



COLORADO
Department of Public
Health & Environment

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

July 8, 2015

United States Corporation Company, Registered Agent
Hyatt Corporation
1560 Broadway, Suite 2090
Denver, Colorado 80202

Certified Mail Number: 7014 2870 0000 7699 5191

RE: Compliance Order on Consent, Number: IC-150708-1

Dear Sir or Madam:

Enclosed for Hyatt Corporation's records, you will find Hyatt Corporation's copy, with original signatures, of the recently executed Compliance Order on Consent. Please remember that this agreement is subject to a thirty-day public comment period (paragraph 29). Following initiation, if the Division receives any comments during this period we will contact your office to discuss. Also, please be advised that the first page of the Compliance Order on Consent was changed to place the assigned Order Number on the final document.

If you have any questions, please don't hesitate to contact me 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
Doug Linkhart, Denver Environmental Health
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Doug Camrud, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Lillian Gonzalez, Permits Section, CDPHE
Tania Watson, Compliance & Enforcement Unit, CDPHE





COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT

NUMBER: IC-150708-1

IN THE MATTER OF: HYATT CORPORATION
 CDPS PERMIT NO. COG603000
 CERTIFICATION NO. COG603109
 DENVER COUNTY, COLORADO

The Colorado Department of Public Health and Environment (“Department”), through the Water Quality Control Division (“Division”), issues this Compliance Order on Consent (“Consent Order”), pursuant to the Division’s authority under §§25-8-602 and 605 C.R.S. of the Colorado Water Quality Control Act (“the Act”) §§25-8-101 to 803, C.R.S., and its implementing regulations, with the express consent of Hyatt Corporation (“Hyatt”). The Division and Hyatt may be referred to collectively as “the Parties.”

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, the civil penalties associated with alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number: IO-141124-1 (the “NOV/CDO”), that the Division issued to Hyatt Corporation on November 24, 2014.

DIVISION’S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division’s investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Hyatt, the Facility, and Hyatt’s compliance with the Act and its permit issued pursuant to the Act.
3. At all times relevant to the violations cited herein, Hyatt was a Delaware corporation in good standing and registered to conduct business in the State of Colorado.
4. Hyatt is a “person” as defined by §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
5. Hyatt operates the Hyatt Regency Denver at the Convention Center hotel located at 650 15th Street, within the City and County of Denver, Colorado, that includes two long-term subterranean dewatering vaults located within a parking garage structure (the “Facility”).



6. The Facility is subject to the Colorado Discharge Permit System General Permit, Number COG603000 for discharges associated with subterranean dewatering or well development (the “Permit”). During the times relevant to the alleged violations identified herein, two versions of the Permit were in effect—the version that became effective September 25, 2007 (the “2007 Permit”), and the current version of the Permit that became effective on October 1, 2013, was modified with Modification #1 on June 1, 2014, and is set to expire on September 30, 2018 (the “2013 Permit”).
7. On October 1, 2008, the Division provided Hyatt with authorization to discharge wastewater associated with subterranean dewatering activities under the 2007 Permit via Certification Number COG603109 (the “Certification”), which serves as page one (1) of the Permit. The Certification became effective under the 2007 Permit on October 1, 2008 and authorized Hyatt to discharge through Outfall 001A to Cherry Creek via a storm sewer located at the corner of 15th Street and California Street. When the Certification was reissued under the 2013 Permit, Outfall 001A was relocated to authorize a discharge to Cherry Creek via a storm sewer located at the corner of 14th Street and California Street, and a second outfall, Outfall 002A, was added to authorize a discharge to Cherry Creek via a storm sewer located on 15th street halfway between California Street and Welton Street.
8. Pursuant to 5 CCR 1002-61 §61.8, Hyatt 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

9. Pursuant to Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification, Hyatt’s permitted discharge at Outfalls 001A and 002A shall not exceed, among others not subject of this action, the total suspended solids (“TSS”) effluent discharge limitations specified below:

HYATT EFFLUENT DISCHARGE LIMITATIONS		
EFFLUENT PARAMETER	30-DAY AVERAGE	7-DAY AVERAGE
Total Suspended Solids (“TSS”), mg/l	30	45

10. Pursuant to Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification, Hyatt 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 2007 Permit and the 2013 Permit, and the Certification.
11. Pursuant to Part I.E.1. of the 2007 Permit and the 2013 Permit, Hyatt is required to summarize and report the analytical results of its effluent monitoring to the Division via quarterly discharge monitoring reports (“DMRs”). Each DMR shall include a certification by Hyatt that the information provided therein is true, accurate, and complete to the knowledge and belief of Hyatt.

12. Hyatt’s DMRs include, among other information and data, the following effluent concentration data for TSS which exceeded the effluent limitations in Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification:

HYATT EFFLUENT SELF-MONITORING DATA		
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 001A	
Total Suspended Solids ("TSS"), mg/l	30-DAY AVG. LIMIT= 30 mg/l	7-DAY AVG. LIMIT= 45 mg/l
3 rd Quarter 2012 (7/1/2012-9/30/2012)	46.7	46.7
4 th Quarter 2012 (10/1/2012-12/31/2012)	71.2	71.2
1 st Quarter 2013 (1/1/2013-3/31/2013)	145	145
1 st Quarter 2014 (1/1/2014-3/31/2014)	206	206
2 nd Quarter 2014 (4/1/2014-6/30/2014)	66	66
3 rd Quarter 2014 (7/1/2014-9/30/2014)	114	114
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 002A	
Total Suspended Solids ("TSS"), mg/l	30-DAY AVG. LIMIT= 30 mg/l	7-DAY AVG. LIMIT= 45 mg/l
2nd Quarter 2014 (4/1/2014-6/30/2014)	576	576
4 th Quarter 2014 (10/1/2014- 12/31/2012)	102	102

13. TSS is a “pollutant” or indicator thereof, as defined by §25-8-103, C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
14. The 2007 Permit and the 2013 Permit, and the Certification do not authorize the pollutant levels identified above in paragraph 12. Division records establish that Hyatt does not have any other permit authorizing such discharges into State Waters.
15. Hyatt’s failure to comply with the effluent limitations constitutes violations of Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification.

Failure to Properly Monitor and Report

16. Pursuant to Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification, Hyatt 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 2007 Permit and the 2013 Permit, and the Certification.
17. Pursuant to Part I.E.1. of the 2007 Permit and the 2013 Permit, Hyatt is required to summarize and report the analytical results of its effluent monitoring to the Division via quarterly DMRs. The 2007 Permit and the 2013 Permit specify that the DMRs shall be filled out accurately and completely in accordance with the requirements of the permit. Hyatt is required to ensure the DMRs are mailed to the Division so that they are received by the Division no later than the 28th day of the month following the reporting period. The 2007 Permit and the 2013 Permit specify that if no discharge occurs during the reporting period, “No Discharge” shall be reported on the DMR.
18. Division records establish that Hyatt failed to monitor for all required effluent parameters at Outfall 001A at the frequency required by Part I.B.2. of the 2007 Permit for the reporting periods listed below:

HYATT FAILURE TO MONITOR AT REQUIRED FREQUENCIES		
DMR REPORTING PERIOD	REQUIRED MONITORING FREQUENCY	REPORTED MONITORING FREQUENCY
1 st Quarter 2011 (1/1/2011-3/31/2011)	Monthly (3x/quarter)	1x/quarter
2 nd Quarter 2011 (4/1/2011-6/30/2011)	Monthly (3x/quarter)	2x/quarter
2 nd Quarter 2012 (4/1/2012-6/30/2012)	Monthly (3x/quarter)	1x/quarter
3 rd Quarter 2012 (7/1/2012-9/30/2012)	Monthly (3x/quarter)	2x/quarter
4 th Quarter 2012 (10/1/2012-12/31/2012)	Monthly (3x/quarter)	1x/quarter
1 st Quarter 2013 (1/1/2013-3/31/2013)	Monthly (3x/quarter)	2x/quarter

19. Division records establish that Hyatt failed to monitor for pH, TSS, oil and grease, flow, potentially dissolved selenium, toluene, benzene, ethylbenzene, and total xylenes at Outfall 002A during the 4th Quarter 2013 (10/1/2013-12/31/2013).
20. Division records establish that Hyatt failed to submit DMRs to the Division by the 28th day of the month following the end of the reporting periods identified in the table below:

HYATT LATE AND DELINQUENT DISCHARGE MONITORING REPORTS			
DMR REPORTING PERIOD	OUTFALL NUMBER	DMR DUE DATE	DMR RECEIPT DATE
4 th Quarter 2010 (10/1/2010-12/31/2010)	001A	1/28/2011	5/25/2011
2 nd Quarter 2011 (4/1/2011-6/30/2011)	001A	7/28/2011	10/4/2011
1 st Quarter 2012 (1/1/2012-3/31/2012)	001A	4/28/2012	DMR not received
2 nd Quarter 2012 (4/1/2012-6/30/2012)	001A	7/28/2012	11/19/2012
3 rd Quarter 2012 (7/1/2012-9/30/2012)	001A	10/28/2012	11/19/2012
4 th Quarter 2012 (10/1/2012-12/31/2012)	001A	1/28/2013	2/4/2013
1 st Quarter 2013 (1/1/2013-3/31/2013)	001A	4/28/2013	5/6/2013
4 th Quarter 2013 (10/1/2013-12/31/2013)	002A	1/28/2014	5/6/2014
1 st Quarter 2014 (1/1/2014-3/31/2014)	001A	4/28/2014	5/6/2014
1 st Quarter 2014 (1/1/2014-3/31/2014)	002A	4/28/2014	5/6/2014
2 nd Quarter 2014 (4/1/2014-6/30/2014)	001A	7/28/2014	8/6/2014
2 nd Quarter 2014 (4/1/2014-6/30/2014)	002A	7/28/2014	8/6/2014

21. Hyatt's failure to properly monitor defined effluent parameters at specified frequencies, as identified above in paragraphs 18 and 19, constitutes violations of Part I.B.2. of the 2007 Permit and the 2013 Permit, and the Certification.
22. Hyatt's failure to submit DMRs to the Division so that they are received by no later than the 28th day of the month following the reporting period constitutes violations of Part I.E.1. of the 2007 Permit and the 2013 Permit.
23. The Division acknowledges that Hyatt timely and satisfactorily performed all of the obligations and actions required under the November 24, 2014 Notice of Violation / Cease and Desist Order.

ORDER AND AGREEMENT

24. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the NOV/CDO, the Division orders Hyatt to comply with all provisions of this Consent Order, including all requirements set forth below.
25. Hyatt agrees to the terms and conditions of this Consent Order. Hyatt agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Hyatt also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Hyatt against the Division:
- a. The issuance of this Consent Order;
 - b. The factual and legal determinations made by the Division herein; and
 - c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.
26. Notwithstanding the above, Hyatt does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Hyatt pursuant to this Consent Order shall not constitute evidence of fault and liability by Hyatt. Hyatt expressly reserves its rights to deny any of the Division's factual or legal determinations or defend itself in any other third party proceeding relating to the information identified in this Consent Order.

CIVIL PENALTY

27. Based upon the factors set forth in §25-8-608(1), C.R.S., and consistent with Departmental policies for violations of the Act, Hyatt shall pay Nineteen Thousand Dollars (\$19,000.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Nineteen Thousand Dollar (\$19,000.00) civil penalty for the above violation(s) and Hyatt agrees to make the payment within thirty (30) calendar days of the issuance of an Order for Civil Penalty by the Executive Director or his designee. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

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

SCOPE AND EFFECT OF CONSENT ORDER

28. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations cited herein and in the NOV/CDO.

29. This Consent Order is subject to the Division's "Public Notification on Administrative Enforcement Actions Policy," which includes a thirty (30) day public comment period. The Division and Hyatt each reserve the right to withdraw consent to this Consent Order if comments received during the thirty day period result in any proposed modification to the Consent Order.
30. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty following the public comment period. Any violation of the provisions of this Consent Order by Hyatt, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.
31. Notwithstanding paragraph 26 above, the violations described in this Consent Order will constitute part of Hyatt's compliance history.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

32. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to civil penalties for the specific instances of violations cited herein and in the NOV/CDO. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.
33. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
34. Hyatt reserves its rights and defenses regarding the Facility other than proceedings to enforce this Consent Order.
35. Nothing in this Consent Order shall preclude the Division from imposing additional requirements necessary to protect human health or the environment and to effectuate the purposes of the Consent Order. Nor shall anything in this Consent Order preclude the Division from imposing additional requirements in the event that additional information is discovered that indicates such requirements are necessary to protect human health or the environment.
36. Hyatt releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims or for any injuries or damages to persons or property resulting from acts or omissions of Hyatt, or those acting for or on behalf of Hyatt, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

NOTICES

37. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

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
E-mail: andrea.beebout@state.co.us

For Hyatt:

Ed Bucholtz, General Manager
Hyatt Regency Denver at the Convention Center
650 15th Street
Denver, Colorado 80202

With copies to:

Megan Ferraro
Legal Department
Hyatt Hotel & Resorts
71 S. Wacker Drive
14th Floor
Chicago, IL 60606

MODIFICATIONS

38. This Consent Order may be modified only upon mutual written agreement of the Parties.

NOTICE OF EFFECTIVE DATE

39. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty following closure of the public comment period referenced in paragraph 29. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

BINDING EFFECT AND AUTHORIZATION TO SIGN

40. This Consent Order is binding upon Hyatt and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

FOR HYATT CORPORATION:



Date:

6/30/15

Ed Bucholtz, General Manager
Hyatt Regency Denver at the Convention Center

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:



Date:

7/8/15

Patrick J. Pfaltzgraff, Director
WATER QUALITY CONTROL DIVISION