



COLORADO

Department of Public
Health & Environment

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

September 14, 2016

Edward Eugene Pagel
Pagel's Trailer Park LLC
16220 MCR 19
Fort Morgan, CO 80701

Certified Mail Number: 7014 2870 0000 7568 7851

RE: Service of Notice of Violation / Cease and Desist Order, Number: DO-160914-2

Dear Mr. Pagel:

You are 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 you have 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., you are 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. Pursuant to §25-8-608, C.R.S., the Division is authorized 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 your representatives 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 me at (303) 692-2283 or mandy.mercer@state.co.us.

Sincerely,

Mandy Mercer, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION



Enclosure

cc: Enforcement File

ec: Michael Boeglin, EPA Region VIII
Bill Helms, Northeast Colorado Health Department
Nicole Rowan, Clean Water Program, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Doug Camrud, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Lillian Gonzales, Permits Section, CDPHE
Kelly Morgan, Clean Water Enforcement Unit, CDPHE
Tania Watson, Data Management, CDPHE





COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: DO-160914-2

IN THE MATTER OF: **PAGEL'S TRAILER PARK, LLC**
 CDPS PERMIT NO. COX-632000
 CERTIFICATION NO. COX-632002
 MORGAN 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 violations cited herein, Pagel's Trailer Park, LLC was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.
2. Pagel's Trailer Park, 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. Pagel's Trailer Park, LLC owns and/or operates the Pagels Trailer Park wastewater treatment facility, located at 40° 14'5" North and 103° 47'17" West, in the City of Fort Morgan, Morgan County, Colorado, (the "Facility").
4. Based on Site Approval Number 4848 dated March 29, 2006, the Facility is comprised of three septic tanks followed by a 3-cell lagoon system. Cell #2 and Cell #3 are designed as infiltration lagoons. Land application of treated wastewater is approved during the growing season. The Facility's approved hydraulic and organic loading capacities are 0.03 million gallons per day ("MGD") and 50 pounds ("lbs") biochemical oxygen demand ("BOD") per day, respectively.
5. The contributing service area to the Facility includes approximately 86 mobile homes.



6. The Facility is subject to the Colorado Discharge Permit System General Permit Number: COX-632000 (the "Permit"). The current version of the Permit became effective on March 1, 2008. The Permit was set to expire on April 30, 2012, but has been administratively extended by the Division. Pagel's Trailer Park, LLC obtained authorization to discharge under the Permit via Certification Number COX-632002 (the "Certification"), which became effective on June 6, 2007 and was later amended with an effective date of April 1, 2011.
7. The Permit and Certification authorize Pagel's Trailer Park, LLC to discharge treated wastewater ("effluent") from the Facility through Outfall 001A into groundwater via infiltration from land application of the wastewater. Outfall 001A is physically located subsequent to Cell #3 and prior to discharge to the land application area. The Permit and Certification also include requirements to monitor influent loading to the Facility at a representative point prior to any treatment, which is designated as Permitted Feature 300I. Permitted Feature 300I is physically located at the concrete influent structure. The Permit and Certification also include requirements to monitor groundwater upgradient of the land application area in a well designated as monitoring well 050A, and downgradient of the land application area in wells designated as monitoring wells 050B, 050C, and 050D.
8. Pursuant to 5 CCR 1002-61, §61.8, Pagel's Trailer Park, 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 Submit Timely Discharge Monitoring Reports

9. Pursuant to Section VI.A. of the Permit, influent and effluent shall be monitored for the required parameters in accordance with the monitoring frequencies and sample types specified in Table 5 of the Permit (and as specified in the Certification). Section VI.A. of the Permit and Section E.3. of the Certification further specify that the influent parameters included in Table 1 of the Permit and the groundwater monitoring parameters included in Table 3 of the Permit (and as specified in the Certification) are to be routinely monitored, regardless of whether or not effluent discharge occurs at the Facility.
10. Pursuant to Section E.1. of the Certification, the Division-approved monitoring locations include Permitted Feature 300I, Outfall 001A, upgradient groundwater monitoring well 050A, and downgradient groundwater monitoring wells 050B, 050C, and 050D.
11. In accordance with Table 2 of the Certification, monitoring at Permitted Feature 300I and Outfall 001A shall occur on a monthly basis.
12. Pursuant to Section E.2. of the Certification, the groundwater monitoring wells shall be monitored on a monthly basis beginning one month prior to the start of land application through two months after the end of land application.
13. Pursuant to Section VIII.A. of the Permit and Section F of the Certification, monitoring results shall be summarized and reported on Discharge Monitoring Report ("DMR") forms on a monthly basis. The forms shall be mailed to the Division so that they are received no later than the 28th day of the month following the reporting period.

14. Division records, including DMRs, establish that Pagel's Trailer Park, LLC failed to submit DMRs to the Division by the 28th day of the month following the reporting periods identified below:

PAGEL'S TRAILER PARK, LLC DELINQUENT and LATE DMRS		
MONITORING PERIOD	MONITORING POINT NUMBER	DMR RECEIPT DATE
June 1-30, 2011	001A, 050A, 050B, 050C, 050D, 300I	Not Received
July 1-31, 2011	001A, 050A, 050B, 050C, 050D, 300I	Not Received
August 1-31, 2011	001A, 050A, 050B, 050C, 050D, 300I	Not Received
September 1-30, 2011	001A, 050A, 050B, 050C, 050D, 300I	Not Received
October 1-31, 2011	001A, 050A, 050B, 050C, 050D, 300I	Not Received
November 1-30, 2011	001A, 050A, 050B, 050C, 050D, 300I	Not Received
December 1-31, 2011	001A, 050A, 050B, 050C, 050D, 300I	Not Received
January 1-31, 2012	001A, 050A, 050B, 050C, 050D, 300I	Not Received
February 1-29, 2012	001A, 050A, 050B, 050C, 050D, 300I	Not Received
March 1-31, 2012	001A, 050A, 050B, 050C, 050D, 300I	December 30, 2013
July 1-31, 2012	001A, 050A, 050B, 050C, 050D, 300I	December 17, 2012
August 1-31, 2012	001A, 050A, 050B, 050C, 050D, 300I	December 17, 2012
September 1-30, 2012	001A, 050A, 050B, 050C, 050D, 300I	November 8, 2012
December 1-31, 2012	001A, 050A, 050B, 050C, 050D, 300I	January 31, 2013
January 1-31, 2013	001A, 050A, 050B, 050C, 050D, 300I	March 12, 2013
March 1-31, 2013	001A, 050A, 050B, 050C, 050D, 300I	May 28, 2013
April 1-30, 2013	300I	July 22, 2013
May 1-31, 2013	001A, 050A, 050B, 050C, 050D	October 18, 2013
	300I	December 30, 2013
June 1-30, 2013	001A, 050A, 050B, 050C, 050D, 300I	December 30, 2013
July 1-31, 2013	001A, 050A, 050B, 050C, 050D, 300I	January 15, 2014
August 1-31, 2013	001A, 050A, 050B, 050C, 050D, 300I	January 15, 2014
September 1-30, 2013	001A, 050A, 050B, 050C, 050D, 300I	December 30, 2013
October 1-31, 2013	001A, 050A, 050B, 050C, 050D	December 30, 2013
	300I	January 15, 2014
January 1-31, 2014	001A, 050A, 050B, 050C, 050D, 300I	March 11, 2014
March 1-31, 2014	001A, 050A, 050B, 050C, 050D, 300I	September 29, 2014
April 1-30, 2014	001A, 050A, 050B, 050C, 050D, 300I	September 29, 2014
May 1-31, 2014	001A, 050A, 050B, 050C, 050D, 300I	September 29, 2014
June 1-30, 2014	001A, 050A, 050B, 050C, 050D, 300I	September 29, 2014
July 1-31, 2014	001A, 050A, 050B, 050C, 050D	September 29, 2014
	300I	Not Received
September 1-30, 2014	300I	Not Received
October 1-31, 2014	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
November 1-30, 2014	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
December 1-31, 2014	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
January 1-31, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
February 1-28, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received

PAGEL'S TRAILER PARK, LLC DELINQUENT and LATE DMRS		
MONITORING PERIOD	MONITORING POINT NUMBER	DMR RECEIPT DATE
March 1-31, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
April 1-30, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
May 1-31, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
June 1-30, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
July 1-31, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
August 1-31, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
September 1-30, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
October 1-31, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
November 1-30, 2015	001A, 050A, 050B, 050C, 050D	January 23, 2016
	300I	Not Received
December 1-31, 2015	300I	Not Received
January 1-31, 2016	300I	Not Received
February 1-29, 2016	001A, 050A, 050B, 050C, 050D, 300I	Not Received
March 1-31, 2016	001A, 050A, 050B, 050C, 050D, 300I	Not Received
April 1-30, 2016	001A, 050A, 050B, 050C, 050D, 300I	Not Received
May 1-31, 2016	001A, 050A, 050B, 050C, 050D, 300I	Not Received
June 1-30, 2016	001A, 050A, 050B, 050C, 050D, 300I	Not Received

15. Pagel's Trailer Park, LLC's failure to submit DMRs to the Division by the 28th day of the month following each reporting period constitutes violations of Section VIII.A. of the Permit and Section F of the Certification.

NOTICE OF VIOLATION

16. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined Pagel's Trailer Park, LLC has violated the following sections of the Permit and Certification:

Section VIII.A. of the Permit, which states in part: "Monitoring results shall be summarized and reported on the Discharge Monitoring Reports forms on a monthly, quarterly, or other schedule consistent with the monitoring frequency delineated in the Certification. The forms shall be mailed to the Division so that they are received no later than the 28th day of the following month that the monitoring occurred."

Section F of the Certification, which states in part: "The Permittee is required to submit pre-printed DMRs on a monthly basis for the parameters described in Section VIII.A. of the permit...DMRs are due at the Division on the 28th day of the month following the end of the reporting period."



REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Pagel's Trailer Park, LLC is hereby ordered to:

17. 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 Pagel's Trailer Park, LLC to comply with the following specific terms and conditions of this Order:

18. Pagel's Trailer Park, LLC shall immediately initiate measures to ensure complete and timely DMRs are submitted to the Division pursuant to the terms and conditions of the Permit and Certification. Within thirty (30) calendar days of receipt of this Order, Pagel's Trailer Park, LLC shall submit a written plan and certification to the Division outlining 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.
19. Within thirty (30) calendar days of receipt of this Order, Pagel's Trailer Park, LLC shall submit all delinquent DMRs for the monitoring periods noted as not received in paragraph 14 above.
20. Within thirty (30) calendar days of receipt of this Order, Pagel's Trailer Park, LLC shall submit a summary of all influent and effluent monitoring data for the monitoring periods beginning July 2014 through the date of this Order. All permit-required monitoring 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.
21. Within thirty (30) calendar days of receipt of this Order, Pagel's Trailer Park, LLC shall provide monthly hydraulic and organic (BOD₅) loading calculations from July 2014 through the date of this Order. Organic (BOD₅) loading shall be calculated using the total daily influent wastewater flow on the day that the BOD₅ composite sample was collected, using the following formula:

$$\text{Loading (lbs/day)} = (\text{total daily influent flow in MGD} \times \text{BOD}_5 \text{ concentration in mg/L}) \times 8.34$$

22. Within thirty (30) calendar days of receipt of this Order, Pagel's Trailer Park, LLC shall submit all records of groundwater monitoring for the monitoring periods beginning July 2014 through the date of this Order. All groundwater monitoring 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 groundwater data summary. In the event that groundwater monitoring was not performed for some or all monitoring periods, Pagel's Trailer Park, LLC shall provide a statement explaining why monitoring was not performed. The statement should include information about the quantity of treated wastewater that was land applied during the particular monitoring period.
23. Within thirty (30) calendar days of receipt of this Order, Pagel's Trailer Park, LLC shall submit all records of land application of treated wastewater from January 2012 through the date of this Order.
24. Beginning on October 1, 2016 and every month thereafter, Pagel's Trailer Park, LLC shall conduct

groundwater monitoring at groundwater monitoring wells 050A, 050B, 050C, and 050D. Monthly groundwater monitoring shall be conducted regardless of whether or not effluent discharge occurs at the Facility. Groundwater samples shall be collected for all parameters listed in Table 3 of the Permit and as specified in Tables 1 and 2 of the Certification. Analytical results shall be reported on monthly DMR forms and submitted to the Division no later than the 28th of the month following the monitoring period.

25. Within ninety (90) calendar days of the date of this Order, in order to determine if seepage from the lagoon system exceeds the allowable exfiltration rate of 1×10^{-6} centimeters per second, Pagel's Trailer Park, LLC shall perform a lagoon seepage study for all three cells of the wastewater treatment facility and submit conclusive results of the seepage study to the Division. Liner integrity information may be used as the basis for verifying that the seepage meets the allowable exfiltration rate. The seepage report must be prepared by a professional engineer registered in the state of Colorado and experienced in domestic wastewater treatment.
26. Beginning October 1, 2016, and every ninety (90) days thereafter until the Division deems it no longer necessary, Pagel's Trailer Park, LLC shall submit a monthly progress report to the Division summarizing the efforts it has taken to achieve compliance with this Order and the Permit and Certification. At a minimum, each progress report shall include a description of activities completed during the current month and a description and time schedule for activities planned for the next month.
27. If Pagel's Trailer Park, LLC becomes aware of any situation or circumstance that causes it to become unable to comply with any condition or time schedules set forth by this Order, Pagel's Trailer Park, LLC shall provide written notice to the Division within five (5) calendar days of becoming aware of such circumstances. Pagel's Trailer Park, LLC's notice shall describe what, if any, impacts will occur on its 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.
28. All documents submitted under this Order shall use the same titles as stated in this Order, and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required. Within thirty (30) calendar days of receiving Division comments on submitted documents, Pagel's Trailer Park, 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, Pagel's Trailer Park, 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: Mandy Mercer
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-2283
Email: mandy.mercer@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 14th day of September, 2016.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Nicole Rowan, P.E.
Clean Water Program Manager
WATER QUALITY CONTROL DIVISION