



COLORADO
Department of Public
Health & Environment

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

April 1, 2015

Town of Crook
Tracie Stump
PO Box 158
Crook, Colorado 80726

Certified Mail Number: 7012 1640 0000 0801 9229

RE: Service of Notice of Violation / Cease and Desist Order, Number: MO-150331-1

Dear Ms. Stump:

The Town of Crook 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 the Town of Crook has violated the Act and/or permit or control regulations promulgated pursuant to the Act and/or a permit, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., the Town of Crook 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. Pursuant to §25-8-608, C.R.S., the Division is authorized 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 your representatives 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) 692-2283 or by electronic mail at mandy.mercer@state.co.us.



Sincerely,



Mandy Mercer, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Melvin Bustos, Northeast Colorado Health Department
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Douglas Camrud, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Kenan Diker, Permits Section, CDPHE
Mike Harris, Clean Water Enforcement Unit, CDPHE
Tania Watson, Data Management, CDPHE





COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: MO-150331-1

IN THE MATTER OF: THE TOWN OF CROOK
 CDPS PERMIT NO. COG589000
 CERTIFICATION NO. COG589015
 LOGAN 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 Town of Crook (the "Town") was a municipality as defined by §31-1-101(6), C.R.S.
2. The Town 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 Town owns and/or operates the Crook wastewater treatment facility, located at 40°51'43.73" North and 102°47'46.74" West, near the Town of Crook, Logan County, Colorado (the "Facility").
4. The Facility is comprised of two non-aerated, facultative stabilization lagoons that are operated in series and designed to discharge treated wastewater via surface discharge into an unnamed ditch. The Facility includes two lift stations located within the collection system, one of which pumps municipal sewage from the collection system and transmits it to the lagoon system. The wastewater lagoons are located north of Highway 138 at the northeast corner of the Town. The Facility's service area consists of approximately seventy residential units, five non-industrial businesses, two churches, and one fire station. Based on Site Approval Number 2531, the Facility's approved hydraulic and organic loading capacities are 0.024 million gallons per day ("MGD") and 42.8 pounds biochemical oxygen demand ("BOD₅") per day, respectively.
5. The Facility is subject to the Colorado Discharge Permit System General Permit Number COG-589000 (the "Permit"). During the times relevant to the alleged violations identified herein, two versions of the Permit were in place: the version that was effective from October 1, 2008 through September 30, 2013 (the "2008 Permit"), and the current version of the permit that became

effective on October 1, 2013 and remains in effect until September 30, 2018 (the "2013 Permit"). The Town obtained authorization to discharge under the 2008 Permit and the 2013 Permit via Certification Number COG-589015 (the "2008 Certification" and "2013 Certification," respectively). The 2013 Certification became effective October 1, 2013 and remains in effect until September 30, 2018.

6. The 2008 Permit and 2008 Certification and the 2013 Permit and 2013 Certification authorize the Town to discharge treated wastewater from the Facility through Outfall 001A into an unnamed ditch. Outfall 001A is physically located at 40°51'46.84" North and 102°47'48.54" West. Outfall 001A is the only outfall permitted to the Town. The 2008 Permit and 2008 Certification and the 2013 Permit and 2013 Certification also include requirements to monitor influent loading to the Facility at a representative point prior to entering any lagoon and prior to any biological treatment, which is designated as Outfall 300I.
7. Pursuant to 5 CCR 1002-61, §61.8, the Town 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 Adhere to Permit Compliance Schedule

8. Pursuant to Part I.C.6. of the 2013 Permit, facilities that utilize lagoon treatment are required to have evidence that the lagoon liner meets the allowable seepage rate of 1×10^{-6} cm/second, and a compliance schedule may be included in the certification to show that a liner is in place and is functioning properly.
9. The 2013 Certification required the Town to investigate and submit conclusive information on the seepage from the lagoon system to determine if the allowable seepage rate of 1×10^{-6} cm/second is exceeded. The associated Inflow/Infiltration Report was due to the Division by October 1, 2014.
10. Division records establish that the Town failed to submit information documenting the seepage rate from the lagoon system.
11. The Town's failure to submit information documenting the seepage rate from the lagoon system constitutes a violation of Part I.C.6. of the 2013 Permit and the terms of the 2013 Certification.

Failure to Properly Monitor and Report

12. Pursuant to Part I.C.1. of the 2008 Permit and Part I.B.5. of the 2013 Permit, regardless of whether or not effluent discharge occurs at the Facility, and in order to obtain an indication of the current influent loading as compared to the approved capacity of the Facility, the Town is required to monitor influent parameters at specified frequencies and report the results of such monitoring on a Discharge Monitoring Report ("DMR").
13. Pursuant to Part I.C.2. of the 2008 Permit and Part I.B.1. of the 2013 Permit, in order to provide an indication of compliance or non-compliance with the effluent limitations of the Permit, the Town is required to monitor defined effluent parameters at specified frequencies and report the results on a DMR.
14. Pursuant to Part I.E.1. of the 2008 Permit and Part I.D.1. of the 2013 Permit, the Town is required to report all monitoring results on Division approved DMRs. The Town is required to ensure 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. Additionally, the Permit specifies that the DMR forms shall be filled out accurately and completely in accordance with requirements of the Permit and the instructions on the forms.

15. Division records establish that the Town’s DMR for Outfall 300I for the October 1-31, 2013 reporting period failed to report the percent hydraulic and the percent organic design capacities.
16. Division records, including DMRs, establish that the Town failed to submit DMRs to the Division by the 28th day of the month following the monitoring periods identified below:

Town of Crook LATE DMRS		
MONITORING PERIOD	OUTFALL NUMBER	DMR RECEIPT DATE
January 1-31, 2013	001A, 300I	Not Received
September 1-30, 2013	001A, 300I	February 20, 2014
October 1-31, 2013	001A, 300I	February 20, 2014
November 1-30, 2013	001A, 300I	June 26, 2014
December 1-31, 2013	001A, 300I	June 26, 2014
January 1-31, 2014	001A, 300I	May 2, 2014
February 1-28, 2014	001A, 300I	May 1, 2014
March 1-31, 2014	001A, 300I	April 29, 2014
April 1-30, 2014	001A, 300I	May 30, 2014
May 1-31, 2014	001A, 300I	October 29, 2014
June 1-30, 2014	001A, 300I	October 1, 2014
July 1-31, 2014	001A, 300I	October 6, 2014
August 1-31, 2014	001A, 300I	September 30, 2014
September 1-31, 2014	001A, 300I	October 29, 2014
December 1-31, 2014	001A, 300I	February 2, 2015

17. On July 17, 2013, a representative from the Division (the “Inspector”) conducted an on-site inspection of the Facility pursuant to the Division’s authority under §25-8-306, C.R.S., to determine the Town’s compliance with the Water Quality Control Act and the 2008 Permit. During the inspection, the Inspector interviewed Facility representatives, reviewed the Facility’s records, and performed a physical inspection of the Facility.
18. Prior to and during the July 17, 2013 inspection, the Inspector reviewed monitoring data that was submitted by the Facility on DMRs between July 2011 and June 2013. Among other findings, the Inspector noted that the Town calculated the 30-day average BOD₅ loading value incorrectly on the May 2013 DMR and subsequently reported an inaccurate 30-day average BOD₅ value. The Inspector noted that the Town was calculating the 30-day average BOD₅ loading values using the 30-day average influent flow value rather than by using the total daily influent flow value measured on the day the influent BOD₅ sample was collected.
19. The Town’s failure to report the percent hydraulic and percent organic design capacities, as identified in paragraph 15, constitutes a violation of Part I.B.5. of the 2013 Permit.
20. The Town’s failure to submit complete DMRs to the Division by the 28th day of the month following each reporting period, as identified in paragraph 16, constitutes violations of Part I.E.1. of the 2008 Permit and Part 1.D.1. of the 2013 Permit.

21. The Town's failure to accurately report influent 30-day average BOD₅ loading, as identified in paragraph 18, constitutes a violation of Part I.E.1. of the 2008 Permit.

Failure to Properly Monitor Flow

22. Pursuant to Part I.B.4. of the 2008 Permit and Part I.C.4. of the 2013 Permit, the Town shall at all times properly operate and maintain all facilities and systems of treatment and control including all portions of the collection system and lift stations owned by the permittee (and related appurtenances) which are installed or used by the permittee as necessary to achieve compliance with the conditions of the Permit.
23. Pursuant to Part I.E.3. of the 2008 Permit and Part I.D.3. of the 2013 Permit, samples and measurements taken for the respective identified monitoring points shall be representative of the volume and nature of all influent wastes received at the facility and the effluent discharged from the facility.
24. The 2008 Certification included a special condition that authorized the Town to calculate influent flow using calibrated pumping rates and run-time meters at the pump in the lift station that pumps municipal sewage from the collection system to the lagoon system. The 2008 Certification specified that pumping rates were to be calibrated twice per year in March and September. The 2008 Certification also required the Town to measure effluent flow instantaneously three times per week via a 90° V-notch weir at the effluent manhole prior to discharge.
25. Pursuant to Part I.B.2. of the 2013 Permit and the 2013 Certification, the Town is required to monitor effluent flow via a continuous flow measuring device equipped with a recorder or totalizer. The Town is authorized to use effluent flow measurements to report influent flow values. Footnote 7 beneath Table 2c in the Permit (Effluent Limitations for Lagoon Facilities with Design Flows Less than or Equal to 0.5 MGD) establishes that, where effluent flow measuring and recording devices are not in place at the time of certification, the permittee has one year from the end of the calendar month that certification was issued to install the required equipment. Therefore, the Town was required to install a continuous flow measuring device equipped with a recorder or totalizer to monitor effluent flow by no later than October 31, 2014.
26. Pursuant to Part I.E.7. of the 2008 Permit and Part I.D.7. of the 2013 Permit, the flow measuring device must be capable of indicating values within ten (10) percent of actual flow being measured.
27. During the July 17, 2013 inspection, the Inspector identified that the V-notch weir could not be used to measure effluent flow accurately. The Inspector noted that the metering manhole was configured in such a way that wastewater from the second lagoon flows into the manhole, over the V-notch weir, and into a discharge pipe that leads to Outfall 001A. However, the discharge pipe in the manhole is at a level higher than the entire V-notch dam; therefore, wastewater would have to rise above the V-notch dam before flowing into the pipe and subsequently discharging. Consequently, in the event of a discharge, the V-notch weir would be completely submerged and could not be used to measure flow.
28. During the July 17, 2013 inspection, the Inspector noted that Outfall 001A consists of a pipe that rises a few feet above the bottom of the unnamed ditch that it discharges to (the "riser pipe"). The riser pipe was installed to help obtain effluent samples from Outfall 001A. During the inspection, the Inspector noted that the riser pipe in the ditch was filled with liquid, and the liquid level in the riser pipe was the same as the wastewater level in the second lagoon as well as the

wastewater level in the metering manhole, suggesting hydraulic connectivity between each of these components.

29. Division records, as supplemented by the Town's Preliminary Engineering Report dated June 17, 2014, establish that the V-notch weir is not capable of measuring effluent flow accurately, was not equipped with a continuous flow measuring device, and that the metering manhole was in a state of disrepair. The Preliminary Engineering Report also noted that the Town estimates influent flow assuming the lift station pump operates at 250 gallons per minute ("gpm"). However, calibration tests of the pump conducted on January 27, 2014 establish that the actual operational capacity of the lift station pump is 63 gpm. Based on the discrepancy between the assumed and measured capacities of the lift station pump, calculating influent flow using pumping rates and run-time meters at the pump in the lift station was not a reliable and accurate method of quantifying wastewater flow into the first lagoon.
30. The Town's failure to maintain the metering manhole, V-notch weir, and discharge pipe so as to ensure accurate flow measurement, as identified in paragraphs 27 and 28, constitutes violations of Part I.B.4. of the 2008 Permit and Part I.C.4. of the 2013 Permit.
31. The Town's failure to install a continuous flow measuring device equipped with a recorder or totalizer and failure to properly monitor influent and effluent flow, as identified in paragraphs 27 and 29, constitutes violations of Parts I.E.3. and I.E.7. of the 2008 Permit, the 2008 Certification, Parts I.B.2., I.D.3. and I.D.7. of the 2013 Permit, and the 2013 Certification.

Failure to Maintain Records

32. Pursuant to Part I.E.6. of the 2008 Permit and Part I.D.6. of the 2013 Permit, the Town shall retain for a minimum of three (3) years records of all monitoring information, including all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by the Permit and records of all data used to complete the application for the Permit.
33. During the July 17, 2013 inspection, the Inspector identified that the Town did not have calibration records or other records to verify the accuracy of influent and effluent flow measurements.
34. The Town's failure to maintain records constitutes a violation of Part I.E.6. of the 2008 Permit.

Improper Sample Collection

35. Pursuant to Part I.C.1.b. of the 2008 Permit and Part I.B.5. of the 2013 Permit, the Town is required to collect composite samples of influent BOD₅ on a monthly basis.
36. Pursuant to Part I.D.6. of the 2008 Permit, composite samples must consist of a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow.
37. During the July 17, 2013 inspection, the Inspector reviewed the Town's methods for routine sampling and identified that for BOD₅ sample collection, the Town was collecting grab samples at time intervals that were not equally spaced and that were more than two hours apart.
38. The Town's failure to properly collect influent BOD₅ samples constitutes a violation of Part I.C.1.b. and Part I.D.6. of the 2008 Permit.

Failure to Meet Minimum Percent Removal Requirement

- 39. Pursuant to Part I.B.7.a of the 2008 Permit, the arithmetic mean of the BOD₅ concentration for the effluent samples collected during the calendar month shall demonstrate a minimum of eighty-five percent (85%) removal of BOD₅.
- 40. Pursuant to Part I.E.1. of the 2008 Permit, the Town was required to summarize monitoring results for each calendar month and report, among other parameters not subject to this action, the monthly average BOD₅ percent removal to the Division on monthly DMRs. Each DMR includes a certification by the Town that the information provided therein is true, accurate, and complete to the knowledge and belief of the Town.
- 41. The Town's DMR for the reporting period of March 1-31, 2010 for Outfall 001A reported a BOD₅ percent removal value of 36.2%.
- 42. The Town's failure to demonstrate a monthly minimum of 85% removal for BOD₅ constitutes of violation of Part I.B.7.a. of the 2008 Permit.

NOTICE OF VIOLATION

- 43. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that the Town of Crook has violated the following sections of the 2008 Permit, the 2008 Certification, the 2013 Permit, and the 2013 Certification.

Part I.C.6. of the 2013 Permit, which states: "For those facilities that use a lagoon as treatment for meeting the permit limitations, the Division will require evidence that the lagoon liner meets the allowable seepage rate of 1×10^{-6} cm/sec. The Certification for discharge may include a compliance schedule or other permit requirement to show that the liner is in place, and is functioning properly."

2013 Certification, which establishes the following compliance schedule item:

Event	Description	Due Date
Inflow/Infiltration Report	Investigate and submit conclusive information on the seepage from the lagoon system to determine if the allowable exfiltration rate of 10^{-6} cm/sec 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 Colorado.	10/01/2014

Part I.B.5. of the 2013 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 the certification and in Part I.B.; the permittee shall at least monitor the following influent parameters at the required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report ... Self-monitoring samples taken in compliance with the monitoring requirements specified shall be taken at the following location: Monitoring point 300I (or its equivalent as noted in the certification), at a representative point prior to any biological treatment."

<u>Influent Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>
Facility Capacity (% of Hydraulic Capacity)	Monthly	Calculated
Facility Capacity (% of Organic Capacity)	Monthly	Calculated

Part I.E.1. of the 2008 Permit, which states in part: "Reporting of the data gathered in compliance with Part I.B.1. shall be on a monthly basis. Reporting of all data gathered shall comply with the requirements of Part I.E. (General Requirements). Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms. One form shall be mailed to the Water Quality Control Division ... 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 ... The Discharge Monitoring Report forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms."

Part 1.D.1. of the 2013 Permit, which states in part: "The permittee must submit these forms either by mail, or by using the Division's Net-DMR services (when available). DMRs must be received by the Division no later than the 28th day of the month following the monitoring period. If no discharge occurs during the reporting period, "No Discharge" shall be reported on the DMR...The Discharge Monitoring Report forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms."

Part I.B.4. of the 2008 Permit and Part I.C.4. of the 2013 Permit, which state in part: "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control... and related appurtenances... which are installed or used by the permittee as necessary to achieve compliance with the conditions of the Permit."

Part I.E.3. of the 2008 Permit and Part I.D.3. of the 2013 Permit, which state in part: "Samples and measurements taken for the respective identified monitoring points...shall be representative of the volume and nature of: 1) all influent wastes received at the facility...; 2) the monitored effluent discharged from the facility..."

Part I.E.7. of the 2008 Permit and Part I.D.7. of the 2013 Permit, which state in part: "Flow metering at the headworks shall be provided to give representative values of throughput and treatment of the wastewater system. The metering device shall be equipped with a local flow indication instrument and a flow indication-recording-totalization device suitable for providing permanent flow records...For lagoons, an instantaneous or continuous effluent flow measuring device shall be required in addition to the above described influent flow measuring device. The flow-measuring device must indicate values within ten percent (10%) of the actual flow entering the facility."

2008 Certification, which establishes the following flow monitoring requirements:

Parameter	Sampling	
	Frequency	Type
<i>Permitted Feature ID: 001A</i>		
Flow, MGD	3x / Week	Instantaneous
<i>Permitted Feature ID: 300I</i>		
Flow, MGD	Continuous	Calculated

Special Conditions: Flow monitoring on the influent is determined using calibrated pumping rates and run-time meters at the influent pump station.

Part I.B.2. of the 2013 Permit and the 2013 Certification, which establish the following flow monitoring requirements:

Parameter	Sampling	
	Frequency	Type
<i>Permitted Feature ID: 001A</i>		
Flow, MGD	Continuous	Recorder
<i>Permitted Feature ID: 300I</i>		
Flow, MGD	Continuous ¹	Recorder ¹

¹ This treatment facility is authorized to use the reported effluent flow also for the reported influent flow
 Note: The Town was required to install a continuous flow measuring device equipped with a recorder or totalizer to monitor effluent flow by no later than October 31, 2014

Part I.E.6. of the 2008 Permit, which states in part: "The permittee shall retain for a minimum of three (3) years records of all monitoring information, including all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by this permit and records of all data used to complete the application for this permit."

Part I.C.1.b. of the 2008 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 the certification and in Part I, Section B.2.; the permittee shall monitor influent parameters at the following required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report."

<u>Influent Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>
Biochemical Oxygen Demand, 5-Day, lbs/day	Monthly	Calculated

Part I.D.6. of the 2008 Permit, which states: "A 'composite' sample, for monitoring requirements, is defined as a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow."

Part I.B.7.a. of the 2008 Permit, which states in part: "...the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations:"

<u>Effluent Parameter</u>	<u>Limitation (Daily Max)</u>
BOD ₅ , percent removal	85% (minimum)

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 Town of Crook is hereby ordered to:

- 44. 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 Town to comply with the following specific terms and conditions of this Order:

45. The Town shall immediately initiate measures to ensure that complete and accurate DMRs are submitted to the Division pursuant to the terms and conditions of the Permit. The Town is expected to review the requirements of the 2013 Permit and Certification with its staff responsible for ensuring compliance with the terms and conditions of the 2013 Permit and Certification. The review shall focus on, but not be limited to:
- a. The permit limitations imposed by the 2013 Permit and Certification;
 - b. The sampling methods used to collect composite samples;
 - c. The methods used to calculate loading, percent removal, and plant capacity values;
 - d. The Facility flow and monitoring requirements of the 2013 Permit and Certification;
 - e. The record keeping requirements of the 2013 Permit and Certification; and,
 - f. The reporting requirements of the 2013 Permit and Certification, including the instruction for proper completion and submittal of DMRs required by the 2013 Permit and Certification. In addition to information contained in the 2013 Permit, detailed instructions on how to properly calculate loading, percent removal, and facility capacity values are discussed in the Division's Discharge Monitoring Report Guidance Document, which can be found on the Division's webpage. Within thirty (30) calendar days of receipt of this Order, the Town shall submit a written plan to the Division outlining the actions the Town will take to ensure that complete and accurate DMRs are submitted to the Division by no later than the 28th day of the month following the end of a monitoring period. The written plan shall include a certification that the above-described terms, conditions, and guidance have been reviewed.
46. Within thirty (30) calendar days of receipt of this Order, the Town 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 that ensure proper operation and maintenance of the Facility take place, and that adequate treatment is provided such that the Facility complies with the terms and conditions of the 2013 Permit and Certification. At a minimum, the engineering evaluation should include, but not be limited to, the following items:
- a. An evaluation on the seepage from the lagoon system to determine if the allowable seepage rate of 1×10^{-6} cm/sec is exceeded. If seepage from the lagoon system is determined to exceed the allowable seepage rate, the evaluation shall include a plan for the installation of liners or other appropriate upgrades;
 - b. A plan to install the permit-required continuous effluent flow measurement device;
 - c. An evaluation of the current method used to determine influent and effluent flow rates and recommendations to ensure accurate flow measurements are recorded and reported on the DMRs until such a time that the permanent continuous effluent flow measurement device is installed (per item b above).
 - d. An evaluation of actions to be taken to ensure the effluent manhole and V-notch weir are structurally sound and operating effectively to allow for accurate effluent flow measurement;
 - e. An evaluation of the Facility and its treatment processes to identify any deficiencies in the current design of the Facility, which shall include but not be limited to: 1) an evaluation of the capacity of the current system; 2) an evaluation of any hydraulic connections between the Facility and state waters; 3) an evaluation of any hydraulic connections between individual components of the Facility; 4) an evaluation of the integrity of the discharge line from Lagoon Two into the unnamed ditch; 5) an evaluation of the need for disinfection treatment; and 6) an evaluation of the probability of the Facility being able to meet effluent limitations;

- f. An evaluation of measures to improve the Facility's current operation and maintenance practices to identify and correct any deficiencies that may impact the Facility's ability to comply with the 2013 Permit; and,
 - g. An evaluation and plan for upgrades or expansion of the Facility, if determined necessary, which will ensure the Facility has adequate treatment capacity and can reliably and consistently comply with the 2013 Permit and Certification.
47. Within forty-five (45) calendar days of receipt of this Order, the Town shall provide documentation to the Division that it has retained the services of the qualified individual or entity described in paragraph 46. 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 services, including a copy of the scope of services to be provided
48. Within ninety (90) calendar days of receipt of this Order, the Town shall submit to the Division a report summarizing the results of the engineering evaluation identified in paragraph 46. At a minimum, the report shall include a detailed narrative of each component described in paragraph 46, and an aggressive plan and schedule for the implementation of specific interim and long-term measures that the Town will complete to address the deficiencies identified through the engineering evaluation and to ensure the Facility consistently meets influent and effluent limitations and other terms and conditions of the 2013 Permit and Certification. This includes a specific plan and schedule for commencing and completing construction of Facility expansion and/or upgrades, if necessary. If any of the corrective measures require Division site location and design approval, the Town shall timely file a completed site location and/or design approval request in accordance with §25-8-702, C.R.S. and 5 CCR 1002-22. The Town shall not initiate construction until such time as it has obtained the necessary site location and design approval(s) as required by §25-8-702, C.R.S. and 5 CCR 1002-22, or unless otherwise specifically authorized, in writing, by the Division. The submitted plan and time schedule shall become a condition of this Order and the Town 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.
49. Within one hundred eighty (180) calendar days of receipt of this Order, and every ninety (90) days thereafter until the Division deems it no longer necessary, the Town shall submit a quarterly progress report to the Division summarizing the activities completed during the current quarter and activities planned for the next quarter.
50. If the Town becomes aware of any situation or circumstance that causes it to become unable to comply with any condition or time schedules set forth by this Order, the Town shall provide written notice to the Division within five (5) calendar days of becoming aware of such circumstances. The Town's notice shall describe what, if any, impacts will occur on its 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.
51. 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, the Town 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 Town 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-CWE-B2
Attention: Mandy Mercer
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-2283
Email: mandy.mercer@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.

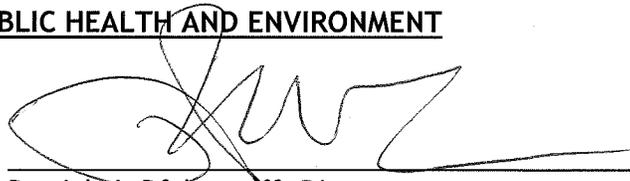
EFFECT OF ORDER

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 31st day of March, 2015.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Patrick J. Pfaltzgraff, Director
WATER QUALITY CONTROL DIVISION