

STATE OF COLORADO

John W. Hickenlooper, Governor
Larry Wolk, MD, MSPH
Executive Director and Chief Medical Officer

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

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
Located in Glendale, Colorado
www.colorado.gov/cdphe



Colorado Department
of Public Health
and Environment

September 26, 2014

Registered Agent Solutions, Inc
Re: Carestream Health, Inc
36 South 18th Avenue, Suite D
Brighton, CO 80601

Certified Mail Number: 7002 2410 0001 0130 3530

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-140924-1

Dear Sir or Madam:

Carestream Health, Inc 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 Twentymile Coal, LLC 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., Carestream Health, Inc 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 Carestream Health, Inc 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 Christy Pickens of this office by phone at (303) 692-3584 or by electronic mail at <mailto:christy.pickens@state.co.us>.

Sincerely,



Christy Pickens, Enforcement Specialist
Clean Water Compliance & Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Mark Wallace, Weld County Dept of Public Health & Environment
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Bret Icenogle, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Erin Scott, Permits Section, CDPHE
Tania Watson, Compliance & Enforcement Unit, CDPHE



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: IO-140924-1

IN THE MATTER OF: CARESTREAM HEALTH, INC.
CDPS PERMIT NO. CO0032158
WELD 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, Carestream Health, Inc. ("Carestream") was a Delaware corporation in good standing and registered to conduct business in the State of Colorado
2. Carestream 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. Carestream owns and/or operates the Carestream Health Colorado site located at 9952 Eastman Park Drive, near the Town of Windsor in Weld County, Colorado, (the "Facility"). The Carestream Health Colorado site houses both Carestream and Eastman Kodak Company ("Kodak") buildings and operations. Within the Facility, Carestream owns and/or operates a wastewater treatment facility that accepts and treats industrial wastewater generated from Carestream's and Kodak's operations (the "Wastewater Treatment Facility").
4. Carestream produces its own medical, dental and nondestructive x-ray film products as well as other coated paper and thin film materials. The industrial wastewater associated with these processes includes photo processing waste, silver recovery waste, reverse osmosis brine, ion exchange waste, and rinse water.
5. The Facility has three separate sewer systems: a joint storm sewer (managed under stormwater permit Number COR900698 currently held by Kodak Alaris Inc) which discharges to Cache la Poudre River, a joint sanitary sewer system that ties into the Town of Windsor's municipal wastewater treatment

facility, and a joint industrial sewer system. Only water that enters the joint industrial sewer system is treated at Carestream's Wastewater Treatment Facility. The industrial sewer system is a comprehensive network of drains designed to capture spills and releases. As such, the industrial sewer system collects waters from loading/unloading, storage, manufacturing, production, and clean-out areas across the plant site.

6. The Wastewater Treatment Facility is the subject of the Colorado Discharge Permit System, Permit Number CO0032158 (the "Permit"). The current Permit became effective on January 1, 2009 and was originally issued to Kodak but was transferred to Carestream, effective July 21, 2010. The Permit was set to expire on December 31, 2013 but was administratively continued pending permit reissuance.
7. The Permit authorizes Carestream to discharge treated wastewater from the Wastewater Treatment Facility through Outfall 001A, the final compliance point for discharge from the industrial wastewater treatment plant, into the west storm ditch, at approximately latitude 40.441250 north and longitude -104.872522 west. The west storm ditch subsequently discharges to the Cache la Poudre River. Outfall 001A is the only outfall permitted to Carestream.

Discharging Without a Permit

8. Pursuant to §25-8-501(1), C.R.S., and 5 CCR 1002-61, §61.3(1)(a), no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article.
9. Pursuant to 5 CCR 1002-65, §65.2(1), no person shall discharge any pollutant from a point source that flows directly into a storm sewer pipe or inlet to such pipe.
10. Division records establish that Carestream has reported the following wastewater releases to the Department's Environmental Release and Incident Line (the "Incident Line") between February 10, 2011 and September 4, 2014:

<u>CARESTREAM RELEASE NOTIFICATIONS</u>				
February 10, 2011 through September 4, 2014				
RELEASE DATE	NOTIFICATION DATE	LOCATION	TYPE OF MATERIAL/REPORTED QUANTITY RELEASED	RECEIVING WATER/MEDIUM
2/10/2011	2/11/2011 Incident Line, report # 2011-0072	Pipeline of closed cooling system	Water with corrosion inhibitors/12,900 gallons	Storm sewer/Cache la Poudre River
12/16/2011	12/17/2011 Incident Line, report # 2011-0893	Cooling tower underground connection pipeline	Cooling water/600 gallons	Storm sewer/Cache la Poudre River Soil/air interface
10/12/2012	10/12/2012 Incident Line, report # 2012-0709	Cooling tower	Cooling water/5,000 gallons	Storm sewer/Cache la Poudre River
1/7/2013	2/7/2013 Incident Line, report # 2012-0108	Cooling tower	Cooling water with corrosion inhibitors and biocide/150 gallons	Storm sewer/Cache la Poudre River

CARESTREAM RELEASE NOTIFICATIONS
February 10, 2011 through September 4, 2014

RELEASE DATE	NOTIFICATION DATE	LOCATION	TYPE OF MATERIAL/REPORTED QUANTITY RELEASED	RECEIVING WATER/MEDIUM
4/5/2013	4/8/2013 Incident Line, report # 2013-0236	Cooling tower	Cooling water with corrosion inhibitors/12,000 gallons	Storm sewer/Cache la Poudre River
1/6/2014	1/6/2014 Incident Line, report # 2014-0011	Cooling tower	Cooling water with corrosion inhibitors/3,000 gallons	Storm sewer/Cache la Poudre River
9/4/2014	9/5/2014 Incident Line, report #2014-0573	Steam System	Condensate/500 gallons	Storm sewer/Cache la Poudre River

11. The wastewater releases identified above contain, among other substances, biocide, algaecide, silver, and corrosion inhibitors. Based on Material Safety Data Sheets provided by Carestream, the biocide, algaecide, silver, and corrosion inhibitors may contain nitrate, sodium hypochlorite, sodium hydroxide, sodium nitrate, sodium nitrite, boric acid disodium pentahydrate, sodium metasilicate pentahydrate, magnesium nitrate, sodium bromide, phosphoric acid, zinc sulfate, sulfuric acid, methyl benzotriazole sodium salt, nonionic surfactant, nonionic alkyl polyglycoside, 2-propanamine, n-hydroxy, and diethylhydroxylamine. The biocide, algaecide, silver, and corrosion inhibitors, and associated chemicals, are “pollutants” as defined by §25-8-103(15), C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2 (76).
12. The Cache la Poudre River is a “state water” as defined by §25-8-103(19), C.R.S., and its implementing permit regulation 5 CCR 1002-61, §61.2 (102).
13. The Facility and its ancillary equipment (including but not limited to Facility infrastructure, cooling towers, lines, pipelines, gauges, and valves) as they relate to the discharge events identified in paragraph 10 above, are each 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).
14. Pursuant to Part II.A.8 of the Permit, any discharge to state waters from a point source other than those specifically authorized by the Permit is prohibited.
15. Carestream does not have any other permits authorizing the discharge of pollutants from the Facility and its ancillary equipment (including but not limited to Facility infrastructure, cooling towers, lines, pipelines, gauges, and valves) into the storm sewer or Cache la Poudre River.
16. Carestream’s discharge of biocide, algaecide, silver, and corrosion inhibitors into the Cache la Poudre River constitutes a “discharge of pollutants” as defined by §25-8-103(3), C.R.S.
17. Carestream’s discharge of biocide, algaecide, silver, and corrosion inhibitors into the storm sewer and Cache la Poudre River constitutes an unauthorized discharge of pollutants from a point source into state waters in violation of §25-8-501(1), C.R.S., 5 CCR 1002-61, §61.3(1)(a), 5 CCR 1002-65, §65.2(1), and Part II.A.8 of the permit.

Unauthorized Land Application

18. Pursuant to 5 CCR 1002-61, §61.14(1)(a), Carestream is required to obtain a permit for all land application discharges.
19. Division records establish that Carestream has reported the following releases to land or soil to the Department's Environmental Release and Incident Line (the "Incident Line") between April 9, 2012 through June 5, 2014:

<u>CARESTREAM RELEASE NOTIFICATIONS</u>			
April 9, 2012 through June 5, 2014			
RELEASE DATE	NOTIFICATION DATE	LOCATION	TYPE OF MATERIAL/REPORTED QUANTITY RELEASED
4/9/2012	4/10/2012 Incident Line, report # 2012-0245	Underground pipeline from the sanitary sewer system	Sewage/28,800 gallons
11/23/2013	11/25/2013 Incident Line, report # 2013-0796	Cooling tower	Cooling water with corrosion inhibitors/2,000 gallons
12/19/2013	12/19/2013 Incident Line, report # 2013-0850	Influent pipeline to the wastewater treatment plant	Partially treated wastewater/20gallons
3/6/2014	3/6/2014 Incident Line, report # 2014-0145	Industrial wastewater line near building C41	Industrial wastewater with silver/10 gallons
6/5/2014	6-June-2014 Incident Line, report # 2014-0361	Cooling tower	Cooling water with corrosion inhibitors and biocide/500 gallons

20. The wastewater releases identified above contain, among other substances, biocide, algacide, silver, corrosion inhibitors, and associated chemicals, as well as sewage that contains, among other substances, biochemical oxygen demand ("BOD"), total suspended solids ("TSS"), and fecal coliform bacteria. The biocide, algacide, silver, corrosion inhibitors, sewage, and associated chemicals are "pollutants" as defined by §25-8-103(15), C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
21. Carestream's discharges of biocide, algacide, silver, corrosion inhibitors, and sewage from the Facility to land or soil constitutes "land application" as defined by 5 CCR 1002-61, §61.2(48).
22. The Permit does not authorize the discharges from the Facility to land identified above in paragraph 19, and Carestream does not have any other permits authorizing the land application of biocide, algacide, silver, corrosion inhibitors, or sewage from its Facility.
23. Carestream's land applications do not meet any of the exemption criteria of 5 CCR 1002-61, §61.14(1)(a), and therefore are subject to the land application permit requirements.

24. Carestream's discharges of biocide, algacide, silver, corrosion inhibitors, and sewage from its Facility to the land constitute unauthorized land application in violation of 5 CCR 1002-61, §61.14(1)(a).

NOTICE OF VIOLATION

25. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Carestream has violated the following sections of the Colorado Water Quality Control Act, its implementing regulations, and the Permit.

Section 25-8-501(1), C.R.S., which states in part, "No person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article..."

5 CCR 1002-61, §61.3(1)(a), which states in part, "No person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge..."

5 CCR 1002-61, §61.14(1)(a), which states in part, "Pursuant to this section a permit shall be required for all land application discharges..."

5 CCR 1002-65, §65.2(1), which states, "No person shall discharge any pollutant from a point source that flow directly into a storm sewer pipe or inlet to such pipe."

Part II.A.8 of the Permit, which states, "Any discharge to waters of the State from a point source other than specifically authorized by this permit is prohibited."

REQUIRED CORRECTIVE ACTION

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

26. 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 Carestream to comply with the following specific terms and conditions of this Order:

27. Within thirty (30) calendar days of receipt of this Order, Carestream shall retain the services of a third party individual or entity, specifically experienced in cooling tower infrastructure to evaluate and recommend improvements that must be implemented by Carestream to ensure that the risk of infrastructure failure and/or future releases to the environment is eliminated or significantly minimized. The evaluation shall include, but not be limited to:

- a. An evaluation of the personnel requirements and qualifications of any and all personnel responsible for conducting cooling tower infrastructure inspections, reviewing the infrastructure reports, and/or executing and issuing work orders, including an evaluation of each individual's role, duties, certifications/ training, and responsibilities in relation to the infrastructure inspection program;
 - b. An evaluation of Carestream's current Spill Prevention, Control and Countermeasure Plan ("SPCC") and Materials Containment Plan ("MCP");
 - c. An identification of potential damage mechanisms, identification of the current cooling tower infrastructure conditions, evaluation of current cooling tower operation and maintenance activities, evaluation of the effectiveness of past inspections, and an evaluation of the effectiveness of past repairs;
 - d. A systematic assessment of the risk, probability, and the associated consequence of failure of Carestream's cooling tower infrastructure (including lines, pipelines, gauges, valves, etc associated with the cooling towers).
28. Within forty five (45) calendar days of receipt of this Order, Carestream shall provide documentation to the Division that it has retained the services of the qualified individual or entity identified in paragraph 27. This documentation shall include at a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for such services, including a copy of the scope of services to be provided.
29. Within one hundred eighty (180) calendar days of receipt of this Order, Carestream shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 27 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures that will be taken by Carestream to rectify deficiencies identified by the evaluation. For each short-term and long-term measure identified, Carestream shall also submit an aggressive time schedule for completion of each measure. The measures and time schedule submitted shall become a condition of this Order, and Carestream 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 alternative measures and/or time schedules, they shall also become a condition of this Order.
30. Beginning December 2014, and every calendar month thereafter, Carestream shall submit monthly progress reports to the Division by the end of each calendar 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 monthly progress reports shall be required until the issuance of written notice from the Division indicating that the reports are no longer necessary.
31. If Carestream becomes aware of any situation or circumstances that cause Carestream to become unable to comply with any condition or time schedules set forth by this Order, Carestream shall provide written notice to the Division within five (5) calendar days of Carestream becoming aware of such circumstances. Carestream's notice shall describe what, if any, impacts will occur on Carestream'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.

32. 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, Carestream 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, Carestream shall submit an original and an electronic copy to the Division at the following address:

Christy Pickens
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) 692-3584
Email: christy.pickens@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 24th day of September, 2014.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Ron Falco, P.E., Acting Director
WATER QUALITY CONTROL DIVISION