STATE OF COLORADO

John W. Hickenlooper, Governor
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Executive Director and Chief Medical Officer

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

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Denver, Colorado 80246-1530
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Located in Glendale, Colorado

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Colorado Department
of Public Health
and Environment

November 18, 2013

Certified Mail Number: 7005 1820 0000 3212 8557

Richard Ray McHose, Registered Agent/ Owner
Don McHose, Owner
Monarch Mountain Lodge, LLC
608 S. 19th Street
West Des Moines, IA 50265

RE: Service of Notice of Violation/Cease and Desist Order, Number: DO-131118-1, and Service of Operator Certification Notice of Violation, Number: OW-131118-1

Dear Sirs:

Monarch Mountain Lodge, LLC is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). This 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 this NOV/CDO upon findings that Monarch Mountain Lodge, LLC has violated the Act, and/or regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Monarch Mountain Lodge, LLC 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.

Additionally, Monarch Mountain Lodge, LLC is hereby served with the enclosed Operator Certification Notice of Violation (the "OCNOV"). This OCNOV is issued by the Division pursuant to the authority given to the Division by §25-9-110(3), C.R.S., of the *Water and Wastewater Facility Operators Certification Statute,* (the "Statute"). The Division bases this OCNOV upon findings that Monarch Mountain Lodge, LLC has violated the Statute and 5 CCR 1003-2, §100, the *Water and Wastewater Facility Operators Certification Requirements*, as described in the enclosed OCNOV.

Pursuant to §25-9-110(3), C.R.S., Monarch Mountain Lodge, LLC is required, within thirty (30) calendar days of receipt of this OCNOV, to submit to the Division an answer to each alleged violation.

This operator certification action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-9-110(5), C.R.S., to impose a penalty of up to $300 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 OCNOV or the issuance of additional enforcement actions.

Should Monarch Mountain Lodge, LLC desire to discuss the NOV/CDO or the OCNOV with the Division, or if you have any questions regarding NOV/CDO or the OCNOV, please don't hesitate to contact Kelly Morgan at (303) 692-3634 or by electronic mail at kelly.morgan@state.co.us.

Sincerely,

Michael Harris, Manager
Clean Water Compliance & Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Victor Crocco, Chaffee County Environmental Health Department
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Bret Icenogle, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Kenan Diker, Permits Section, CDPHE
Kelly Morgan, Compliance & Enforcement Unit, CDPHE
Tania Watson, Data Management Unit, CDPHE
Jackie Whelan, Facility Operators Program, CDPHE

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER **NUMBER: DO-131118-1**

IN THE MATTER OF: **MONARCH MOUNTAIN LODGE LLC**
CDPS PERMIT NUMBER: CO-0028444
CHAFFEE 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, Monarch Mountain Lodge LLC was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.

2. Monarch Mountain Lodge LLC 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. Monarch Mountain Lodge LLC owns and/or operates the Monarch Mountain Lodge wastewater treatment facility (also known as the Garfield WWTP), located at or near geographic coordinates 38.5503°, -106.2867°, near the Town of Garfield, Chaffee County, Colorado (the "Facility").

4. The Facility's service area includes the Monarch Mountain Lodge and thirty four (34) residential properties in the Town of Garfield. The Facility consists of an aeration basin, a clarifier, a chlorine contact basin, a dechlorination tank, and an emergency holding pond. The Facility was originally designed to accept and treat an average wastewater flow of 0.041 million gallons per day and discharge treated effluent to the South Fork of the Arkansas River.

5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO-0028444 (the "Permit"). The current version of the Permit (sixth renewal) became effective on May 1, 2007. The Permit expired on April 30, 2012, and has been administratively extended, pending Permit reissuance. The Permit was modified with Modification #1 to correctly identify the flow monitoring location and edit footnotes in the monitoring frequency tables, and reissued effective January 1, 2013.

6. The Permit authorizes Monarch Mountain Lodge LLC to discharge treated wastewater from the Facility through Outfall 001A, following disinfection and into the South Fork of the Arkansas River. The Permit includes requirements to monitor influent loading at a representative point prior to biological treatment which is designated in the Permit as Outfall 300I.

7. Pursuant to 5 CCR 1002-61, §61.8, Monarch Mountain Lodge LLC 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

8. Pursuant to Part I.A.5 of the Permit, Monarch Mountain Lodge LLC's permitted discharge at Outfall 001A shall not exceed the effluent limitations specified below:

Monarch Mountain Lodge, LCC DISCHARGE LIMITATIONS				
EFFLUENT PARAMETER	**30- DAY AVERAGE**	**7-DAY AVERAGE**	**DAILY MAXIMUM**	**2-YEAR ROLLING AVERAGE**
Flow, MGD	0.041	NA	Report	NA
5-day Biological Oxygen Demand (BOD_5), mg/l	30	45	NA	NA
Total Suspended Solids (TSS), mg/l	30	45	NA	NA
Fecal Coliform Bacteria, Number/ 100	2740	5480	NA	NA
Total Residual Chlorine, mg/l	0.38	NA	0.5	0.058*
pH, s.u. (minimum- maximum)	NA	NA	6.9- 9	NA
Oil and Grease, mg/l	NA	NA	10	NA
Total Ammonia as N, mg/l				
January	9.6	NA	Report	NA
February	8.2	NA	Report	NA
March	5.5	NA	Report	NA
April	6.1	NA	29	NA
May	7.0	NA	26	NA
June	16.0	NA	Report	NA
July	11.0	NA	Report	NA
August	6.2	NA	Report	NA
September	5.3	NA	Report	NA
October	3.7	NA	Report	NA
November	5.1	NA	Report	NA
December	7.6	NA	Report	NA

**limit effective April 1, 2009*

9. Pursuant to Part I.B.2. of the Permit, Monarch Mountain Lodge LLC is required to monitor defined effluent parameters at specified frequencies to provide an indication of compliance or non-compliance with the effluent limitations of the Permit.

10. Pursuant to Part I.D.2 of the Permit, Monarch Mountain Lodge LLC is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly discharge monitoring reports ("DMR"). Each DMR is to include a certification by Monarch Mountain Lodge LLC that the information provided therein is true, accurate and complete to the knowledge and belief of Monarch Mountain Lodge LLC.

11. Monarch Mountain Lodge LLC'S DMRs include, among other information and data, the following effluent concentration summary data, which exceeded the effluent limitations imposed by Part I.A.5. of the Permit:

Monarch Mountain Lodge LLC EFFLUENT SELF-MONITORING DATA				
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**SAMPLE MEASUREMENT**		
FLOW		**30 DAY AVG. LIMIT= 0.041 MGD**	**DAILY MAX LIMIT= Report MGD**	
January 1-31, 2012	**001A**	0.049	--	
BOD_5		**30 DAY AVG. LIMIT= 30 mg/l**	**7 DAY AVG. LIMIT = 45 mg/l**	
March 1-31, 2012	**001A**	38	--	
May 1-31, 2012	**001A**	32	--	
February 1-28, 2013	**001A**	35	--	
TOTAL RESIDUAL CHLORINE		**30 DAY AVG. LIMIT= 0.38 mg/l**	**DAILY MAX LIMIT= 0.5 mg/l**	**2-YEAR ROLLING AVG= 0.058 mg/l**
December 1-31, 2010	**001A**	**0.39**	**0.8**	--
April 1-30, 2012	**001A**	**0.4**	--	--
November 1-30, 2012	**001A**	**0.4**	--	--
TOTAL AMMONIA as N				
April 1-30, 2012	**001A**	**30 DAY AVG. LIMIT**	**6.1 mg/l**	
		SAMPLE MEASUREMENT	6.5	
February1- 28, 2013	**001A**	**30 DAY AVG. LIMIT**	**8.2 mg/l**	
		SAMPLE MEASUREMENT	17	
March 1- 31, 2013	**001A**	**30 DAY AVG. LIMIT**	**5.5 mg/l**	
		SAMPLE MEASUREMENT	11	

12. BOD_5, total residual chlorine, and total ammonia as N are "pollutants" as defined by §25-8-103(15), C.R.S., or indicators thereof.

13. The Permit does not authorize the pollutant discharge levels identified above in paragraph 11. Division records establish that Monarch Mountain Lodge LLC does not have any other permit authorizing such discharge into State Waters.

14. Monarch Mountain Lodge LLC's failure to comply with the Permit effluent limitations, as identified above in paragraph 11, constitutes violations of Part I.A.5. of the Permit

Failure to Meet Minimum Percent Removal Requirements

15. Pursuant to Part I.A.6. of the Permit, the arithmetic mean of the BOD_5 and TSS concentrations for effluent samples collected during the calendar month shall demonstrate a minimum of 85 percent (85%) removal for BOD_5 and TSS. Pursuant to Part I.D.2. of the Permit, Monarch Mountain Lodge LLC is required to summarize and report the monthly average BOD_5 percent removal and the monthly average TSS percent removal to the Division via monthly DMRs. Each DMR is to include a certification by Monarch Mountain Lodge LLC that the information provided therein is true, accurate and complete to the knowledge and belief of Monarch Mountain Lodge LLC.

16. Monarch Mountain Lodge LLC'S DMRs include, among other information and data, the following monthly average percent removal summary data, which does not demonstrate a minimum of 85 percent (85%) removal for BOD_5 and TSS as required by Part I.A.6. of the Permit:

Monarch Mountain Lodge LLC EFFLUENT SELF-MONITORING DATA		
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**SAMPLE MEASUREMENT**
BOD_5, % REMOVAL		**MONTHLY AVG. MINIMUM= 85%**
February 28, 2013	**001A**	80
May 31, 2013	**001A**	80
SUSPENDED SOLIDS, % REMOVAL		**MONTHLY AVG. MINIMUM= 85%**
June 30, 2012	**001A**	68

17. Monarch Mountain Lodge LLC's failure to demonstrate a monthly average minimum of 85 percent (85%) removal for BOD_5 and TSS, as identified in above in paragraph 16, constitutes violations of Part I.A.6. of the Permit.

Failure to Properly Monitor and Report

18. Pursuant to Part I.B.1. of the Permit, regardless of whether or not effluent discharge occurs at the Facility and in order to obtain an indication of the current influent loading as compared to the approved capacity, Monarch Mountain Lodge LLC is required to monitor influent parameters at specified frequencies and report the results on the DMR.

19. Pursuant to Part I.B.2. of the Permit, in order to provide an indication of compliance or non-compliance with the effluent limitations of the Permit, Monarch Mountain Lodge LLC is required to monitor defined effluent parameters at specified frequencies and report the results on the DMR.

20. Pursuant to Part I.D.2. of the Permit, Monarch Mountain Lodge LLC is required to report all monitoring results on a monthly basis using Division approved DMRs. Monarch Mountain Lodge LLC is required to ensure the DMRs are mailed to the Division so that they are received no later than the 28th day of the month following the reporting period. The Permit specifies that if no discharge occurs during the reporting period, "No Discharge" shall be reported.

21. Division records establish that Monarch Mountain Lodge LLC failed to monitor the following influent and/or effluent parameters during the reporting periods outlined below:

Monarch Mountain Lodge LLC FAILURE TO MONITOR		
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**PARAMETER(S)**
June 1-30, 2009	001A	Flow, BOD_5, TSS, fecal coliform, total residual chlorine, pH, oil and grease, total ammonia (as N),
June 1-30, 2009	300I	Flow, BOD_5, TSS
July 1-31, 2009	001A	pH, total residual chlorine
July 1-31, 2012	001A	BOD_5, TSS, fecal coliform, total ammonia (as N)
July 1-31, 2012	300I	BOD_5, TSS

22. Division records establish that Monarch Mountain Lodge LLC failed to submit DMRs to the Division for the following reporting periods:

Monarch Mountain Lodge LLC DELINQUENT DMRS	
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**
June 1-30, 2009	300I
June 1-30, 2013	300I and 001A
July 1-31, 2013	300I and 001A
August 1-30, 2013	300I and 001A
September 1-30, 2013	300I and 001A

23. Division records establish that Monarch Mountain Lodge LLC failed to submit complete DMRs to the Division for the following reporting periods and associated influent and/or effluent parameters:

Monarch Mountain Lodge LLC DEFICIENT DMRS		
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**PARAMETER(S)**
May 1-31, 2011	001A	Flow
May 1-31, 2012	300I	BOD_5, TSS

Monarch Mountain Lodge LLC DEFICIENT DMRS		
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**PARAMETER(S)**
May 1-31, 2012	001A	BOD_5, TSS, fecal coliform, total ammonia (as N), BOD_5 % removal, TSS % removal
July 1-31, 2012	001A	BOD_5 % removal, TSS % removal

24. Division records establish that Monarch Mountain Lodge LLC failed to submit DMRs to the Division by the 28th day of the month following the end of reporting periods identified below:

Monarch Mountain Lodge LLC LATE DMRS		
DISCHARGE MONITORING REPORTING PERIOD	**OUTFALL NUMBER**	**DMR RECEIPT DATE**
June 1-30, 2009	001A	January 19, 2011
July 1-31, 2009	300I and 001A	September 18, 2009
January 1-31, 2010	300I and 001A	March 2, 2010
May 1-31, 2010	300I and 001A	July 1, 2010
June 1-30, 2010	300I and 001A	August 6, 2010
August 1-31, 2010	300I and 001A	October 1, 2010
September 1-30, 2010	300I and 001A	November 2, 2010
October 1-31, 2010	300I and 001A	November 30, 2010
January 1-31, 2011	300I and 001A	March 3, 2011
February 1-28, 2011	300I and 001A	March 31, 2011
March 1-31, 2011	300I and 001A	May 5, 2011
April 1-30, 2011	300I and 001A	June 9, 2011
May 1-31, 2011	300I and 001A	July 6, 2011
June 1-30, 2011	300I and 001A	August 11, 2011
July 1-31, 2011	300I and 001A	August 29, 2011
August 1-31, 2011	300I and 001A	October 6, 2011
November 1-30, 2011	300I and 001A	December 2, 2011
December 1-31, 2011	300I and 001A	January 31, 2011
January 1-31, 2012	300I and 001A	March 2, 2012
March 1-31, 2012	300I and 001A	May 21, 2012
May 1-31, 2012	300I and 001A	September 24, 2012
June 1-30, 2012	300I and 001A	September 24, 2012
July 1-31, 2012	300I and 001A	September 24, 2012
September 1-30, 2012	300I and 001A	October 30, 2012
October 1-31, 2012	300I and 001A	November 30, 2012
December 1-31, 2012	300I and 001A	January 31, 2012

25. Monarch Mountain Lodge LLC's failure to monitor defined influent and effluent parameters at specified frequencies, as identified in above in paragraph 21, constitutes violations of Part I.B.1. and Part I.B.2. of the Permit.

26. Monarch Mountain Lodge LLC's failure to submit complete DMRs to the Division by the 28th day of the month following each reporting period, as identified in above in paragraphs 22, 23, and 24, constitutes violations of Part I.D.2. of the Permit.

Failure to Properly Operate and Maintain Facility

27. Pursuant to Part I.A.4. of the Permit, Monarch Mountain Lodge LLC is required at all times to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee as necessary to achieve compliance with the conditions of the Permit.

28. On August 28, 2012, a Division representative conducted an on-site inspection of the Facility and, among other findings, made the following observations:
    a. Influent flows at plant entry were not controlled at the equalization basin and the Facility did not have mechanisms in place to control influent flow to the Facility during periods of high occupancy when hydraulic and/or organic (BOD_5) loadings spike.

29. On September 4, 2013, a Division representative conducted a site visit of the Facility and, among other findings, made the following observations:
    a. Floating debris and bulging sludge in the clarifier;
    b. The chlorine chemical feed was not operational;
    c. The wood baffles in the chlorine contact chamber appeared to be failing; and
    d. The dechlorination process was reportedly achieved via pucks of bicarbonate, but the dosing estimation and puck application was unknown.

30. The observations listed above in paragraphs 28 and 29, supported by the effluent limitation exceedances identified above in paragraph 11 and failure to demonstrate a minimum of 85 percent (85%) removal efficiency for BOD_5 and TSS identified above in paragraph 16, establish violations of Part I.A.4. of the Permit.

Failure to Maintain Records

31. Pursuant to Part I.C.4. of the Permit, Monarch Mountain Lodge LLC is required to establish and maintain records for a minimum of three (3) years. The records shall include, but are not limited to: the date, type, exact place, and time of sampling or measurements; the individual(s) who performed the sampling or measurements; the date(s) the analysis were performed; the individual(s) who performed the analysis; the analytical techniques or methods used; the results of such analysis; all monitoring information, including all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records; and copies of all reports required by the Permit.

32. During the August 28, 2012 inspection of the Facility, the Division representative requested records of data to support the information that the Facility reported on DMRs. The Facility representative was not able to locate and/or provide records indicating how the total residual chlorine two- year rolling average and organic (BOD_5) loading was calculated.

33. During the August 28, 2012 inspection of the Facility, the Division representative requested the Facility's records for the January 1, 2012 through July 31, 2012 monitoring periods, but DMRs, laboratory reports, and/or field data for records were not available from the March 1, 2012 through July 31, 2012 time period.

34. Monarch Mountain Lodge LLC's failure to maintain records, as identified above in paragraphs 32 and 33, constitutes violations of Part I.C.4. of the Permit.

NOTICE OF VIOLATION

35. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Monarch Mountain Lodge LLC has violated the following sections of the Permit:

Part I.A.4. of Permit No. CO-0028444 which states in part: "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee as necessary to achieve compliance with the conditions of this permit."

Part I.A.5. of Permit No. CO-0028444 which states in part: "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), the permitted discharge shall comply with following limitations:"

Part I.A.6. of Permit No. CO-0028444 which states in part: "the arithmetic mean of the BOD_5 and TSS concentrations for effluent samples collected during the calendar month shall demonstrate a minimum of eight-five percent (85%) removal of BOD_5 and TSS."

Part I.B.1. of Permit. No. CO-0028444 which states in part: "Regardless of whether or not an effluent discharge occurs and in order to obtain an indication of the current influent loading as compared to the approved capacity specified in Part I, Section A.2., the permittee shall monitor influent parameters at the following required frequencies, the results to be reported on the Discharge Monitoring Report:"

Part Part I.B.2. of Permit. No. CO-0028444 which states in part: "In order to obtain an indication of the probable compliance or non-compliance with the effluent limitations specified in Part I, Section A.5, the permittee shall monitor effluent parameters at the following required frequencies, the results to be reported on the Discharge Monitoring Report:"

Part I.C.4. of Permit. No. CO-0028444 which states in part: "The permittee shall establish and maintain records."

Part I.D.2. of Permit No. CO-0028444 which states in part: "Monitoring results shall be summarized for each month and reported on the Discharge Monitoring Report forms. One form shall be mailed to the Water Quality Control Division... so that the DMR is received no later than the 28th day of the following month. If no discharge occurs during the reporting period, "No Discharge" shall be reported."

REQUIRED CORRECTIVE ACTION

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

36. 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 Monarch Mountain Lodge LLC to comply with the following specific terms and conditions of this Order:

37. Monarch Mountain Lodge LLC shall immediately initiate measures to ensure complete DMRs are submitted to the Division pursuant to the terms and conditions of the Permit. Within thirty (30) calendar days of receipt of this Order, Monarch Mountain Lodge LLC shall submit a written plan and certification to the Division outlining Monarch Mountain Lodge LLC's actions 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 a monitoring period.

38. Within thirty (30) calendar days of receipt of this Order, Monarch Mountain Lodge LLC shall provide a summary of all influent and effluent monitoring data from November 2010 through November 2013. The data shall be summarized in Excel format and shall be clear and understandable. Laboratory data reports, field measurement reports, and all calibration records shall be submitted as attachments to the data summary. Monarch Mountain Lodge LLC shall provide monthly hydraulic and organic (BOD_5) loading calculations from November 2010 through November 2013. Organic (BOD_5) loading shall be calculated using the total daily influent wastewater flow on the day that the BOD_5 composite sample was collected, with the following formula:

    Loading (lbs/day) = (total daily influent flow in MGD × BOD_5 concentration in mg/l) × 8.34

39. Within fifteen (15) calendar days of receipt of this Order, Monarch Mountain Lodge LLC 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 the Facility complies with the terms and conditions of the Permit. The evaluation shall consider, but not be limited to:

    a. An evaluation of the Facility's treatment processes to identify any deficiencies in the current design of the Facility. This should include, but not be limited to, an evaluation of the capacity of the current system, and the use and acceptability of the current aeration, chlorination, dechlorination, and other treatment processes;
    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 or expansion of the Facility, if determined necessary, that will ensure the Facility has adequate hydraulic and organic loading capacity and can reliably and consistently comply with the effluent limitations of the Permit.

40. Within thirty (30) calendar days of the receipt of this Order, Monarch Mountain Lodge LLC shall provide documentation to the Division that it has retained the services of the qualified individual or entity described in paragraph 39. The documentation shall include at, a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for services, including a copy of the scope of services to be provided.

41. Within forty five (45) calendar days of receipt of this Order, Monarch Mountain Lodge LLC shall submit to the Division a report summarizing the results of the engineering evaluation/review identified in paragraph 39 above. The report shall include an aggressive plan and time schedule for the implementation of specific interim and long-term measures that Monarch Mountain Lodge LLC will complete to address the deficiencies identified through the evaluation/review and to ensure the Facility consistently meets effluent limitations and other terms and conditions of the Permit. This includes a specific plan and time schedule for commencing and completing construction of Facility expansion and/or upgrades, if necessary. If any of the corrective measures require Division site location and design approval, Monarch Mountain Lodge LLC shall timely file a completed site location and/or design approval request in accordance with §25-8-702, C.R.S. and 5 CCR 1002-22. Monarch Mountain Lodge LLC shall not initiate construction until such time as it has obtained the necessary site location and design approval(s) as required by §25-8-702, C.R.S. and 5 CCR 1002-22, or unless otherwise specifically authorized, in writing, by the Division. The submitted plan and time schedule shall become a condition of this Order and Monarch Mountain Lodge LLC 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.

42. Beginning in December 2013, and every calendar month thereafter, Monarch Mountain Lodge LLC 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 activities planned 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.

43. If Monarch Mountain Lodge LLC becomes aware of any situation or circumstances that cause Monarch Mountain Lodge LLC to become unable to comply with any condition or time schedules set forth by this Order, Monarch Mountain Lodge LLC shall provide written notice to the Division within five (5) calendar days of Monarch Mountain Lodge LLC becoming aware of such circumstances. Monarch Mountain Lodge LLC's notice shall describe what, if any, impacts will occur on Monarch Mountain Lodge LLC'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.

44. All documents submitted under this Order shall be under the signature of Monarch Mountain Lodge LLC 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, Monarch Mountain Lodge LLC 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 Monarch Mountain Lodge LLC 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: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-3634
Email: kelly.morgan@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 18th day of November, 2013.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Steven H. Gunderson, Director
WATER QUALITY CONTROL DIVISION

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

WATER QUALITY CONTROL DIVISION

OPERATOR CERTIFICATION NOTICE OF VIOLATION **NUMBER: OW-131118-1**

IN THE MATTER OF: **MONARCH MOUNTAIN LODGE LLC**
CDPS PERMIT NUMBER: CO-0028444
CHAFFEE COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") by §25-9-110(3) of the Colorado Revised Statutes ("C.R.S."), the Division hereby makes the following findings and issues this Operator Certification Notice of Violation:

GENERAL FINDINGS

1. At all times relevant to the alleged violations identified herein, Monarch Mountain Lodge LLC was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.

2. Monarch Mountain Lodge LLC owns and/or operates the Monarch Mountain Lodge wastewater treatment facility (also known as the Garfield WWTP), located at or near geographic coordinates 38.5503°, -106.2867°, near the Town of Garfield, Chaffee County, Colorado (the "Facility").

3. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO-0028444 (the "Permit"). The current version of the Permit (sixth renewal) became effective on May 1, 2007. The Permit expired on April 30, 2012, and has been administratively extended, pending Permit reissuance.

4. The Facility includes a "domestic wastewater treatment facility" as defined by §25-9-102(4.5), C.R.S., and its implementing regulation, 5 CCR 1003-2, §100.2(13).

5. The Facility includes a "wastewater collection system" as defined by §25-9-102(4.9), C.R.S., and its implementing regulation, 5 CCR 1003-2, §100.2(28).

6. Pursuant to 5 CCR 1003-2, §100.5.2, the Facility's domestic wastewater treatment facility is classified as "Class C."

7. Pursuant to 5 CCR 1003-2, §100.8.2, the Facility's domestic wastewater collection system is classified as "Class 1."

Failure to Have a Certified Operator in Responsible Charge

8. Pursuant to §25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, §100.18.1(a), no owner of a water treatment facility, water distribution system, wastewater collection system, and/or domestic or industrial wastewater treatment facility shall allow the facility to be operated without the direct supervision of an operator-in-responsible-charge certified in a classification equivalent to or higher than the classification of the facility as specified in 5 CCR 1003-2, §§100.4 through 100.8.

9. In accordance with 5 CCR 1003-2, §100.18.5, Monarch Mountain Lodge LLC shall operate the Facility with an operator-in-responsible-charge certified at or above the Class C Wastewater Treatment and Class 1 Wastewater Collection certifications.

10. Pursuant to 5 CCR 1003-2, §100.18.4(a), each owner of a water or wastewater facility shall submit in writing to the Division, no later than thirty (30) days following the date the facility is initially placed on-line and thereafter, no later than thirty (30) days after changes to any of the following information:

    a. Name, mailing address, phone number, and email address (if available) of the facility representative providing the information;
    b. Name, mailing address, phone number, email address (if available) and the classification and expiration of certification of all operator(s)-in-responsible-charge employed by the owner;
    c. Identification of the facility or facilities for which each operator-in-responsible-charge employed or contracted by the owner has responsibility;
    d. The Public Water System Identification (PWSID) number and the Colorado Discharge Permit System (CDPS) permit or certification number for all facilities listed.

11. Division records to-date establish that Monarch Mountain Lodge LLC has failed to provide the Division with information or documents demonstrating that the Facility is operated under the direct supervision of an operator-in-responsible-charge, certified in classification equivalent to or higher than Class C Wastewater Treatment and Class 1 Wastewater Collection certifications.

12. Monarch Mountain Lodge LLC's failure to operate its domestic wastewater treatment facility under the supervision of a certified operator with the proper classification constitutes violation(s) of §25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, §100.18.1(a) and §100.18.5.

13. Monarch Mountain Lodge LLC's failure to operate its wastewater collection system under the supervision of a certified operator with the proper classification constitutes violation(s) of §25-9-110(2)(a), C.R.S., and 5 CCR 1003-2, §100.18.1(a) and §100.18.5.

REQUIRED ACTION

The Division hereby orders Monarch Mountain Lodge LLC to comply with the following specific terms and conditions of this Operator Certification Notice of Violation:

14. Within fifteen (15) calendar days from the date of this Notice of Violation, Monarch Mountain Lodge LLC shall retain an operator-in-responsible-charge certified in classifications equivalent to or higher

than the classifications of the Facility as specified in the Water and Wastewater Facility Operators Certification Requirements, 5 CCR 1003-2.

15. Within thirty (30) calendar days from the date of this Notice of Violation, Monarch Mountain Lodge LLC shall submit to the Division the information specified in 5 CCR 1003-2, §100.18.4, documenting that the Facility is being operated under the supervision of an operator with the proper certification(s). The attached Wastewater Operator in Responsible Charge Report form may be used to report the required information. *(Please note that the Facility's classification(s) may change upon completion of any Facility improvements.)*

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Operator Certification Notice of Violation, Monarch Mountain Lodge LLC 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
Clean Water Compliance and Enforcement Unit
Attention: Kelly Morgan
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303-692-3634
Email: kelly.morgan@state.co.us

For any person submitting documents, pursuant to this Operator Certification Notice of Violation, 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."

POTENTIAL CIVIL PENALTIES

You are also advised that any owner of a water treatment facility, a domestic or industrial wastewater treatment facility, a wastewater collection system, or a water distribution system in the State of Colorado who violates the Water and Wastewater Facility Operators Certification Statute (the "Act") at §25-9-110(2), C.R.S., shall be subject to a civil penalty of not more than three hundred dollars ($300) per day for each day during which such violation occurs. By virtue of issuing this Operator Certification Notice

of Violation, the Department has not waived its right to bring an action for civil penalties under the Act at §25-9-110(5), C.R.S., and may bring such action in the future.

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-9-110(3), C.R.S., you are required to submit to the Division an answer to each alleged violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Pursuant to §25-9-110(4), C.R.S., and 5 CCR 1003-2, §100.21.1, an alleged violator of the Act at §25-9-110(2)(a), C.R.S., may request a public hearing to contest the contents of this Notice of Violation. Such request shall be filed in writing with the Division no later than thirty (30) days after service of this action, and shall contain, at a minimum, the information specified in 5 CCR 1003-2, §100.21.1(a-c). Hearings held pursuant to §25-9-110(4), C.R.S., shall be conducted before the Colorado Water and Wastewater Facility Operators Certification Board in accordance with §24-4-105, C.R.S. The filing of an answer does not constitute a request for hearing.

Issued at Denver, Colorado, this 18th day of November, 2013.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Steven H. Gunderson, Director
WATER QUALITY CONTROL DIVISION

ATTACHMENT A

Colorado Department of Public Health and Environment

WASTEWATER OPERATOR IN RESPONSIBLE CHARGE REPORT

Return Form To:
Facility Operator Certification - WQCD
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

PLEASE Use Ink or Type

Classification of Treatment Facility: ☐ A ☐ B ☐ C ☐ D

Classification of Collection System: ☐ 1 ☐ 2 ☐ 3 ☐ 4

Customers Served (Population): _____

Discharge Permit or Certification #: _____

Permit Name: _____

Permittee Name: _____

Telephone: _____ E-mail: _____

ORC Wastewater Treatment

Operator ID#: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Name: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Mailing Address: _____

City, State Zip Code: _____

Telephone: _____ E-mail: _____

ORC Signature (Treatment): _____

ORC Wastewater Collection

Operator ID#: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Name: _____ WW Cert #: _____ Level: ____ Exp.Date: _____

Mailing Address: _____

City, State Zip Code: _____

Telephone: _____ E-mail: _____

ORC Signature (Collection System): _____

"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."

Name (please print): _____

Position: _____

Authorized Signature: _____

Date: _____

PERMITTEE RESPONSIBILITIES

Article 9 of Title 25, C.R.S., requires that every domestic or industrial wastewater treatment facility and collection system be under the supervision of a certified operator, holding a certificate in a class equal to or higher than the class of the facility or system. A permittee who fails to comply with this requirement is subject to a penalty of $300 per day per violation.

"Direct supervision" means that the operator in responsible charge has supervisory responsibility and authority with respect to the operation of the wastewater facility and for the activities and functions of other facility operators.

The operator in responsible charge (ORC) is the person designated by the permitee of a wastewater facility to be the certified operator(s) who has ultimate responsibility for decisions regarding the daily operational activities of the facility that will directly impact the quality and/or quantity of treated wastewater or treated effluent."

There must be a designated operator in responsible charge or another designated operator certified at or above the level of the facility available for all operating shifts. "Available" means that the designated certified operator must either be on-site or must be able to be contacted as needed to make decisions and to initiate appropriate actions in a timely manner.

Section 100.18.4, Regulation 100, requires the owner(s) of each facility or system to formally designate the Operator in Responsible Charge and to report to the Division any changes no later than thirty days following any changes.