliance or non-compliance with the effluent limitations of the Permit.

13. Pursuant to Part I.B.1. and Part I.D. of the Permit, the Amendment #1 Permit, and the Amendment #2 Permit, PacifiCorp is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly discharge monitoring reports. Each discharge monitoring report is to include a certification by PacifiCorp that the information provided therein is true, accurate and complete to the knowledge and belief of PacifiCorp.

14. PacifiCorp's discharge monitoring reports for the months of April 2007, May 2007, June 2007, August 2007, October 2007, April 2008, May 2008, June 2008, July 2008, August 2008, March 2009, April 2009, May 2009, June 2009, July 2009, August 2009, September 2009, October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2011, ,October 2010, November 2010, December 2010, January 2011, February 2011, March 2011, April 2011, May 2011, June 2011, July 2011, August 2011, and September 2011 include, among other information and data, the following effluent concentration data for total suspended solids, total recoverable iron, pH and flow which exceeded the effluent limitations imposed by Part I.A.1. of the Permit, the Amendment #1 Permit, and the Amendment #2 Permit.

PacifiCorp EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**SAMPLE MEASUREMENT**	**SAMPLE MEASUREMENT**
pH		MINIMUM LIMIT = **6.5 S.U.**	MAXIMUM LIMIT = **9.0 S.U.**
April 30, 2007	**001A**	4.57 s.u.	--
May 31, 2007	**001A**	4.41 s.u.	--
June 30, 2007	**001A**	5.33 s.u.	--
August 31, 2007	**001A**	3.68 s.u.	--
October 31, 2007	**001A**	3.3 s.u.	--
April 30, 2008	**001A**	5.7 s.u.	--
May 31, 2008	**001A**	5.5 s.u.	--
June 30, 2008	**001A**	5.8 s.u.	--
July 31, 2008	**001A**	6.2 s.u.	--
August 31, 2008	**001A**	6.0 s.u.	--
April 30, 2009	**001A**	5.6 s.u.	--
May 31, 2009	**001A**	5.2 s.u.	--
June 30, 2009	**001A**	4.3 s.u.	--
July 31, 2009	**001A**	4.3 s.u.	--
August 31, 2009	**001A**	3.7 s.u.	--
October 31, 2009	**001A**	5.8 s.u.	--
November 30, 2009	**001A**	6.3 s.u.	--
December 31, 2009	**001A**	4.4 s.u.	--
April 30, 2010	**001A**	5.6 s.u.	--
May 31, 2010	**001A**	3.9 s.u.	--
June 30, 2010	**001A**	3.8 s.u.	--
July 31, 2010	**001A**	2.81 s.u.	--
August 31, 2011	**001A**	3.7 s.u.	--
September 30, 2011	**001A**	3.7 s.u.	--

PacifiCorp EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**SAMPLE MEASUREMENT**	**SAMPLE MEASUREMENT**
TOTAL SUSPENDED SOLIDS		7-DAY AVG. LIMIT **= 45 mg/l**	30-DAY AVG. LIMIT **= 30 mg/l**
April 30, 2008	**001A**	81 mg/l	81 mg/l
May 31, 2008	**001A**	180 mg/l	170 mg/l
June 30, 2008	**001A**	230 mg/l	225 mg/l
July 31, 2008	**001A**	270 mg/l	205 mg/l
August 31, 2008	**001A**	200 mg/l	165 mg/l
March 31, 2009	**001A**	500 mg/l	500 mg/l
April 30, 2009	**001A**	--	41 mg/l
May 30, 2009	**001A**	73 mg/l	58.5 mg/l
July 31, 2009	**001A**	190 mg/l	122.5 mg/l
September 30, 2009	**001A**	77 mg/l	77 mg/l
November 30, 2009	**001A**	720 mg/l	720 mg/l
December 31, 2009	**001A**	95 mg/l	95 mg/l
January 31, 2010	**001A**	940 mg/l	940 mg/l
February 28, 2010	**001A**	240 mg/l	240 mg/l
March 31, 2010	**001A**	1700 mg/l	420 mg/l
April 30, 2010	**001A**	220 mg/l	117.5 mg/l
July 31, 2010	**001A**	58 mg/l	39.5 mg/l
November 30, 2010	**001A**	386 mg/l	215.5 mg/l
December 31, 2010	**001A**	392 mg/l	223.5 mg/l
January 31, 2011	**001A**	433 mg/l	240.5 mg/l
February 28, 2011	**001A**	73 mg/l	68 mg/l
March 31, 2011	**001A**	103 mg/l	68.5 mg/l
May 30, 2011	**001A**	--	31 mg/l
June 30, 2011	**001A**	47 mg/l	43.5 mg/l
July 31, 2011	**001A**	101 mg/l	65.5 mg/l

PacifiCorp EFFLUENT SELF-MONITORING DATA			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**SAMPLE MEASUREMENT**	**SAMPLE MEASUREMENT**
TOTAL SUSPENDED SOLIDS		7-DAY AVG. LIMIT **= 45 mg/l**	30-DAY AVG. LIMIT **= 30 mg/l**
August 31, 2011	**001A**	--	34 mg/l
IRON (TOTAL RECOVERABLE)			30-DAY AVG. LIMIT **= 433,292 µg/l Beginning January 1, 2010**
January 31, 2010	**001A**		440,000 µg/l
March 31, 2010	**001A**		530,000 µg/l
FLOW (IN CONDUIT OR THRU TREATMENT PLANT)			30-DAY AVG. LIMIT **= 0.004335 MGD Until April 30, 2008**
April 30, 2007	**001A**		0.0375 MGD
May 31, 2007	**001A**		0.0715 MGD
June 30, 2007	**001A**		0.012 MGD
October 31, 2007	**001A**		0.014 MGD
FLOW (IN CONDUIT OR THRU TREATMENT PLANT)			30-DAY AVG. LIMIT **= 0.004 MGD Beginning March 1, 2008**
April 30, 2009	**001A**		0.01332 MGD
May 31, 2009	**001A**		0.006048 MGD
April 31, 2010	**001A**		0.007992 MGD
October 31, 2010	**001A**		0.01103 MGD
April 30, 2011	**001A**		0.0132 MGD

15. Total suspended solids, total recoverable iron, pH and flow are "pollutants" as defined by §25-8-103(15), C.R.S. or indicators thereof.

16. Division records establish that the Permit, the Amendment #1 Permit, and the Amendment #2 Permit do not authorize the pollutant discharge levels identified above in paragraph 14 and PacifiCorp does not have any other permit authorizing such discharge into State Waters.

17. PacifiCorp's failure to comply with permit effluent limitations, as identified above in paragraph 14, constitutes violations of Part I.A.1. of the Permit, the Amendment #1 Permit, and the Amendment #2 Permit.

NOTICE OF VIOLATION

18. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that PacifiCorp has violated the following sections of the Permit, the Amendment #1 Permit, and the Amendment #2 Permit.

    Part I.A.1 of Permit No. CO-0046931 which states in part: "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), the permitted discharge shall not contain effluent parameter concentrations, which exceed the following limitations specified below or exceed the specified flow limitation"

REQUIRED CORRECTIVE ACTION

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

19. 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 Amendment #2 Permit.

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

20. Within thirty (30) calendar days of receipt of this Order, PacifiCorp shall retain the services of a qualified individual or entity, specifically experienced in mine remediation related wastewater treatment, to evaluate and recommend Facility improvements to ensure compliance with the terms and conditions of the Amendment #2 Permit. The evaluation must consider in detail the following:

    a. An evaluation of the personnel requirements and qualifications for the operation and management of the Facility, including an evaluation of each individual's role, duties, and responsibilities in ensuring the proper operation and maintenance of the Facility;

    b. An evaluation of all contributing pollutant sources and pollutant concentrations for all parameters/pollutants that could influence the treatment process, and what techniques or technologies may be utilized to produce effluent that is consistently in compliance with the Amendment #2 Permit effluent limits or the subsequently reissued permit;

    c. An evaluation of whether the Facility's treatment system as a whole is adequate to properly treat all contributing pollutant sources and pollutant concentrations to a level that consistently complies with the effluent limitations of the Amendment #2 Permit or the subsequently reissued permit.

21. Within forty five (45) calendar days of receipt of this Order, PacifiCorp shall provide documentation to the Division that it has retained the services of the qualified individual or entity identified in paragraph 20. This 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.

22. Within ninety (90) calendar days of receipt of this Order, PacifiCorp shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 20 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 PacifiCorp to rectify deficiencies identified by the evaluation so that the Facility consistently produces effluent in compliance with the limitations identified in Part I.A.1 of the Amendment #2 Permit or the subsequently reissued permit. For each short-term and long-term measure identified, PacifiCorp 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 June 30, 2012. The measures and time schedule submitted shall become a condition of this Order, and PacifiCorp 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.

23. Beginning in December 2011, and every calendar month thereafter, until such time as this Order is closed or the Division decrees so in writing, PacifiCorp shall submit written progress reports to the Division by the end of each calendar month. At a minimum, each report shall describe the activities undertaken in the previous calendar month and shall specify what activities will be undertaken within the next calendar month to comply with this Order.

24. If PacifiCorp becomes aware of any situation or circumstances that cause PacifiCorp to become unable to comply with any condition or time schedules set forth by this Order, PacifiCorp shall provide written notice to the Division within five (5) calendar days of PacifiCorp becoming aware of such circumstances. PacifiCorp's notice shall describe what, if any, impacts will occur on PacifiCorp's ability to comply with the Colorado Water Quality Control Act, its Permit and any impacts on the remaining conditions and/or time schedules specified by this Order and what steps PacifiCorp is taking to mitigate such impacts.

25. All documents submitted under this Order 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, PacifiCorp 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 PacifiCorp 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-CAS
Compliance Assurance Section
Attention: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: kelly.morgan@state.co.us
Fax: (303) 782-0390

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

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 22nd day of November, 2011.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Lori M. Gerzina

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