

# 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. Laboratory Services Division  
Denver, Colorado 80246-1530 8100 Lowry Blvd.  
Phone (303) 692-2000 Denver, Colorado 80230-6928  
Located in Glendale, Colorado (303) 692-3090

[www.colorado.gov/cdphe](http://www.colorado.gov/cdphe)



Colorado Department  
of Public Health  
and Environment

September 27, 2013

CDPS # COG589095

**Certified Mail Number: 7012 1010 0002 1774 4733**

Tom Schaeffer, President  
Western Mini-Ranch/ Vaquero Estates Sewer Assoc.  
P.O. Box 1435  
Berthoud, Colorado 80513

**RE: Service of Notice of Violation/Cease and Desist Order, Number: DO-130926-1**

Dear Mr. Schaeffer

Western Mini-Ranch/ Vaquero Estates Sewer Association (the "Association") 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 Association has violated the Act and/or permit or control regulations promulgated pursuant to the Act and/or Permit and Certification, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., the Association 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 Association 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](mailto:alysia.moores@state.co.us)

Sincerely,

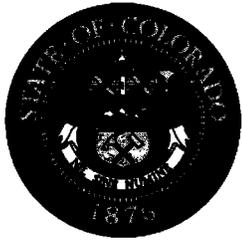


Aly Moores, Enforcement Specialist  
Clean Water Compliance & Enforcement Unit  
Water Quality Control Division

*Enclosure(s)*

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII  
Larimer County Health Department  
Western Mini-Ranch/Vaquero Estates Sewer Association, [ptwindyridge@aol.com](mailto:ptwindyridge@aol.com)  
Wayne Ramey, Operator in Responsible Charge  
Nicole Rowan, Watershed Section, CDPHE  
Michael Beck, Grants and Loans Unit, CDPHE  
Doug Camrud, Engineering Section, CDPHE  
Kelly Jacques, 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**

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**NOTICE OF VIOLATION / CEASE AND DESIST ORDER**

**NUMBER: DO-130926-1**

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**IN THE MATTER OF: WESTERN MINI-RANCH/VAQUERO ESTATES SEWER  
ASSOCIATION  
CDPS PERMIT NO. COG589000  
CDPS CERTIFICATION NO. COG589095  
LARIMER COUNTY, COLORADO**

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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, Western Mini Ranch/Vaquero Estates Sewer Association (the "Association") was a Colorado nonprofit corporation in good standing and registered to conduct business in the State of Colorado.
2. The Association 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 Association owns and/or operates a domestic wastewater treatment works located at or near 40.2930° Latitude, -105.1262° Longitude, near the Town of Berthoud, Larimer County, Colorado; (the "Facility").
4. The Facility consists of two aerated lagoons, a polishing pond, a holding pond and chlorination. The hydraulic capacity is 0.025 MGD with an organic capacity of 50 lbs. BOD<sub>5</sub>/day. The influent flow is measured by a 6 inch Palmer Bowles flume with a continuous totalizer and recorder.
5. The Facility is subject to the Colorado Discharge Permit System General Permit Number: COG589000 (the "Permit"). The Permit became effective on October 1, 2008 and was set to expire on October 31, 2010, but is currently administratively extended until the effective date of a 2013

renewal Permit. The Association is authorized to discharge under the Permit via Certification Number: COG589095 (the "Certification").

6. The Permit and Certification authorize the Association to discharge treated wastewater from the Facility through Outfall 001A, following the chlorine contact chamber and prior to entering Dry Creek.
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. Dry Creek 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 Association 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.B.7.b. of the Permit and Part VI.A.1. and Part VI.A.1.a. of the Certification, the Association's effluent at Outfall 001A shall not exceed, among others not subject to this action, the effluent discharge limitations and percent removal values specified below:

| <u>EFFLUENT PARAMETER</u>   | <u>DISCHARGE LIMITATION</u> |                      |                      |
|---|-----------------------------|----------------------|----------------------|
|   | <b>30-Day Average</b>       | <b>7-Day Average</b> | <b>Daily Maximum</b> |
| 5-Day Biochemical Oxygen Demand ("BOD <sub>5</sub> ") (mg/l)        | 30                          | 45                   | -                    |
| BOD <sub>5</sub> Percent Removal (%)                                | -                           | -                    | 85% (minimum)        |
| <i>E. coli</i> (#/100mL)  | 205                         | 410                  | -                    |
| Total Ammonia as Nitrogen (mg/L)<br><b>Through March 31, 2013</b>   | Report                      | Report               | -                    |
| <b>Total Ammonia as Nitrogen (mg/L)<br/>Beginning April 1, 2013</b> | <b>30-Day Average</b>       | <b>7-Day Average</b> | <b>Daily Maximum</b> |
| January   | 5.1                         | -                    | 13                   |
| February  | 4.7                         | -                    | 11                   |
| March   | 3.2                         | -                    | 7.3                  |
| April   | 1.9                         | -                    | 6.1                  |
| May   | 2.4                         | -                    | 7.9                  |
| June  | 3.0                         | -                    | 10                   |

| Total Ammonia as Nitrogen (mg/L)<br>Beginning April 1, 2013 | 30-Day<br>Average | 7-Day<br>Average | Daily<br>Maximum |
|---|-------------------|------------------|------------------|
| July  | 2.3               | -                | 9.7              |
| August  | 1.9               | -                | 7.9              |
| September   | 2.3               | -                | 8.7              |
| October   | 3.4               | -                | 11               |
| November  | 3.7               | -                | 11               |
| December  | 3.7               | -                | 8.9              |

11. Pursuant to Part I.C.2.b. of the Permit and Part VI.B.1. of the Certification, the Association 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 Dry Creek.
12. Pursuant Part I.E.1. 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 Association’s DMRs for the months listed in the table below include the following effluent data for BOD<sub>5</sub>, BOD<sub>5</sub> Percent Removal, *E. coli*, and Total Ammonia as Nitrogen, which exceeded the effluent limits listed in Part I.B.7.b. of the Permit and Part VI.A.1. and Part VI.A.1.a. of the Certification.

| <b>REPORTED EFFLUENT SELF-MONITORING DATA<br/>(OUTFALL 001A)</b> |                                  |                                 |                                 |
|--|----------------------------------|---------------------------------|---------------------------------|
| <b><u>DMR Reporting Period and<br/>Parameter</u></b>             | <b><u>30-Day<br/>Average</u></b> | <b><u>7-Day<br/>Average</u></b> | <b><u>Daily<br/>Maximum</u></b> |
| <b>BOD<sub>5</sub>, 20deg. C (in mg/L)</b>                       | <b>Limit = 30<br/>mg/L</b>       | <b>Limit = 45<br/>mg/L</b>      | <b>N/A</b>                      |
| October 1 – October 31, 2010                                     | 60                               | 60                              | -                               |
| June 1 – June 30, 2011   | 44                               | *                               | -                               |
| September 1 – September 30, 2011                                 | 36                               | *                               | -                               |
| March 1 – March 31, 2012   | 42                               | *                               | -                               |
| April 1 – April 30, 2012   | 46                               | 46                              | -                               |
| September 1 – September 30, 2012                                 | 34                               | *                               | -                               |
| October 1- October 31, 2012                                      | 60                               | 60                              | -                               |

| <b>REPORTED EFFLUENT SELF-MONITORING DATA<br/>(OUTFALL 001A)</b> |                              |                              |                             |
|--|------------------------------|------------------------------|-----------------------------|
| <b><u>DMR Reporting Period and Parameter</u></b>                 | <b><u>30-Day Average</u></b> | <b><u>7-Day Average</u></b>  | <b><u>Daily Maximum</u></b> |
| <b>BOD<sub>5</sub> Removal (in %)</b>                            | <b>Limit = 85 % (min.)</b>   | <b>N/A</b>                   | <b>N/A</b>                  |
| October 1- October 31, 2010                                      | 84.5                         | -                            | -                           |
| March 1 – March 31, 2012   | 84                           | -                            | -                           |
| <b><i>E. coli</i> (#/100mL)</b>                                  | <b>Limit = 205 (#/100mL)</b> | <b>Limit = 410 (#/100mL)</b> | <b>N/A</b>                  |
| June 1 – June 30, 2011   | 306                          | *                            | -                           |
| <b>Total Ammonia as Nitrogen Beginning April 1, 2013</b>         | Reported Value (mg/L)        | N/A                          | Reported Value (mg/L)       |
|  | <b>Limit (mg/L)</b>          | <b>N/A</b>                   | <b>Limit (mg/L)</b>         |
| April 1 – April 30, 2013   | 13.18                        | -                            | 13.18                       |
|  | <b>1.9</b>                   | -                            | <b>6.1</b>                  |
| May 1 – May 31, 2013   | 9.8                          | -                            | 9.8                         |
|  | <b>2.4</b>                   | -                            | <b>7.9</b>                  |
| June 1 – June 30, 2013   | 4.06                         | -                            | *                           |
|  | <b>3.0</b>                   | -                            | <b>10</b>                   |
| July 1 – July 31, 2013   | 8.15                         | -                            | *                           |
|  | <b>2.3</b>                   | -                            | <b>9.7</b>                  |

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

14. BOD<sub>5</sub>, BOD<sub>5</sub> Percent Removal, *E. coli*, and Total Ammonia as Nitrogen 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 Association’s failure to comply with the effluent limitations set forth above constitutes violations of Part I.B.7.b. of the Permit and Part VI.A.1. of the Certification.
16. The Association’s failure to comply with the minimum percent removal requirements (BOD<sub>5</sub> Removal) set forth above constitutes violations of Part I.B.7.b. of the Permit and Part VI.A.1.a. of the Certification.

**Failure to Properly Monitor and Report**

17. Pursuant to Part I.C.1. of the Permit, in order to obtain an indication of compliance or non-compliance with the effluent limitations specified in Part I.B.7.b. of the Permit and Part VI.A.1. and Part VI.A.1.a.

of the Certification, the Association is required to monitor influent parameters at the frequencies specified by the Permit and Certification and report the results monthly on a DMR.

18. Pursuant to Part I.C.2. of the Permit, in order to obtain an indication of compliance or non-compliance with the effluent limitations specified in Part I.B.7.b. of the Permit and Part VI.A.1. and Part VI.A.1.a. of the Certification, the Association is required to monitor effluent parameters at the frequencies specified by the Permit and Certification and report the results monthly on a DMR.
19. Pursuant to Part I.E.1. of the Permit, the Association's monitoring results 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 Association is required to ensure that the DMRs are mailed to the Division so that they are received no later than the 28<sup>th</sup> 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. Pursuant to Part I.C.1. and Part I.E.1. of the Permit, regardless of whether or not effluent discharge occurs at the Facility, the Association is required to monitor influent parameters on a monthly basis and report the results on a DMR.
21. Division records, as supplemented by the Association's DMRs, establish that the Association failed to submit DMRs by the 28th day of the month following the monitoring period, as required in Part I.E.1. of the Permit, for the following reporting periods:

| DMR Reporting Period             | Monitoring Point | DMR Due Date | DMR Received Date |
|----------------------------------|------------------|--------------|-------------------|
| January 1 – January 31, 2010     | 001A             | 2/28/2010    | 3/2/2010          |
| February 1 – February 28, 2010   | 001A             | 3/28/2010    | 3/31/2010         |
| March 1 – March 31, 2010         | 001A             | 4/28/2010    | 5/6/2010          |
| April 1 – April 30, 2010         | 001A             | 5/28/2010    | 6/4/2010          |
| May 1 – May 31, 2010             | 001A             | 6/28/2010    | 7/1/2010          |
| June 1 – June 30, 2010           | 001A             | 7/28/2010    | 7/29/2010         |
| July 1 – July 31, 2010           | 001A             | 8/28/2010    | 8/31/2010         |
| August 1 – August 31, 2010       | 001A             | 9/28/2010    | 9/30/2010         |
| September 1 – September 30, 2010 | 001A             | 10/28/2010   | 11/9/2010         |
| October 1 – October 31, 2010     | 001A             | 11/28/2010   | 12/8/2010         |
| November 1 – November 30, 2010   | 001A             | 12/28/2010   | 1/11/11           |
| December 1 – December 31, 2010   | 001A             | 1/28/2011    | 3/9/2011          |
| January 1 – January 31, 2011     | 001A             | 2/28/2011    | 3/18/2011         |
| February 1 – February 28, 2011   | 001A             | 3/28/2011    | 4/28/2011         |
| March 1 – March 31, 2011         | 001A             | 4/28/2011    | 5/25/2011         |
| April 1 – April 30, 2011         | 001A             | 5/28/2011    | 6/21/2011         |
| May 1 – May 31, 2011             | 001A             | 6/28/2011    | 7/7/2011          |

| DMR Reporting Period             | Monitoring Point | DMR Due Date | DMR Rcvd Date |
|----------------------------------|------------------|--------------|---------------|
| June 1 – June 30, 2011           | 001A             | 7/28/2011    | 8/4/2011      |
| July 1 – July 31, 2011           | 001A             | 8/28/2011    | 9/21/2011     |
| August 1 – August 31, 2011       | 001A             | 9/28/2011    | 10/20/2011    |
| September 1 – September 30, 2011 | 001A             | 10/28/2011   | 12/5/2011     |
| October 1 – October 31, 2011     | 001A             | 11/28/2011   | 12/22/2011    |
| November 1 – November 30, 2011   | 001A             | 12/28/2011   | 1/6/2012      |
| December 1 – December 31, 2011   | 001A             | 1/28/2012    | 2/9/2012      |
| January 1 – January 31, 2012     | 001A             | 2/28/2012    | 3/14/2012     |
| February 1 – February 28, 2012   | 001A             | 3/28/2012    | 3/30/2012     |
| March 1 – March 31, 2012         | 001A             | 4/28/2012    | 5/4/2012      |
| April 1 – April 30, 2012         | 001A             | 5/28/2012    | 6/14/2012     |
| May 1 – May 31, 2012             | 001A             | 6/28/2012    | 7/13/2012     |
| June 1 – June 30, 2012           | 001A             | 7/28/2012    | 8/9/2012      |
| July 1 – July 31, 2012           | 001A             | 8/28/2012    | 9/12/2012     |
| August 1 – August 31, 2012       | 001A             | 9/28/2012    | 10/11/12      |
| September 1 – September 30, 2012 | 001A             | 10/28/2012   | 11/8/2012     |
| October 1 – October 31, 2012     | 001A             | 11/28/2012   | 12/14/2012    |
| November 1 – November 30, 2012   | 001A             | 12/28/2012   | 1/14/2013     |
| December 1 – December 31, 2012   | 001A             | 1/28/2013    | 2/14/2013     |
| January 1 – January 31, 2013     | 001A             | 2/28/2013    | Not Received  |
| February 1 – February 28, 2013   | 001A             | 3/28/2013    | 7/15/2013     |
| January 1 – January 31, 2010     | 300I             | 2/28/2010    | 3/2/2010      |
| February 1 – February 28, 2010   | 300I             | 3/28/2010    | 3/31/2010     |
| March 1 – March 31, 2010         | 300I             | 4/28/2010    | 5/6/2010      |
| April 1 – April 30, 2010         | 300I             | 5/28/2010    | 6/4/2010      |
| May 1 – May 31, 2010             | 300I             | 6/28/2010    | 7/1/2010      |
| June 1 – June 30, 2010           | 300I             | 7/28/2010    | 7/29/2010     |
| July 1 – July 31, 2010           | 300I             | 8/28/2010    | 8/31/2010     |
| August 1 – August 31, 2010       | 300I             | 9/28/2010    | 9/30/2010     |
| September 1 – September 30, 2010 | 300I             | 10/28/2010   | 11/9/2010     |
| October 1 – October 31, 2010     | 300I             | 11/28/2010   | 12/8/2010     |
| November 1 – November 30, 2010   | 300I             | 12/28/2010   | 1/11/11       |
| December 1 – December 31, 2010   | 300I             | 1/28/2011    | 3/9/2011      |
| January 1 – January 31, 2011     | 300I             | 2/28/2011    | 3/18/2011     |
| February 1 – February 28, 2011   | 300I             | 3/28/2011    | 4/28/2011     |
| March 1 – March 31, 2011         | 300I             | 4/28/2011    | 5/25/2011     |
| April 1 – April 30, 2011         | 300I             | 5/28/2011    | 6/21/2011     |
| May 1 – May 31, 2011             | 300I             | 6/28/2011    | 7/7/2011      |

| DMR Reporting Period             | Monitoring Point | DMR Due Date | DMR Received Date |
|----------------------------------|------------------|--------------|-------------------|
| June 1 – June 30, 2011           | 300I             | 7/28/2011    | 8/4/2011          |
| July 1 – July 31, 2011           | 300I             | 8/28/2011    | 9/21/2011         |
| August 1 – August 31, 2011       | 300I             | 9/28/2011    | 10/20/2011        |
| September 1 – September 30, 2011 | 300I             | 10/28/2011   | 12/5/2011         |
| October 1 – October 31, 2011     | 300I             | 11/28/2011   | 12/22/2011        |
| November 1 – November 30, 2011   | 300I             | 12/28/2011   | 1/6/2012          |
| December 1 – December 31, 2011   | 300I             | 1/28/2012    | 2/9/2012          |
| January 1 – January 31, 2012     | 300I             | 2/28/2012    | 3/14/2012         |
| February 1 – February 28, 2012   | 300I             | 3/28/2012    | 3/30/2012         |
| March 1 – March 31, 2012         | 300I             | 4/28/2012    | 5/4/2012          |
| April 1 – April 30, 2012         | 300I             | 5/28/2012    | 6/14/2012         |
| May 1 – May 31, 2012             | 300I             | 6/28/2012    | 7/13/2012         |
| June 1 – June 30, 2012           | 300I             | 7/28/2012    | 8/9/2012          |
| July 1 – July 31, 2012           | 300I             | 8/28/2012    | 9/12/2012         |
| August 1 – August 31, 2012       | 300I             | 9/28/2012    | 10/11/12          |
| September 1 – September 30, 2012 | 300I             | 10/28/2012   | 11/8/2012         |
| October 1 – October 31, 2012     | 300I             | 11/28/2012   | 12/14/2012        |
| November 1 – November 30, 2012   | 300I             | 12/28/2012   | 1/14/2013         |
| December 1 – December 31, 2012   | 300I             | 1/28/2013    | 2/14/2013         |
| January 1 – January 31, 2013     | 300I             | 2/28/2013    | Not Received      |
| February 1 – February 28, 2013   | 300I             | 3/28/2013    | 7/15/2013         |

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

| DMR Reporting Period                                  | Monitoring Point |
|---|------------------|
| <b>BOD, 5-day, 20 deg. C (lb/d)</b>                   |                  |
| January 1 – January 31, 2010                          | 300I             |
| February 1 – February 28, 2010                        | 300I             |
| March 1 – March 31, 2010                              | 300I             |
| April 1 – April 30, 2010                              | 300I             |
| May 1 – May 31, 2010                                  | 300I             |
| June 1 – June 30, 2010                                | 300I             |
| <b>Total Residual Chlorine (mg/L)</b>                 |                  |
| June 1 – June 30, 2011                                | 001A             |
| <b>Flow, in conduit or thru treatment plant (MGD)</b> |                  |
| November 1 – November 30, 2012                        | 001A             |

23. The Association's failure to monitor and/or submit DMR data by the 28<sup>th</sup> day of the month following each monitoring period, for each influent parameter, constitutes violations of Part I.C.1. and/or Part I.E.1. of the Permit.
24. The Association's failure to monitor and/or submit complete DMR data by the 28<sup>th</sup> day of the month following each monitoring period, for each effluent parameter, constitutes violations of Part I.C.2. and/or Part I.E.1. of the Permit.

**Failure to Adhere to Permit Compliance Schedule**

25. Pursuant to Part I.B.6. of the Permit and Part VI.B.2 of the Certification, the Association was required through a compliance schedule to address the planning, reporting and construction necessary for upgrading the Facility's treatment in order to attain new ammonia limits that went into effect on April 1, 2013. The Association's compliance schedule included:

| <b>Compliance Schedule: Activities to Meet Ammonia Limits</b> |                                      |  |                        |                 |
|---|--------------------------------------|--|------------------------|-----------------|
| <b>Code</b>   | <b>Event</b>                         | <b>Description</b>   | <b>Permit Citation</b> | <b>Due Date</b> |
| 21599   | Plan of Study                        | Submit report or documentation showing options available to meet ammonia limits. Note that additional treatment may be subject to site approval process. | Part I.A.7.            | 3/31/09         |
| CS010   | Status Progress Report 1             | Submit report summarizing progress   | Part I.A.7.            | 3/31/10         |
| CS010   | Status Progress Report 2             | Submit report summarizing progress   | Part I.A.7.            | 3/31/11         |
| CS010   | Status Progress Report 3             | Submit report summarizing progress.  | Part I.A.7.            | 3/31/12         |
| CS022   | Complete required studies and plans. | Complete and submit documentation of construction or other appropriate actions and begin meeting new limits.   | Part I.A.7.            | 3/31/13         |

26. Division records establish that the Association failed to submit to the Division any reports or documentation of available options to meet ammonia limits, documentation that construction or other appropriate actions were completed, or any of the progress reports required by Part I.B.6. of the Permit and Part VI.B.2. of the Certification. Consequently, as documented in paragraph 13 above, the Association has failed to meet the new ammonia limits.
27. The Association's failures to submit the required compliance schedule reports and to complete construction or other appropriate activities to meet the 2013 ammonia limits, constitute violations of Part I.B.6. of the Permit and Part VI.B.2 of the Certification.

## NOTICE OF VIOLATION

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

**Part I.B.6. of the Permit**, which states in part, “If necessary, any compliance schedule items will be noted in the certification to discharge.”

**Part VI.B.2. of the Certification**, which states in part, “A schedule will be instituted to provide a reasonable and adequate amount of time for the affected facility to address the planning, reporting and construction necessary for upgrading their treatment facility to attain new ammonia limitations” and includes due dates for the submittal of several reports and the completion of construction of other appropriate actions.

**Part I.B.7.b. 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 not contain effluent parameter concentrations, which exceed the following limitations:”

**Part VI.A.1. of the Certification**, which states in part, “Based on the information presented in Sections I-V, above, the facility meets the requirements for certification as required at Part I.A.2. of the general permit. The effluent limitations contained in Tables VI-1 and VI-2 will apply and are discussed in Section VI.A.2.”

**Part VI.A.1.a. of the Certification**, which states in part, “In addition to the concentration limitations for BOD<sub>5</sub> ... indicated above, unless this provision has been specifically waived in the certification, the arithmetic mean of the BOD<sub>5</sub>... if identified in the certification, ... for effluent samples collected during the calendar month shall demonstrate a minimum of eighty-five percent (85%) removal of BOD<sub>5</sub>...”

**Part I.C.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 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...”

**Part I.C.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 B.2., the permittee shall monitor effluent parameters at the following required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report...”

**Part I.E.1. of the Permit**, which states in part, “Reporting of the data gathered in compliance with Part I.B.1 shall be on a **monthly** basis. ... Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms (EPA form 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 (for example, the DMR for the first calendar quarter must be received by the Division by April 28th). If no discharge occurs during the reporting period, "No Discharge" shall be reported."

### **REQUIRED CORRECTIVE ACTIONS**

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

29. 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 and Certification.

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

30. Within thirty (30) calendar days of receipt of this Order, the Association shall review the requirements of the 2013 renewal Permit and Certification with its staff responsible for ensuring compliance with the terms and conditions of the 2013 renewal Permit and Certification. The review shall focus on, but not be limited to, 1) the effluent limitations imposed by the 2013 renewal Permit and Certification, 2) the effluent and influent monitoring requirements of the 2013 renewal Permit and Certification, 3) the record keeping requirements of the 2013 renewal Permit and Certification, 4) the reporting requirements of the 2013 renewal Permit and Certification, 5) the proper operation and maintenance requirements of the 2013 renewal Permit and Certification, and 6) the reduction, loss, or failure of treatment provisions of the 2013 renewal Permit and Certification. Within thirty (30) calendar days of receipt of this Order, the Association shall submit a written certification to the Division stating that it has completed the review of the 2013 renewal Permit and Certification with its responsible staff.
31. Within thirty (30) calendar days of receipt of this Order, the Association 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 2013 Permit-required effluent limitations, including ammonia limitations, are reliably and consistently met at Outfall 001A, and that the Facility complies with all other terms and conditions of the 2013 renewal Permit and Certification. 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 2013 renewal Permit and Certification, including any current and future ammonia limitations.

32. Within forty five (45) calendar days of the receipt of this Order, the Association shall provide documentation to the Division that it has retained the services of the qualified individual or entity described in paragraph 31. 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.
33. Within ninety (90) calendar days of receipt of this Order, the Association shall submit to the Division a report summarizing the results of the engineering evaluation identified in paragraph 31 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 Association 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 2013 renewal Permit and Certification. 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 Association 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.
34. 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 Association 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 Association 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.
35. The Association shall submit written quarterly 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 January 1, 2014 and subsequent reports shall be due every quarter thereafter on the 1<sup>st</sup> day of the following quarter. At a minimum, each report shall outline activities completed in the previous quarter and planned activities for the next quarter 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.
36. If the Association becomes aware of any situation or circumstances that cause the Association to become unable to comply with any condition or time schedules set forth by this Order, the Association shall provide written notice to the Division within five (5) calendar days of the Association becoming aware of such circumstances. The Association's notice shall describe what, if any, impacts will occur on the Association's ability to comply with the Colorado Water Quality Control Act and/or the 2013 renewal Permit and Certification, any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.
37. All documents submitted under this Order shall be under the signature of the Association, 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 Association 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 Association 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](mailto: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, 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.

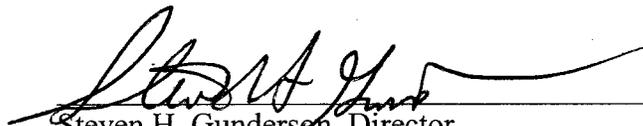
### **EFFECT OF ORDER**

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 26<sup>th</sup> day of September, 2013.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**



Steven H. Gunderson, Director  
WATER QUALITY CONTROL DIVISION