

STATE OF COLORADO

John W. Hickenlooper, Governor
Karin McGowan
Interim Executive Director

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

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Colorado Department
of Public Health
and Environment

September 3, 2013

CDPS #: CO0040975
Michael Trujillo, Mayor
Town of Antonito
P.O. Box 86
Antonito, Colorado 81120-0086

Certified Mail Number: 7012 1010 0002 1774 4702

RE: Service of Notice of Violation/Cease and Desist Order, Number: MO-130830-1

Dear Mr. Trujillo:

The Town of Antonito (the "Town") 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 has violated the Act, and/or regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

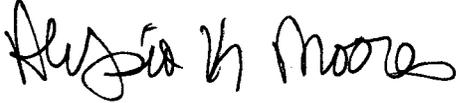
Pursuant to §25-8-603, C.R.S., the Town is required, within thirty (30) calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

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 the Town 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 Aly Moores of this office by phone at (303) 692-3163 or by electronic mail at alysia.moores@state.co.us

Sincerely,



Alysia Moores, Enforcement Specialist
Clean Water Compliance & Enforcement Unit
Water Quality Control Division

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Conejos County Health Department
Michael Trujillo, Town of Antonito (townofantonito@hotmail.com)
Michael Beck, Grants and Loans Unit, CDPHE
Amy Zimmerman, Engineering Section, CDPHE
Heather Drissel, Field Services Section, CDPHE
Erin Scott, Permits Section, CDPHE
Tania Watson, Compliance & Enforcement Unit, CDPHE
Barry Cress, DOLA



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: MO-130830-1

IN THE MATTER OF: TOWN OF ANTONITO
CDPS PERMIT NO. CO0040975
CONEJOS 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 Antonito (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 a Domestic Wastewater Treatment Works, located at NE 1/4, SE 1/4, Section 29, T33N, R9E, NMPM, near the Town of Antonito, Conejos County, Colorado, (the Facility").
4. The Facility consists of two aerated lagoons, a polishing pond, and chlorination. The Facility has a hydraulic capacity of 0.205 MGD and the organic capacity of 355 lbs BOD₅/day. The influent flow is measured by a continuous recorder and totalizer. The effluent flow is measured by a 90° v-notch weir.
5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO0040975 (the "Permit"). The current Permit became effective on December 1, 2007 and was set to expire November 30, 2012. The Permit has been administratively extended until issuance of a renewal permit.
6. The Permit authorizes the Town to discharge treated wastewater from the Facility through Outfall 001A, into Rio San Antonio. Outfall 001A is physically located following disinfection and prior to

mixing with the receiving stream. Outfall 001A is the only discharge outfall authorized by the Permit. The discharge is subject to the specific effluent limitations and other conditions of the Permit.

7. Outfall 001A is a “point source” as defined by §25-8-103(14), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (75).
8. The Rio San Antonio is “state waters” as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
9. 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 Comply with Permit Effluent Limitations

10. Pursuant to Part I.A.5. and Part I.A.6. of the Permit, the Town’s effluent at Outfall 001A shall not exceed, among others not subject of this action, the effluent discharge limitations and percent removal values specified below:

EFFLUENT PARAMETER	DISCHARGE LIMITATION	
	30-Day Average	7-Day Average
5-Day Biochemical Oxygen Demand (“BOD ₅ ”) (mg/l)	30	45
BOD ₅ Removal (%)	85	-
Fecal Coliform Bacteria (#/100mL)	200	400
Total Ammonia as Nitrogen (mg/L) Through December 31, 2011	30-Day Average	Daily Maximum
January through May	30.00	-
June	27.00	-
July	10.00	-
August	24.00	-
September and October	14.00	-
November	17.00	-
December	18.00	-
Total Ammonia as Nitrogen (mg/L) Beginning January 1, 2012	30-Day Average	Daily Maximum
January	16.00	32.00
February	24.00	Report
March	34.00	Report

	BOD ₅ Average	Limit
April	34.00	Report
May	4.40	19.00
June	3.70	20.00
July	3.20	21.00
August	3.30	20.00
September	3.50	19.00
October	4.50	20.00
November	33.00	Report
December	18.00	29.00

11. Pursuant to Part I.B.2. of the Permit, the Town is required to monitor effluent parameters at required frequencies in order to obtain an indication of the quality of the wastewater discharged from the Facility into the Rio San Antonio.
12. Pursuant Part I.D.2. of the Permit, the monitoring results of the samples collected at Outfall 001A are required to be summarized and reported to the Division via monthly Discharge Monitoring Report forms ("DMRs").
13. The DMRs for the months of January 2007, April 2008, October 2008, March 2009, March 2011, April 2011, June 2011, September 2011, November 2011, February 2012, May 2012, June 2012, September 2012, October 2012, November 2012, January 2013, and May 2013 include the following effluent data for BOD₅, BOD₅ Removal, Fecal Coliform Bacteria, Total Ammonia as Nitrogen and Total Suspended Solids, which exceeded the effluent limits listed in Part I.A.5. and Part I.A.6. of the Permit.

BOD ₅ (in mg/l)	Limit = 30 mg/l	Limit = 45mg/l
January 1 - January 31, 2007	47	47
April 1 – April 30, 2008	34	*
March 1 – March 31, 2011	51	51
April 1 – April 30, 2011	47	47
June 1 – June 30, 2011	33	*

REPORTING PERIODS OF SELF-MONITORED DATA OUT OF COMPLIANCE		
DMR Reporting Period and Parameter	30-Day Average	7-Day Average
BOD₅ Removal (in %)	Limit = 85 % (min.)	N/A
April 1 – April 30, 2011	80	-
Fecal Coliform Bacteria	Limit = 200 #/100mL	Limit = 400 #/mL
October 1 – October 31, 2008	486	486
March 1 – March 31, 2009	240	*
April 1 - -April 30, 2011	344	*
June 1 – June 30, 2011	452	452
September 1 – September 30, 2011	226	*
November 1 – November 30, 2011	240	*
February 1 – February 29, 2012	530	530
September 1 – September 30, 2012	345	*
November 1 - -November 30, 2012	540	540
January 1 – January 31, 2013	1,144	1,144
Total Suspended Solids	Limit = 75 (mg/L)	Limit = 110 (mg/L)
April 1 – April 30, 2008	82	*
Total Ammonia as Nitrogen		
Total Ammonia as Nitrogen	Reported Value (mg/L)	Reported Value (mg/L)
	Limit (mg/L)	Limit (mg/L)
May 1 – May 31, 2012	14	*
	4.4	19.00
June 1 – June 30, 2012	8.5	*
	3.7	20.00
October 1 – October 31, 2012	4.98	*
	4.5	20.00
May 1 – May 30, 2013	7.5	*
	4.4	19.00

*Data was excluded from the table as it did not constitute an effluent violation

14. BOD₅, BOD₅ Removal, Fecal Coliform Bacteria, Total Ammonia as Nitrogen and Total Suspended Solids are “pollutants,” or indicators thereof, as defined by §25-8-103(15), C.R.S., and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
15. The Town’s failure to comply with the effluent limitations set forth above constitutes violations of Part I.A.5. of the Permit.
16. The Town’s failure to comply with the minimum percent removal requirements (BOD₅ Removal) set forth above constitutes violations of Part I.A.6. of the Permit.

Failure to Properly Monitor and Report

17. Pursuant to Part I.B.1. of the Permit, regardless of whether or not effluent discharge occurs at the Facility, the Town is required to monitor influent parameters on a monthly basis and report the results on a DMR.
18. Pursuant to Part I.B.2. of the Permit, in order to obtain an indication of compliance or non-compliance with the effluent limitations specified in Part I.A.5 of the Permit, the Town is required to monitor effluent parameters at the frequencies specified by the Permit and report the results on a DMR.
19. Pursuant to Part I.D.2. of the Permit, the monitoring results of the samples collected at Outfall 001A are required to be summarized and reported to the Division via monthly DMR forms. The DMRs are required to be filled out accurately and completely, and the Town is required to ensure that the DMRs are mailed to the Division so that they are received no later than the 28th day of the month following the end of the monitoring period. If no discharge occurs during the reporting period, “No Discharge” shall be reported.
20. Division records, as supplemented by the Town’s DMRs, establish that the Town failed to submit DMRs by the due date required in Part I.D.2. of the permit, for the following reporting periods:

Reporting Period	Outfall	Permit Due Date	DMR Due Date
December 1 – December 31, 2007	001A	1/28/2008	3/19/2008
April 1 – April 30, 2008	001A	5/28/2008	8/13/2008
May 1 – May 31, 2008	001A	6/28/2008	8/13/2008
June 1 – June 30, 2008	001A	7/28/2008	12/9/2008
August 1 – August 31, 2008	001A	9/28/2008	12/9/2008
September 1 - -September 30, 2008	001A	10/28/2008	12/9/2008
December 1 – December 31, 2008	001A	1/28/2009	Not Received
January 1 – January 31, 2009	001A	2/28/2009	4/3/2009
April 1 – April 30, 2009	001A	5/28/2009	7/27/2009
July 1 – July 31, 2009	001A	8/28/2009	11/17/2009
August 1 – August 31, 2009	001A	9/28/2009	11/17/2009
January 1 – January 31, 2010	001A	2/28/2010	8/19/2010

DMR Reporting Period	Monitoring Point	DMR Due Date	DMR Recd Date
February 1 – February 28, 2010	001A	3/28/2010	8/19/2010
March 1 – March 31, 2010	001A	4/28/2010	8/19/2010
April 1 – April 30, 2010	001A	5/28/2010	8/19/2010
May 1 – May 31, 2010	001A	6/28/2010	Not Received
August 1 - -August 31, 2010	001A	9/28/2010	1/21/2011
January 1 – January 31, 2011	001A	2/28/2012	6/7/2011
May 1 – May 31, 2011	001A	6/28/2011	10/20/2011
June 1 – June 30, 2011	001A	7/28/2011	10/20/2011
July 1 – July 31, 2011	001A	8/28/2011	1/12/2012
August 1 – August 31, 2011	001A	9/28/2011	1/12/2012
September 1 – September 30, 2011	001A	10/28/2011	1/12/2012
October 1 – October 31, 2011	001A	11/28/2011	1/12/2012
January 1 – January 31, 2012	001A	2/28/2012	5/28/2013
July 1 – July 31, 2012	001A	8/28/2012	5/28/2013
August 1 – August 31, 2012	001A	9/28/2012	5/28/2013
September 1 – September 30, 2012	001A	10/28/2012	5/28/2013
October 1 – October 31, 2012	001A	11/28/2012	5/28/2013
November 1 – November 30, 2012	001A	12/28/2012	5/28/2013
December 1 – December 31, 2012	001A	1/28/2013	5/28/2013
January 1 – January 31, 2013	001A	2/28/2013	5/28/2013
February 1 – February 28, 2013	001A	3/28/2013	Not Received
March 1 – March 31, 2013	001A	4/28/2013	5/28/2013
April 1 – April 30, 2013	001A	5/28/2013	Not Received
June 1 – June 30, 2013	001A	7/28/2013	Not Received
July 1 – July 31, 2013	001A	8/28/2013	Not Received
December 1 – December 31, 2007	300I	1/28/2008	8/13/2008
April 1 – April 30, 2008	300I	5/28/2008	8/13/2008
May 1 – May 31, 2008	300I	6/28/2008	12/9/2008
June 1 – June 30, 2008	300I	7/28/2008	12/9/2008
August 1 – August 31, 2008	300I	9/28/2008	12/9/2008
September 1 - -September 30, 2008	300I	10/28/2008	12/9/2008
December 1 – December 31, 2008	300I	1/28/2009	Not Received
January 1 – January 31, 2009	300I	2/28/2009	7/27/2009
April 1 – April 30, 2009	300I	5/28/2009	11/17/2009
July 1 – July 31, 2009	300I	8/28/2009	11/17/2009
August 1 – August 31, 2009	300I	9/28/2009	8/19/2010
January 1 – January 31, 2010	300I	2/28/2010	8/19/2010
February 1 – February 28, 2010	300I	3/28/2010	8/19/2010

DMR Reporting Period	Monitoring Point	DMR Due Date	DMR Received Date
March 1 – March 31, 2010	300I	4/28/2010	8/19/2010
April 1 – April 30, 2010	300I	5/28/2010	8/19/2010
May 1 – May 31, 2010	300I	6/28/2010	Not Received
September 1 – September 30, 2010	300I	10/28/2010	1/21/2011
October 1 – October 31, 2010	300I	11/28/2010	1/21/2011
January 1 – January 31, 2011	300I	2/28/2011	6/7/2011
February 1 – February 28, 2011	300I	3/28/2011	6/7/2011
March 1 – March 31, 2011	300I	4/28/2011	6/7/2011
May 1 – May 31, 2011	300I	6/28/2011	10/20/2011
June 1 – June 30, 2011	300I	7/28/2011	10/20/2011
July 1 – July 31, 2011	300I	8/28/2011	1/12/2012
August 1 – August 31, 2011	300I	9/28/2011	1/12/2012
September 1 – September 30, 2011	300I	10/28/2011	1/12/2012
October 1 – October 31, 2011	300I	11/28/2011	1/12/2012
January 1 – January 31, 2012	300I	2/28/2012	Not Received
July 1 – July 31, 2012	300I	8/28/2012	5/28/2013
August 1 – August 31, 2012	300I	9/28/2012	5/28/2013
September 1 – September 30, 2012	300I	10/28/2012	5/28/2013
October 1 – October 31, 2012	300I	11/28/2012	5/28/2013
November 1 – November 30, 2012	300I	12/28/2012	5/28/2013
December 1 – December 31, 2012	300I	1/28/2013	5/28/2013
January 1 – January 31, 2013	300I	2/28/2013	5/28/2013
February 1 – February 28, 2013	300I	3/28/2013	5/28/2013
March 1 – March 31, 2013	300I	4/28/2013	5/28/2013
April 1 – April, 30, 2013	300I	5/28/2013	Not Received
June 1 – June 30, 2013	300I	7/28/2013	Not Received
July 1 – July 31, 2013	300I	8/28/2013	Not Received

21. Division records, as supplemented by the Town’s DMRs, establish that the Town failed to submit DMR data for the following reporting periods and parameters:

DMR Reporting Period	Monitoring Point
BOD, 5-day, 20 deg. C (30 day average)	
November 1 - November 30, 2009	300I
July 1 – July 31, 2011	300I
Total Suspended Solids (30 Day Average)	
November 1 - November 30, 2009	300I

22. Division records as supplemented by the Town's DMRs, establish that the Town failed to submit influent DMR data for the following reporting periods when "No Discharge" was reported for outfall 001A:

DMR Reporting Period	Monitoring Point	Influent DMR Data Reported
May 1 – May 31, 2011	300I	No data reported
July 1 – July 31, 2012	300I	No data reported
December 1 – December 31, 2012	300I	No data reported
February 1 – February 28, 2013	300I	No data reported

23. The Town's failure to monitor and/or submit complete DMR data for each influent parameter, for each reporting period regardless of whether or not an effluent discharge occurred, constitutes violations of Part I.B.1. and/or Part I.D.2. of the Permit.
24. The Town's failure to monitor and/or submit complete DMR data for each effluent parameter, for each reporting period, constitutes violations of Part I.B.2. and/or Part I.D.2. of the Permit.
25. The Town's failure to submit DMRs to the Division by the 28th day of the month following each reporting period constitutes violations of Part I.D.2. of the Permit.

Failure to Adhere to Permit Compliance Schedule

26. Pursuant to Part I.A.7.a. of the Permit, the Town was required to follow the schedule for construction (if deemed necessary) in order to meet the new ammonia limits that went into effect on January 1, 2012.

Permit	Activity	Milestone Date
Part I.A.7.a.i	The permittee shall complete plans and specifications for construction of facilities or activities determined to be necessary to meet the final Total Ammonia limitations, and submit them.	June 30, 2008
Part I.A.7.a.ii	The permittee shall begin implementing the approved plan for construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	October 31, 2008
Part I.A.7.a.iii	The permittee shall submit a construction progress report summarizing the progress in construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	June 30, 2009
Part I.A.7.a.iv	The permittee shall submit a second construction progress report summarizing the progress in construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	December 31, 2009
Part I.A.7.a.v	The permittee shall submit a third construction progress report summarizing the progress in construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	August 31, 2010
Part I.A.7.a.vi	The permittee shall complete construction of facilities or other appropriate actions, which will allow the permittee to meet the final Total Ammonia limitations.	January 1, 2012

27. Pursuant to Part I.A.7. and Part I.D.3.d. of the Permit, the Town was required to submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements by no later than 14 calendar days following each date identified in the schedules of compliance.
28. Division records establish that the Town failed to submit to the Division its complete plans and specifications for construction, notice that the approved plan for construction or other activities were being implemented, notice that construction was completed, or any of the progress reports and/or compliance/noncompliance notifications required by Part I.A.7. and Part I.D.3.d. of the Permit.
29. The Town's failure to submit the required compliance schedule reports and complete construction or other appropriate activities to meet the final Total Ammonia limitations constitutes violations of Part I.A.7. and Part I.D.3.d. of the Permit.

NOTICE OF VIOLATION

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

Part I.A.5. of the 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), the permitted discharge shall comply with the following limitations."

Part. I.A.6. of the Permit, which states in part: "In addition to the concentration limitations on BOD₅ indicated above, the arithmetic mean of the BOD₅ concentrations for effluent samples collected during the calendar month shall demonstrate a minimum of eighty-five percent (85%) removal of BOD₅..."

Part I.A.7. of the Permit, which states in part: "In order to meet Total Ammonia limits, the following schedule for construction (if deemed necessary by the permittee) will be included in the permit...No later than 14 calendar days following each date identified in the...schedules of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement."

Part I.B.1. of the 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 Part I, Section A.2.; the permittee shall monitor influent parameters at the following required frequencies, the results to be reported on the Discharge Monitoring Report..."

Part I.B.2. of the Permit, which states in part: “In order to obtain an indication of the probable compliance or non-compliance with the effluent limitations specified in Part I, Section A.5, the permittee shall monitor effluent parameters at the following required frequencies, the results to be reported on the Discharge Monitoring Report...”

Part I.D.2. of the Permit, which states in part: “Monitoring results shall be summarized for each month and reported on the Discharge Monitoring Report forms (EPA forms 3320-1). One form shall be mailed to the Water Quality Control Division, as indicated below 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 the requirements of this permit and the instructions on the forms...”

Part I.D.3.d. of the Permit, which states in part: “No later than 14 calendar days following each date identified in the compliance schedules in this permit, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.”

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 is hereby ordered to:

31. 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:

32. The Town shall immediately initiate measures to ensure complete DMRs are submitted to the Division pursuant to the terms and conditions of the Permit. Within thirty (30) calendar days of receipt of this Order, the Town shall submit a written plan and certification to the Division outlining the Town’s actions to ensure that DMRs are submitted to the Division accurately and completely by no later than the 28th day of the month following the end of a monitoring period.
33. 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 to ensure adequate treatment is provided such that all Permit-required effluent limitations are reliably and consistently met at Outfall 001A and that the Facility complies with all other terms and conditions of the Permit. The evaluation shall include, but not be limited to:

- a. An evaluation of all lagoons, the polishing pond, chlorination and other treatment processes to identify any deficiencies in the current Facility design;
 - b. An evaluation of the Facility's current operation and maintenance practices to identify any deficiencies that impact the Facility's ability to comply with effluent limitations, and;
 - c. An evaluation, recommendation, and plan for upgrades and improvements to ensure the Facility will reliably and consistently achieve compliance with all effluent limitations of the Permit, including current and future ammonia limitations.
34. Within forty five (45) calendar days of the 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 33. 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.
35. 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 33 above. The report shall also include a plan and an aggressive time schedule for the implementation of specific interim and long-term measures that the Town will complete to address the deficiencies identified through the evaluation and to ensure the Facility consistently meets effluent limitations and other terms and conditions of the Permit. This includes a specific plan and time schedule for commencing and completing construction of a treatment expansion and/or upgrades. 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.
36. In accordance with §25-8-702, C.R.S. and 5 CCR 1002-22, 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 as outlined in the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22 ("Regulation 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.
37. The Town shall submit written monthly progress reports to the Division outlining efforts taken to achieve compliance with this Order. The first report shall be submitted to the Division on or before November 1, 2013 and subsequent reports shall be due every month thereafter on the 1st day of the following month. At a minimum, each report shall outline activities completed in the previous month and planned activities for the next month to remain in compliance with this Order. The progress reports shall be required until closure of this Order or until the issuance of written notice from the Division that the reports are no longer necessary.

38. If the Town becomes aware of any situation or circumstances that cause the Town 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 the Town becoming aware of such circumstances. The Town's notice shall describe what, if any, impacts will occur on the Town'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.
39. All documents submitted under this Order shall be under the signature of the Town, 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: Aly Moores
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-3163
Email: alysia.moores@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 (\$10,000), or by imprisonment in the county jail for not more than six (6) 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 (\$10,000) 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 30th day of August 2013.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Steven H. Gunderson, Director
WATER QUALITY CONTROL DIVISION