COLORADO
Department of Public
Health & Environment

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

October 2, 2014

Nancy Bentson Essex
LKA International, Inc.
PO Box 4049
Crested Butte, Colorado 81224

Certified Mail Number: 7012 1640 0000 0801 9670

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-141002-1

Dear Ms. Essex:

LKA International, 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 LKA International, Inc. 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., LKA International, 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 LKA International, 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 Andrea Beebout of this office by phone at (303) 692-6498 or by electronic mail at andrea.beebout@state.co.us.

Sincerely,

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

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Hinsdale County Environmental Health Department
Nicole Rowan, Watershed Section, CDPHE
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

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER **NUMBER: IO-141002-1**

IN THE MATTER OF: **LKA INTERNATIONAL, INC.**
CDPS PERMIT NO. CO0048119
HINSDALE 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, LKA International, Inc. was a Nevada corporation in good standing and registered to conduct business in the State of Colorado.

2. LKA International, Inc. 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. LKA International, Inc. owns and/or operates the Golden Wonder Mine. The Golden Wonder Mine is an active underground hard rock mine and is located in the vicinity of 38° 0' 12" N, 107° 16' 59" W, approximately five (5) miles southeast of the Town of Lake City, Hinsdale County, Colorado (the "Facility").

4. Level 6 of the Golden Wonder Mine currently and historically supported mining activities at the site. Level 6 includes the Level 6 pad, which was constructed on top of a waste rock pile that was generated by historic mining activities. Seep discharges that emanate from the toe of the waste rock pile are treated via a passive (limestone) treatment system and discharged to Deadman Gulch.

5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO0048119 (the "Permit"). The current Permit became effective on February 1, 2010 and is set to expire January 31, 2015. The Permit authorizes LKA International, Inc. to discharge treated wastewater from the Facility through Outfall 001A after the passive (limestone) treatment system and into Deadman Gulch.

6. Pursuant to 5 CCR 1002-61, §61.8, LKA International, Inc. 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 Properly Monitor and Report

7. Pursuant to Part I.A.2. of the Permit, LKA International, Inc. is required to monitor defined effluent parameters at specified frequencies and report the results on a Discharge Monitoring Report ("DMR") form.

8. Division records establish that LKA International, Inc. failed to monitor the following effluent parameters during the reporting periods outlined below:

LKA INTERNATIONAL, INC. FAILURE TO MONITOR		
REPORTING PERIOD	**OUTFALL**	**PARAMETER**
2nd Quarter 2010 (4/1/2010-6/30/2010)	001A	WET
5/1/2011-5/31/2011	001A	All parameters
2nd Quarter 2011 (4/1/2011-6/30/2011)	001A	WET Total Dissolved Solids (TDS)
7/1/2011-7/30/2011	001A	All parameters
3rd Quarter 2011 (7/1/2011-9/30/2011)	001A	WET Total Dissolved Solids (TDS)
4/1/2012-4/30/2012	001A	All parameters

9. Pursuant to Part I.A.2. of the Permit, LKA International, Inc. is required to monitor effluent flow at Outfall 001A via a continuous flow measuring device equipped with a chart recorder or totalizer and report the results of the monitoring to the Division via monthly DMRs.

10. Pursuant to Part I.D.5. of the Permit, LKA International, Inc. is required to have a flow measuring device installed to give representative values of effluent quantities at Outfall 001A.

11. Division records, as supplemented by correspondence from LKA International, Inc. establish that LKA International, Inc. failed to monitor effluent flow at Outfall 001A via a continuous flow measuring device equipped with a chart recorder or totalizer from May 2, 2010 through June 30, 2014. Instead, when flow measuring was conducted, LKA International, Inc. used a stopwatch and a one gallon container to obtain the 30 day average and daily maximum flow values.

12. Pursuant to Part I.D.1. of the Permit, LKA International, Inc. is required to report all monitoring results on a monthly basis (quarterly basis for quarterly requirements and Whole Effluent Toxicity ("WET") monitoring) using Division approved DMRs. LKA International, Inc. is required to ensure the DMRs are submitted so that they are received by the Division by no later than the 28th day of the

month following the reporting period. The Permit specifies that if no discharge occurs during the monthly reporting period, "No Discharge" shall be reported on the DMR.

13. Division records establish that LKA International, Inc. failed to submit DMRs to the Division for the reporting periods identified in Exhibit A.

14. Division records establish that LKA International, Inc. failed to submit DMRs to the Division by the 28th day of the month following the end of the reporting periods identified in Exhibit B.

15. LKA International, Inc.'s failure to monitor all effluent parameters at specified frequencies, as identified above in paragraphs 8 and 11, constitutes violations of Part I.A.2. of the Permit.

16. LKA International, Inc.'s failure to install a flow measuring device, as identified above in paragraph 11, constitutes violations of Part I.D.5. of the Permit.

17. LKA International, Inc.'s failure to submit DMRs to the Division by the 28th day of the month following each reporting period, as identified in Exhibits A and B, constitutes violations of Part I.D.1. of the Permit.

NOTICE OF VIOLATION

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

Part I.A.2. of the Permit, which states in part: "In order to obtain an indication of the probable compliance or noncompliance with the effluent limitations specified in Part I.A., the permittee shall monitor all effluent parameters at the following frequencies. Such monitoring will begin immediately and last for the life of the permit unless otherwise noted. The results of such monitoring shall be reported on the Discharge Monitoring Report form."

Part I.D.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. Reporting of all data gathered shall comply with the requirements of Part I.E. (General Requirements). Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms (EPA form 3320-1). One form shall be mailed to the Water Quality Control Division...so that the DMR is received by the Division by 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." (*Note: Part I.D.1. of the Permit includes a typographical error incorrectly referencing Part I.B.1. for the effluent limitations of the Permit. The effluent monitoring requirements are contained in Part I.A.2. of the Permit.)*

Part I.D.5. of the Permit, which states in part: "If not already a part of the permitted facility, within ninety (90) days after the effective date of the permit, a flow measuring device shall be installed to give representative values of effluent quantities at the respective discharge points."

REQUIRED CORRECTIVE ACTION

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

19. 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 LKA, International, Inc. to comply with the following specific terms and conditions of this Order:

20. Within thirty (30) calendar days of receipt of this Order, LKA International, Inc. shall submit all delinquent DMRs as well as records of its effluent discharge monitoring at the Facility for the period from February 1, 2010 through the date of this Order. The records shall include all laboratory data reports, all field measurement reports, and all calibration and maintenance records, including all other information required to be retained by Part I.D.4. of the Permit.

21. For the reporting periods of January 2013 through July 2013 and November 2013 through May 2014 where "No Discharge" was reported on the DMRs, LKA International, Inc. shall provide evidence establishing no discharge occurred. This evidence shall include all records required by Part I.D.4. of the Permit as well as field and site visit records.

22. Within forty-five (45) calendar days of receipt of this Order, LKA International, Inc. shall provide documentation that a continuous flow measuring device equipped with a chart recorder or totalizer has been installed at Outfall 001A. This documentation shall include calibration records and proof of accuracy of the flow measuring device indicating that the device is capable of measuring values within ten percent (10%) of the actual flow rates. This documentation shall also include schedules and procedures for the ongoing calibration and maintenance of the flow measuring device.

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

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 LKA International, Inc. shall submit an original and an electronic copy to the Division at the following address:

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

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11 you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 803, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

EFFECT OF ORDER

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 2nd day of October, 2014.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Ron Falco, PE, Acting Director
WATER QUALITY CONTROL DIVISION

EXHIBIT A

LKA INTERNATIONAL, INC. DELINQUENT DISCHARGE MONITORING REPORTS Reporting Periods 2013-2014 ** Reporting periods marked with an asterisk indicated the submittal of an incomplete DMR	
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER(S)/PARAMETERS**
Reporting Periods for 2013	
8/1/2013-8/30/2013	001A / All parameters
9/1/2013-9/30/2013	001A / All parameters
3rd Quarter 2013 (7/1/2013-9/30/2013)	001X / WET 001Q/ Total Dissolved Solids (TDS)
10/1/2013-10/31/2013	001A / All parameters
Reporting Periods for 2014	
6/1/2014-6/30/2014**	001A / All Parameters
4/1/2014-6/30/2014**	001Q / Total Dissolved Solids (TDS)
7/1/2014-7/31/2014	001A / All Parameters

EXHIBIT B

LKA INTERNATIONAL, INC. LATE DISCHARGE MONITORING REPORTS Reporting Periods 2010-2014			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER(S)/PARAMETER**	**DMR DUE DATE**	**DMR RECEIPT DATE**
Reporting Periods for 2010			
2/1/2010-2/28/2010	001A / All parameters	3/28/2010	4/9/2010
1st Quarter 2010 (2/1/2010-3/31/2010)	001X / WET 001Q / Total Dissolved Solids (TDS)	4/28/2010	4/19/2011
4/1/2010-4/30/2010	001A / All parameters	5/28/2010	6/2/2010
5/1/2010-5/31/2010	001A / All parameters	6/28/2010	7/6/2010
2nd Quarter 2010 (4/1/2010-6/30/2010)	001X / WET 001Q / Total Dissolved Solids (TDS)	7/28/2010	4/19/2011
7/1/2010-7/31/2010	001A / All parameters	8/28/2010	9/3/2010
8/1/2010-8/31/2010	001A / All parameters	9/28/2010	10/5/2010
9/1/2010-9/30/2010	001A / All parameters	10/28/2010	11/3/2010
3rd Quarter 2010 (7/1/2010-9/30/2010)	001X / WET 001Q / Total Dissolved Solids (TDS)	10/28/2010	4/19/2011
10/1/2010-10/31/2010	001A / All parameters	11/28/2010	12/6/2010
11/1/2010-11/30/2010	001A / All parameters	12/28/2010	1/18/2011
12/1/2010-12/31/2010	001A / All parameters	1/28/2011	2/8/2011
4th Quarter 2010 (10/1/2010-12/31/2010)	001X / WET 001Q / Total Dissolved Solids (TDS)	1/28/2011	2/8/2011

EXHIBIT B

LKA INTERNATIONAL, INC. LATE DISCHARGE MONITORING REPORTS Reporting Periods 2010-2014			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER(S)/PARAMETER**	**DMR DUE DATE**	**DMR RECEIPT DATE**
Reporting Periods for 2011			
1/1/2011-1/31/2011	001A / All parameters	2/28/2011	3/9/2011
2/1/2011-2/28/2011	001A / All parameters	3/28/2011	4/19/2011
4/1/2011-4/30/2011	001A / All parameters	5/28/2011	7/12/2011
6/1/2011-6/30/2011	001A / All parameters	7/28/2011	8/19/2011
8/1/2011-8/31/2011	001A / All parameters	9/28/2011	11/15/2011
9/1/2011-9/30/2011	001A / All parameters	10/28/2011	11/15/2011
10/1/2011-10/31/2011	001A / All parameters	11/28/2011	1/10/2012
11/1/2011-11/30/2011	001A / All parameters	12/28/2011	1/10/2012
4th Quarter 2011 (10/1/2011-12/31/2011)	001X / WET 001Q / Total Dissolved Solids (TDS)	1/28/2012	3/7/2012
Reporting Periods for 2012			
1/1/2012-1/31/2012	001A / All parameters	2/28/2012	3/6/2012
3/1/2012-3/31/2012	001A / All parameters	4/28/2012	5/8/2012
1st Quarter 2012 (1/1/2012-3/31/2012)	001X / WET 001Q / Total Dissolved Solids (TDS)	4/28/2012	5/8/2012

EXHIBIT B

LKA INTERNATIONAL, INC. LATE DISCHARGE MONITORING REPORTS Reporting Periods 2010-2014			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER(S)/PARAMETER**	**DMR DUE DATE**	**DMR RECEIPT DATE**
5/1/2012-5/31/2012	001A / All parameters	6/28/2012	7/10/2012
6/1/2012-6/30/2012	001A / All parameters	7/28/2012	8/28/2012
2nd Quarter 2012 (4/1/2012-6/30/2012)	001X / WET 001Q / Total Dissolved Solids (TDS)	7/28/2012	8/28/2012
8/1/2012-8/31/2012	001A / All parameters	9/28/2012	10/23/2012
9/1/2012-9/30/2012	001A / All parameters	10/28/2012	1/23/2012
3rd Quarter 2012 (7/1/2012-9/30/2012)	001X / WET 001Q / Total Dissolved Solids (TDS)	10/28/2012	1/23/2013
10/1/2012-10/31/2012	001A / All parameters	11/28/2012	1/23/2013
11/1/2012-11/30/2012	001A / All parameters	12/28/2012	1/23/2013
Reporting Periods for 2013			
1/1/2013-1/31/2013	001A / All parameters	2/28/2013	5/28/2013
2/1/2013-2/28/2013	001A / All parameters	3/28/2013	5/22/2013
3/1/2013-3/31/2013	001A / All parameters	4/28/2013	5/28/2013
1st Quarter 2013 (1/1/2013-3/31/2013)	001X / WET 001Q / Total Dissolved Solids (TDS)	4/28/2013	5/28/2013
4/1/2013-4/30/2013	001A / All parameters	5/28/2013	8/6/2013

EXHIBIT B

LKA INTERNATIONAL, INC. LATE DISCHARGE MONITORING REPORTS Reporting Periods 2010-2014			
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER(S)/PARAMETER**	**DMR DUE DATE**	**DMR RECEIPT DATE**
5/1/2013-5/31/2013	001A / All parameters	6/28/2013	8/6/2013
6/1/2013-6/30/2013	001A / All parameters	7/28/2013	8/6/2013
2nd Quarter 2013 (4/1/2013-6/30/2013)	001X / WET 001Q / Total Dissolved Solids (TDS)	7/28/2013	8/6/2013
11/1/2013-11/30/2013	001A / All parameters	12/28/2013	3/3/2014
12/1/2013-12/31/2013	001A / All parameters	1/28/2014	3/3/2014
4th Quarter 2013 (10/1/2013-12/31/2013)	001X / WET 001Q / Total Dissolved Solids (TDS)	1/28/2014	3/3/2014
Reporting Periods for 2014			
1/1/2014-1/31/2014	001A / All parameters	2/28/2014	3/3/2014
2/1/2014-2/28/2014	001A / All parameters	3/28/2014	6/18/2014
3/1/2014-3/31/2014	001A / All parameters	4/28/2014	6/18/2014
1st Quarter 2014 (1/1/2014-3/31/2014)	001X / WET 001Q / Total Dissolved Solids (TDS)	4/28/2014	6/18/2014
4/1/2014-4/30/2014	001A / All parameters	5/28/2014	6/18/2014
5/1/2014-5/31/2014	001A / All parameters	6/28/2014	8/12/2014
2nd Quarter 2014 (4/1/2014-6/30/2014)	001X / WET 001Q / Total Dissolved Solids (TDS)	7/28/2014	8/28/2014