



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

November 24, 2014

Certified Mail Number: 7002 2410 0001 0130 3561

United States Corporation Company, Registered Agent
Hyatt Corporation
1560 Broadway, Suite 2090
Denver, Colorado 80202

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-141124-1

Dear Sir or Madam:

Hyatt Corporation is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). The 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 the NOV/CDO upon findings that Hyatt Corporation has violated the Act and/or permit or control regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Hyatt Corporation 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 Hyatt Corporation 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 me by phone at (303) 692-6498 or by electronic mail at andrea.beebout@state.co.us.

Sincerely,



Andrea Beebout, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Doug Linkhart, Denver Environmental Health
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Doug Camrud, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Lillian Gonzalez, Permits Section, CDPHE
Tania Watson, Compliance Assurance, CDPHE



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: IO-141124-1

IN THE MATTER OF: HYATT CORPORATION
CDPS PERMIT NO. COG603000
CERTIFICATION NO. COG603109
DENVER 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 alleged violations identified herein, Hyatt Corporation ("Hyatt") was a Delaware corporation in good standing and registered to conduct business in the State of Colorado.
2. Hyatt 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. Hyatt owns and/or operates the Hyatt Regency Denver at the Convention Center hotel located at 650 15th Street, within the City and County of Denver, Colorado, that includes two long-term subterranean dewatering vaults located within a parking garage structure (the "Facility").
4. The Facility is subject to the Colorado Discharge Permit System General Permit, Number COG603000 for discharges associated with subterranean dewatering or well development (the "Permit"). During the times relevant to the alleged violations identified herein, two versions of the Permit were in effect – the version that became effective September 25, 2007 (the "2007 Permit"), and the current version of the Permit that became effective on October 1, 2013, was modified with Modification #1 on June 1, 2014, and is set to expire on September 30, 2018 (the "2013 Permit").
5. On October 1, 2008, the Division provided Hyatt with authorization to discharge wastewater associated with subterranean dewatering activities under the 2007 Permit via Certification Number COG603109 (the "Certification"), which serves as page one (1) of the Permit. The Certification became effective under the 2007 Permit on October 1, 2008 and authorized Hyatt to discharge through Outfall 001A to Cherry Creek via a storm sewer located at the corner of 15th Street and California

Street. When the Certification was reissued under the 2013 Permit, Outfall 001A was relocated to authorize a discharge to Cherry Creek via a storm sewer located at the corner of 14th Street and California Street, and a second outfall, Outfall 002A, was added to authorize a discharge to Cherry Creek via a storm sewer located on 15th Street halfway between California Street and Welton Street.

- Pursuant to 5 CCR 1002-61, §61.8, Hyatt 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.

Failure to Comply with Permit Effluent Limitations

- Pursuant to Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification, Hyatt’s permitted discharge at Outfalls 001A and 002A shall not exceed, among others not subject of this action, the total suspended solids (“TSS”) effluent discharge limitations specified below:

HYATT EFFLUENT DISCHARGE LIMITATIONS		
EFFLUENT PARAMETER	30-DAY AVERAGE	7-DAY AVERAGE
Total Suspended Solids (“TSS”), mg/l	30	45

- Pursuant to Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification, Hyatt 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 2007 Permit and the 2013 Permit, and the Certification.
- Pursuant to Part I.E.1. of the 2007 Permit and the 2013 Permit, Hyatt is required to summarize and report the analytical results of its effluent monitoring to the Division via quarterly discharge monitoring reports (“DMRs”). Each DMR shall include a certification by Hyatt that the information provided therein is true, accurate, and complete to the knowledge and belief of Hyatt.
- Hyatt’s DMRs include, among other information and data, the following effluent concentration data for TSS which exceeded the effluent limitations in Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification:

HYATT EFFLUENT SELF-MONITORING DATA		
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 001A	
Total Suspended Solids (“TSS”), mg/l	30-DAY AVG. LIMIT= 30 mg/l	7-DAY AVG. LIMIT= 45 mg/l
3 rd Quarter 2012 (7/1/2012-9/30/2012)	46.7	46.7

HYATT EFFLUENT SELF-MONITORING DATA		
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 001A	
Total Suspended Solids ("TSS"), mg/l	30-DAY AVG. LIMIT= 30 mg/l	7-DAY AVG. LIMIT= 45 mg/l
4 th Quarter 2012 (10/1/2012-12/31/2012)	71.2	71.2
1 st Quarter 2013 (1/1/2013-3/31/2013)	75.5	145
1 st Quarter 2014 (1/1/2014-3/31/2014)	68.7	206
2 nd Quarter 2014 (4/1/2014-6/30/2014)	34.8	66
3 rd Quarter 2014 (7/1/2014-9/30/2014)	38	114
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 002A	
Total Suspended Solids ("TSS"), mg/l	30-DAY AVG. LIMIT= 30 mg/l	7-DAY AVG. LIMIT= 45 mg/l
2nd Quarter 2014 (4/1/2014-6/30/2014)	192	576

11. TSS is a "pollutant" or indicator thereof, as defined by §25-8-103, C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
12. The 2007 Permit and the 2013 Permit, and the Certification do not authorize the pollutant levels identified above in paragraph 10. Division records establish that Hyatt does not have any other permit authorizing such discharges into State Waters.
13. Hyatt's failure to comply with the effluent limitations constitutes violations of Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification.

Failure to Properly Monitor and Report

14. Pursuant to Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification, Hyatt 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 2007 Permit and the 2013 Permit, and the Certification.
15. Pursuant to Part I.E.1. of the 2007 Permit and the 2013 Permit, Hyatt is required to summarize and report the analytical results of its effluent monitoring to the Division via quarterly DMRs. The 2007 Permit and the 2013 Permit specify that the DMRs shall be filled out accurately and completely in

accordance with the requirements of the permit. Hyatt is required to ensure the DMRs are mailed to the Division so that they are received by the Division no later than the 28th day of the month following the reporting period. The 2007 Permit and the 2013 Permit specify that if no discharge occurs during the reporting period, "No Discharge" shall be reported on the DMR.

16. Division records establish that Hyatt failed to monitor for all required effluent parameters at Outfall 001A at the frequency required by Part I.B.2. of the 2007 Permit for the reporting periods listed below:

HYATT FAILURE TO MONITOR AT REQUIRED FREQUENCIES		
DMR REPORTING PERIOD	REQUIRED MONITORING FREQUENCY	REPORTED MONITORING FREQUENCY
1 st Quarter 2011 (1/1/2011-3/31/2011)	Monthly (3x/quarter)	1x/quarter
2 nd Quarter 2011 (4/1/2011-6/30/2011)	Monthly (3x/quarter)	2x/quarter
2 nd Quarter 2012 (4/1/2012-6/30/2012)	Monthly (3x/quarter)	1x/quarter
3 rd Quarter 2012 (7/1/2012-9/30/2012)	Monthly (3x/quarter)	2x/quarter
4 th Quarter 2012 (10/1/2012-12/31/2012)	Monthly (3x/quarter)	1x/quarter
1 st Quarter 2013 (1/1/2013-3/31/2013)	Monthly (3x/quarter)	2x/quarter

17. Division records establish that Hyatt failed to monitor for pH, TSS, oil and grease, flow, potentially dissolved selenium, toluene, benzene, ethylbenzene, and total xylenes at Outfall 002A during the 4th Quarter 2013 (10/1/2013-12/31/2013).
18. Division records establish that Hyatt failed to submit DMRs to the Division by the 28th day of the month following the end of the reporting periods identified in the table below:

HYATT LATE AND DELINQUENT DISCHARGE MONITORING REPORTS			
DMR REPORTING PERIOD	OUTFALL NUMBER	DMR DUE DATE	DMR RECEIPT DATE
4 th Quarter 2010 (10/1/2010-12/31/2010)	001A	1/28/2011	5/25/2011
2 nd Quarter 2011 (4/1/2011-6/30/2011)	001A	7/28/2011	10/4/2011
1 st Quarter 2012 (1/1/2012-3/31/2012)	001A	4/28/2012	DMR not received

HYATT LATE AND DELINQUENT DISCHARGE MONITORING REPORTS			
DMR REPORTING PERIOD	OUTFALL NUMBER	DMR DUE DATE	DMR RECEIPT DATE
2 nd Quarter 2012 (4/1/2012-6/30/2012)	001A	7/28/2012	11/19/2012
3 rd Quarter 2012 (7/1/2012-9/30/2012)	001A	10/28/2012	11/19/2012
4 th Quarter 2012 (10/1/2012-12/31/2012)	001A	1/28/2013	2/4/2013
1 st Quarter 2013 (1/1/2013-3/31/2013)	001A	4/28/2013	5/6/2013
4 th Quarter 2013 (10/1/2013-12/31/2013)	002A	1/28/2014	5/6/2014
1 st Quarter 2014 (1/1/2014-3/31/2014)	001A	4/28/2014	5/6/2014
1 st Quarter 2014 (1/1/2014-3/31/2014)	002A	4/28/2014	5/6/2014
2 nd Quarter 2014 (4/1/2014-6/30/2014)	001A	7/28/2014	8/6/2014
2 nd Quarter 2014 (4/1/2014-6/30/2014)	002A	7/28/2014	8/6/2014

19. Hyatt's failure to properly monitor defined effluent parameters at specified frequencies, as identified above in paragraphs 16 and 17, constitutes violations of Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification.
20. Hyatt's failure to submit DMRs to the Division so that they are received by no later than the 28th day of the month following the reporting period constitutes violations of Part I.E.1. of the 2007 Permit and the 2013 Permit.

NOTICE OF VIOLATION

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

Part I.B.2. of the 2007 Permit, which states in part: "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4 (5 CCR 002-62), and the Colorado Discharge Permit System Regulations, Section 61.8(2) (5 CCR 1002-61), at a minimum, the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations."

Part I.B.2. of the 2013 Permit, 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), 5.C.C.R. 1002-61, the permitted discharge shall not contain effluent parameter concentrations that exceed the limitations specified in Table B.1, B.2, B.3, or B.4 below...The permittee must monitor the effluent for all listed parameters at the frequency and sample types specified in Table B.1, B.2, B.3, or B.4, below...”

Part I.E.1. of the 2007 Permit, which states in part: “Reporting of the data gathered in compliance with Part I.B.2. shall be on a **quarterly** basis...the original copy of the form shall be mailed to the Division, as indicated below, so that the DMR is received no later than the 28th day of the month following the end of the quarter...”

Part I.E.1. of the 2013 Permit, which states in part: “Reporting of data gathered in compliance with Part I.B.2. shall be on a **quarterly** basis...the permittee must submit these forms either by mail, or by using the Division’s Net-DMR services...DMRs **must be** received by the Division no later than the 28th day of the month following the monitoring period...”

Certification (page one (1) of the permit), which defines the site specific effluent limitations and monitoring requirements.

REQUIRED CORRECTIVE ACTION

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

21. 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 Hyatt to comply with the following specific terms and conditions of this Order:

22. Within thirty (30) calendar days of receipt of this Order, Hyatt shall review the requirements of the Permit with its staff responsible for ensuring compliance with the terms and conditions of the 2013 Permit. The review shall focus on, but not be limited to, 1) the effluent limitations imposed by the 2013 Permit, 2) the effluent monitoring requirements of the 2013 Permit, 3) the record keeping requirements of the 2013 Permit, 4) the reporting requirements of the 2013 Permit, and 5) the noncompliance notification procedures required by the 2013 Permit. Within forty-five (45) calendar days of receipt of this Order, Hyatt shall submit a written plan outlining Hyatt’s actions to ensure compliance with the terms and conditions of the 2013 Permit. The plan shall include, but not be limited to: mechanisms to ensure access to Outfalls 001A and 002A for effluent monitoring purposes; mechanisms to ensure effluent monitoring is conducted in accordance with the 2013 Permit; and mechanisms to ensure that accurate and complete DMRs are submitted to the Division by no later than the 28th day of the month following the end of the reporting period, with consideration being given to applying for approval for the electronic submission of DMRs through the Network Discharge Monitoring Report System (NetDMR).

23. Within thirty (30) calendar days of the date of this Order, Hyatt shall retain a qualified individual or entity experienced in industrial wastewater treatment to evaluate the subterranean dewatering system at the Facility and recommend measures to ensure compliance with the 2013 Permit. The evaluation shall include, but not be limited to, an investigation of potential pollutant sources and associated wastewater treatment options, alternate wastewater handling strategies, and/or potential permit modifications, if applicable.
24. Within forty five (45) calendar days of the date of this Order, Hyatt shall provide documentation to the Division that it has retained the services of the qualified individual or entity described in paragraph 23. 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.
25. Within sixty (60) calendar days of the date of this Order, Hyatt shall submit to the Division a final report on the findings of the evaluation required by paragraph 23. Along with the findings of the evaluation, the report must include a final plan and time schedule for the implementation of specific wastewater treatment and/or alternate wastewater handling strategies that Hyatt will undertake to ensure that the subterranean dewatering system at the Facility reliably and consistently produces effluent in compliance with the 2013 Permit effluent limitations. The implementation and time schedule submitted must identify completion of all measures by no later than March 31, 2015. The measures and time schedule submitted shall become a condition of this Order, and Hyatt 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.
26. If Hyatt becomes aware of any situation or circumstances that cause Hyatt to become unable to comply with any condition or time schedules set forth by this Order, Hyatt shall provide written notice to the Division within five (5) days of Hyatt becoming aware of such circumstances. Hyatt's notice shall describe what, if any, impacts will occur on Hyatt'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.
27. 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, Hyatt shall revise the submitted document(s) the 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, Hyatt shall submit an original and an electronic copy to the Division at the following address:

Andrea Beebout
Colorado Department of Public Health and Environment

Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-6498
Email: andrea.beebout@state.co.us

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 _____ day of November, 2014.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Ron Falco, PE, Acting Director
WATER QUALITY CONTROL DIVISION