



COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: DO-151204-1

IN THE MATTER OF: KRELAE, LLC
 d/b/a SAN SOUCI MOBILE HOME PARK
 CDPS PERMIT NO. COG588000
 CERTIFICATION NO. COG588101
 BOULDER 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, Krelae, LLC was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.
2. Krelae, 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. Krelae, LLC owns and/or operates San Souci Mobile Home Park wastewater treatment facility, located at 1561 S. Foothills Hwy., in or near the City of Boulder, Boulder County, Colorado, and (the "Facility").
4. The Facility consists of a Case-Cotter extended aeration package plant. The plant consists of an aeration basin, a clarifier and a chlorine contact chamber with dechlorination. The hydraulic capacity is 0.018 MGD with an organic capacity of 60 lbs BOD₅/day. The effluent flow is measured by a 22.5° V-notch weir with a continuous flow recorder and totalizer.
5. The Facility is subject to the Colorado Discharge Permit System General Permit Number: COG588000 (the "Permit"). During the times relevant to the alleged violations herein, a version of the Permit was effective from June 1, 2005 through May 31, 2010 (the "2005 Permit"). The 2005 Permit was set to expire on May 31, 2010 but was administratively continued until issuance of the current Permit. The current version of the Permit became effective on June 1, 2013, with a minor modification effective June 1, 2014, and is set to expire on May 31, 2018 (the "2013 Permit").

Krelae, LLC, doing business as San Souci Mobile Home Park, obtained authorization to discharge under the Permit via Certification Number: COG588101 (the "Certification"). The Certification became effective under the 2005 Permit on April 1, 2008, was reissued under the 2013 Permit on June 1, 2013, and remains in effect until May 31, 2018 or until Krelae, LLC inactivates Permit coverage.

6. The Permit and Certification authorize Krelae, LLC to discharge treated wastewater, called effluent, from the Facility through Outfall 001A into South Boulder Creek. The effluent discharge is subject to the specific effluent limitations and other conditions of the Permit and Certification.
7. South Boulder Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(102).
8. Pursuant to 5 CCR 1002-61, §61.8, Krelae, LLC must comply with all the terms and conditions of the Permit and Certification, and violations of such terms and conditions as specified in the Permit and Certification may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

Failure to Meet Minimum Percent Removal Requirements

9. Pursuant to Part I.B.7.a.i. of the 2005 Permit and Part I.B.1. of the 2013 Permit and Certification, Krelae, LLC must demonstrate the arithmetic mean of the BOD₅ and Total Suspended Solids ("TSS") concentrations in effluent samples collected during the DMR reporting maintains a minimum of eighty five percent (85%) removal for BOD₅ and TSS.
10. Krelae, LLC's DMRs include among other information and data, the following monthly percent removal summary data, which does not demonstrate a minimum of 85% removal for BOD₅ and/or TSS as required by Part I.B.7.a.i. of the 2005 Permit and Part I.B.1. of the 2013 Permit and Certification:

<u>REPORTED EFFLUENT SELF-MONITORING DATA</u>		
DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT
BOD₅, % REMOVAL		MONTHLY MINIMUM REMOVAL REQUIREMENT= 85%
January 1 – January 31, 2014	001A1	79.1%
TSS, % REMOVAL		MONTHLY MINIMUM REMOVAL REQUIREMENT= 85%
March 1 – March 31, 2013	001A	80.3
June 1 – June 30, 2013	001A1	78.7
July 1- July 31, 2013	001A1	>80.7
August 1 – August 31, 2013	001A1	81.5

<u>REPORTED EFFLUENT SELF-MONITORING DATA</u>		
DISCHARGE MONITORING REPORTING PERIOD	OUTFALL NUMBER	SAMPLE MEASUREMENT
TSS, % REMOVAL		MONTHLY MINIMUM REMOVAL REQUIREMENT= 85%
October 1 – October 31, 2013	001A1	44.4
November 1 – November 30, 2013	001A1	52.4
December 1 – December 31, 2013	001A1	>44.4
January 1 – January 31, 2014	001A1	40.6
February 1 – February 28, 2014	001A1	>77.6
March 1 – March 31, 2014	001A1	35.29
July 1 – July 31, 2014	001A1	78.8
October 1 – October 31, 2014	001A1	>83.6

11. Krelae, LLC/s failure to demonstrate a monthly minimum removal of 85% for BOD₅ and TSS are violations of Part I.B.7.a.i. of the 2005 Permit and Part I.B.1. of the 2013 Permit and Certification for each month that the minimum removal requirement for either BOD or TSS has been exceeded. Krelae, LLC violated this requirement at least thirteen (13) times between March 1, 2013 and October 31, 2014.

Failure to Properly Monitor and Report

12. Pursuant to Part I.C.1. of the 2005 Permit and Part I.B.6. of the 2013 Permit, Krelae, LLC is required to monitor influent parameters at specified frequencies and report the results on a Discharge Monitoring Report (“DMR”) in order to obtain an indication to the current influent loading as compared to the approved capacity. This requirement applies regardless of whether or not effluent discharge occurs at the Facility.
13. Pursuant to Part I.C.2. of the 2005 Permit and Part I.B.1. of the 2013 Permit, Krelae, LLC is required to monitor effluent parameters at specified frequencies and report the results to the Division on a DMR in order to obtain an indication of compliance or non-compliance with the effluent limitations specified in Part I.B.7.a. of the 2005 Permit and in Part I.B.2. of the 2013 Permit and Certification.
14. Pursuant to Part I.F.2. of the 2005 Permit and Part I.D.1. of the 2013 Permit, Krelae, LLC is required to report all monitoring results on a monthly basis using Division approved DMRs or, as allowed by the 2013 Permit, by using the Division’s Net-DMR services. Krelae, LLC is required to ensure the DMRs are received by the Division no later than the 28th day of the month following the monitoring period. The Permit specifies that if no discharge occurs during the monitoring period, “No Discharge” shall be reported.

15. Division records establish that Krelae, LLC failed to submit influent DMRs to the Division for monitoring point 300I at the Facility for the reporting periods of October 2010 through December 2011. This failure to submit influent DMRs constitutes fifteen (15) violations of the Permit.
16. Division records establish that Krelae, LLC failed to submit influent DMRs to the Division for monitoring point 300I1 at the Facility for the reporting periods of December 2014 through October 2015. This failure to submit influent DMRs constitutes eleven (11) violations of the Permit.
17. Division records establish that Krelae, LLC failed to submit effluent DMRs to the Division for monitoring point 001A at the Facility for the reporting periods of October 2010 through December 2011. This failure to submit effluent DMRs constitutes fifteen (15) violations of the Permit.
18. Division records establish that Krelae, LLC failed to submit effluent DMRs to the Division for monitoring point 001A1 at the Facility for the reporting periods of December 2014 through October 2015. This failure to submit influent DMRs constitutes eleven (11) violations of the Permit.
19. Division records, as supplemented by Krelae, LLC's DMRs, establish that Krelae, LLC failed to submit the DMR data outlined below, for the following reporting periods and parameters:

DMR Reporting Period	Monitoring Point
Facility Capacity (% Hydraulic Capacity)	
June 1 - June 30, 2013	300I1
July 1 - July 31, 2013	300I1
August 1 - August 31, 2013	300I1
Facility Capacity (% Organic Capacity)	
June 1 - June 30, 2013	300I1
July 1 - July 31, 2013	300I1
August 1 - August 31, 2013	300I1

This failure to submit all DMR data constitutes six (6) additional violations of the Permit.

20. Krelae, LLC's failure to monitor all influent and effluent parameters and/or submit complete DMRs to the Division for each reporting period constitutes violations of Part I.C.1 and Part I.C.2. of the 2005 Permit, Part I.B.1. and Part I.B.6. of the 2013 and/or Part I.F.2. of the 2005 Permit and Part I.D.1. of the 2013 Permit.
21. Division records, as supplemented by Krelae, LLC's DMRs, establish that Krelae, LLC failed to submit DMRs for monitoring points 001A, 001A1, 300I, and 300I1 by the 28th day of the month following the reporting periods identified in the table below:

DMR Reporting Period	DMR Due Date	DMR Rcvd Date
September 1 – September 30, 2010	10/28/2010	1/14/2011
January 1 – January 31, 2012	2/28/2012	4/26/2012
February 1 – February 28, 2012	3/28/2012	4/26/2012

DMR Reporting Period	DMR Due Date	DMR Rcvd Date
May 1 – May 31, 2013	6/28/2013	7/23/2013
July 1 – July 31, 2013	8/28/2013	4/1/2014
August 1 – August 31, 2013	9/28/2013	11/18/2013
September 1 – September 30, 2013	10/28/2013	11/18/2013
October 1 – October 31, 2013	11/28/2013	4/1/2014
November 1 – November 30, 2013	12/28/2013	4/1/2014
December 1 – December 31, 2013	1/28/2014	4/1/2014
January 1 – January 31, 2014	2/28/2014	4/1/2014
February 1 – February 28, 2014	3/28/2014	4/1/2014
March 1 – March 31, 2014	4/28/2014	7/25/2014
April 1 – April 30, 2014	5/28/2014	7/25/2014
May 1 – May 30, 2014	6/28/2014	7/25/2014
July 1 – July 31, 2014	8/28/2014	2/6/2015
September 1 – September 30, 2014	10/28/2014	2/6/2015
October 1 – October 31, 2014	11/28/2014	2/6/2015
November 1 – November 30, 2014	12/28/2014	2/6/2015

In total this failure to submit influent and effluent DMRs timely constitutes thirty eight (38) violations of the Permit.

22. Krelae, LLC's failure to submit DMRs to the Division by the 28th day of the month following each reporting period constitutes violations of Part I.F.2. of the 2005 Permit and Part I.D.1. of the 2013 Permit.
23. On December 18, 2013, representatives from the Division (the "Inspectors") conducted an on-site inspection of the Facility pursuant to the Division's authority under §25-8-306, C.R.S., to determine Krelae, LLC's compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspectors interviewed Facility representatives, reviewed Facility records, and performed a physical inspection of the Facility.
24. During the December 18, 2013 inspection a review of all DMRs between January 2009 and October 2013 was conducted. During the inspection the Division conducted a detailed review and comparison between the information on monthly logs and/or bench sheets and DMRs for the month of June 2013. In addition to missing DMR information, it was determined the DMRs reported Total Residual Chlorine ("TRC") measured at the effluent as "<0.5 mg/L". Pursuant to Part I.D.5. of the 2013 Permit, in order to ensure a sufficiently sensitive method is utilized in accordance with 40 C.F.R Part 136, a DPD colorimetric method must attain a Practical Quantitation Limit ("PQL") of 0.10 mg/L or lower, as determined by the State Laboratory and outlined in the Division's Practical Quantitation Limitation Guidance Document, July 2008. If an adequately sensitive method of detection for TRC was being utilized, then reporting less than 0.5 mg/L does not accurately report the TRC data and is an alleged violation of the Permit. If the method used to detect TRC was not sufficiently sensitive, the data collected does not accurately reflect the presence of TRC and is an alleged violation of the Permit.

25. Krelae, LLC's failure to demonstrate a sufficiently sensitive detection method in accordance with 40 C.F.R Part 136 and/or failure to accurately complete DMRs constitutes violations of Part I.D.5. and/or Part I.D.1. of the 2013 Permit.
26. Pursuant to Part I.B.1. of the 2013 Permit and Certification, Krelae, LLC is required to measure effluent flow at outfall 001A.
27. Pursuant to Part I.D.6. of the 2013 Permit, Krelae, LLC is required to establish and maintain records of its sampling and measurements.
28. Pursuant to Part I.C.4. of the 2013 Permit, Krelae, LLC is required to at all times properly operate and maintain all facilities and systems of treatment and control, which includes effective performance, adequate laboratory and process controls and appropriate quality assurance procedures.
29. Pursuant to Part I.D.7. of the 2013 Permit, Krelae, LLC is required to have effluent flow measuring and recording devices installed, operational and accurate within ten (10) percent. Additionally, Part I.D.7. of the 2013 Permit requires that Krelae, LLC be able to show proof of the accuracy of any flow measuring device if requested by the Division.
30. During the December 18, 2013 inspection, the Inspectors identified that monitoring required by the permit had not been adequately conducted and/or documented. The Facility is located in an area impacted by the historic 2013 floods in Boulder County. According to Krelae, LLC, high waters shorted and destroyed electrical equipment for the ultrasonic level transducer used to measure flow at the effluent V-notch weir. As a result, Krelae, LLC was not capable of determining flows. At the time of the inspection, electronic equipment for measuring flow had not been repaired or replaced. Additionally, records for instantaneous flow monitoring were not available.
31. During the December 18, 2013 inspection, the Inspectors identified that Krelae, LLC measures flow rates with a 22.5° V-notch weir. However, the V-notch weir appeared to have design flaws preventing accurate flow measurement over the typical flow ranges to be expected at the Facility. To ensure the nappe of the wier is aerated and flows freely for proper flow measurement, V-notch wiers generally require at least 0.20 feet of head corresponding to a flow rate of 0.0057 MGD for 22.5° V-notch weirs. In addition, the pool upstream of the wier appeared to have a depth less than twice the maximum head of the V-notch weir expected from the facility's range of flows. V-notch weirs require the wier crest heights to be greater than twice the height of the maximum head of the wier. Furthermore, it is not clear if the V-notch weir has maintained a 22.5° angle from corrosion and/or scale build up. Flow conversions and calculations for the V-notch weir are strictly angle dependent.
32. During the December 18, 2013 inspection, the Inspectors requested that Krelae, LLC show proof of the accuracy of the V-notch weir. Krelae, LLC indicated that secondary flow indicators for the effluent flow measurement devices were last calibrated in 2012. A means of verifying the accuracy of the effluent flow rates independent of the V-notch weir was not available at the time of the inspection.
33. Krelae, LLC's failure to monitor and/or report effluent flow constitutes violations of Part I.B.1 of the 2013 Permit.
34. Krelae, LLC's failure to collect and maintain records constitutes a violation of Part I.D.6 of the 2013 Permit.

35. Krelae, LLC's failure to properly operate and maintain its effluent flow measuring device at the Facility and failure to show proof of accuracy of the flow-measuring device constitutes violations of Part I.C.4 and Part I.D.7 of the 2013 Permit.
36. Pursuant to Part I.B.2. of the 2013 Permit and Certification, Krelae, LLC is required to perform composite sampling for Total Suspended Solids ("TSS") and Biological Oxygen Demand ("BOD₅") in the influent and effluent of the Facility.
37. Pursuant to Part I.E.1. of the 2013 Permit, a composite sample is a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow.
38. During the December 18, 2013 inspection, the Inspectors reviewed Krelae, LLC's methods for routine sampling and identified that Krelae, LLC's sample collection procedures were not adequate for representative samples or results, as Krelae, LLC collects sample aliquots every half hour for 8 hours and does not proportion according to flow.
39. Krelae, LLC's failure to properly collect and analyze composite samples for TSS and BOD₅ constitutes violations of Part I.B.2. of the 2013 Permit.

Failure to Maintain Records

40. Pursuant to Part I.D.5. of the 2013 Permit, Krelae, LLC is required to ensure all sampling and analytical methods be in accordance with 40 C.F.R. 136.
41. Pursuant to Part I.D.6. of the 2013 Permit, Krelae, LLC is required to establish and maintain sampling records that include: (1) the date, type, exact place, and time of sampling or measurements; (2) the individual(s) who performed the sampling or measurements; (3) the date(s) the analyses were performed; (4) the individual(s) who performed the analysis; (5) the analytical techniques or methods used; and (6) the results of such analyses.
42. During the December 18, 2013 inspection, the Inspectors reviewed Krelae, LLC's laboratory bench sheets, documentation, and general sampling approach and analytical protocols. Although pH is analyzed by Krelae, LLC on site, Krelae, LLC's bench sheets and Standard Operating Procedures ("SOPs") did not include documentation indicating pH samples are analyzed within 15 minutes of sample collection as required in Table II of 40 C.F.R. 136.3.
43. Krelae, LLC's failure to ensure all sampling and analytical methods are in accordance with 40 C.F.R. Part 136, and/or Krelae, LLC's failure to establish and maintain complete and adequate records constitutes violations of Part I.D.5 and/or Part I.D.6. of the 2013 Permit.

Failure to Adhere to Permit Compliance Schedule

44. Pursuant to Part I.C.7 of the 2013 Permit, the Certification may contain compliance schedules specific to the Facility. The terms and conditions of the compliance schedule included in the 2013 Certification are listed in the table below:

Code	Event	Description	Due Date
43699	Facility Evaluation Plan	Investigate and submit conclusive information to the Division on the correct Site Approval of the current hydraulic and organic loading for the WWTF. Document either that Site Approval has been previously obtained from the Engineering Section of the Division for the current permitted hydraulic and organic loading, or that the WWTF has been exempted from the need of Site Approval by the Engineering Section of the Division.	01/01/14
06599	Hire Consultant/ Professional Engineer	Submit a letter of notification to the Division that a Colorado licensed engineering consultant has been obtained and is working on obtaining appropriate Site Approval for the WWTF from the Engineering Section of the Division. <u>Unless the correct site approval has been provided to the Division as requested in compliance schedule item (43699) #1 above.</u>	07/01/2014
CS019	Complete Site Approval	Submit a letter of notification to the Division that appropriate Site Approval for the WWTF has been obtained from the Engineering Section of the Division. <u>Unless the correct site approval has been provided to the Division as requested in compliance schedule item (43699) #1 above.</u>	07/01/2015

45. Pursuant to Part I.C.7 of the 2013 Permit and the compliance schedule listed in the Certification, Krelae, LLC was to have provided conclusive documentation of previous Site Approval or provide sufficient evidence to support the Facility was exempt from the need for Site Approval by January 1, 2014.
46. Division records establish Krelae, LLC failed to submit documentation of previous Site Approval or evidence of exemption from the need for Site Approval.
47. Pursuant to Part I.C.7 of the 2013 Permit and the compliance schedule listed in the Certification, if documentation establishing previous Site Approval had been attained from the Division or evidence of exemption from the need for Site Approval could not be provided; Krelae, LLC was to have submitted a letter of notification to the Division certifying a Colorado licensed engineering consultant had been obtained and was working on obtaining appropriate Site Approval for the Facility by July 1, 2014.
48. Division records establish Krelae, LLC failed to submit a letter of notification certifying a Colorado licensed engineering consultant had been obtained.
49. Krelae, LLC's failure to submit the required compliance schedule reports and/or documentation in order to obtain appropriate Site Approval constitutes violations of Part I.C.7 of the 2013 Permit and Certification.

Failure to Respond to Division Requests for Information

50. Pursuant to Part II.B.3. of the 2013 Permit, Krelae, LLC is required to furnish to the Division any information the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the Permit, or to determine compliance with the Permit.

51. On January 24, 2014, the Division sent Krelae, LLC an inspection report documenting the findings of the December 18, 2013 inspection. The inspection report and accompanying cover letter requested that Krelae, LLC submit a response to the inspection report detailing the corrective actions and estimated timeline for the proposed corrections. The response was requested to be submitted to the Division by February 23, 2014.
52. On April 9, 2014, the Division sent Krelae, LLC a compliance advisory letter notifying Krelae, LLC of the failure to provide the requested written response to the inspection report. The compliance advisory letter again requested a response from Krelae, LLC to the Division's inspection report.
53. Division records establish Krelae, LLC failed to submit the requested information.
54. Krelae, LLC's failure to submit the requested information constitutes violations of Part II.B.3. of the 2013 Permit.

Failure to Provide Sampling and Analysis Plan

55. Pursuant to 5 CCR 1002-85, §85.6(2)(b), Krelae, LLC is required to develop, implement and document a routine water quality monitoring program for nutrients.
56. Pursuant to 5 CCR 1002-85, §85.6(4)(a) Krelae, LLC is required to document the monitoring program in a Sampling and Analysis Plan ("SAP").
57. Pursuant to 5 CCR 1002-85, Section 85.6(4)(d), Krelae, LLC was required to submit to the Division by March 1, 2013 a certification stating the SAP is in place and monitoring is taking place.
58. Division records establish that Krelae, LLC has not submitted a certification stating the SAP has been developed and monitoring is taking place.
59. Krelae, LLC's failure to submit a certification of the SAP being developed and implemented constitutes violations of 5 CCR 1002-85, §85.6(4)(d).

Failure to Comply with Notice of Violation/Cease and Desist Order

60. On April 3, 2013, the Division issued Notice of Violation/Cease and Desist Order/Order for Civil Penalty, Number DO-130403-1 (the "2013 NOV/CDO") to Krelae, LLC. The 2013 NOV/CDO included findings that Krelae, LLC failed to submit DMRs to the Division for monitoring points 001A and 300I for the reporting periods of March 2012 through February 2013. The 2013 NOV/CDO included required corrective actions for Krelae, LLC to undertake, which were included as paragraphs 15-17 of the 2013 NOV/CDO. A copy of the 2013 NOV/CDO is attached hereto as Exhibit A and is incorporated herein by reference.
61. Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11, Krelae, LLC was required to submit an answer to each alleged violation contained in the 2013 NOV/CDO and was allowed thirty (30) calendar days to file a request for a public hearing to determine the validity of the NOV/CDO. As further outlined in the 2013 NOV/CDO, absent a request for a hearing, the validity of the factual allegations and the 2013 NOV/CDO shall be deemed established in any subsequent proceeding.

- 62. The Division did not receive a request for a hearing from Krelae, LLC, nor the required answer to the 2013 NOV/CDO. Additionally, the Division did not receive the submittals required by paragraphs 16-17 of NOV/CDO, and Krelae, LLC did not cease and desist from violating the Permit as ordered by paragraph 15 of the 2013 NOV/CDO.
- 63. Krelae, LLC's forfeiture of a hearing request constitutes a waiver of its right to hearing, including a waiver of its right to contest the findings and conclusions set forth in the 2013 NOV/CDO. As such, the 2013 NOV/CDO constitutes a final agency action.
- 64. Krelae, LLC is in violation of the 2013 NOV/CDO as a result of its failure to submit the required answer and its failure to comply with the corrective action requirements outlined in paragraphs 15-17 of the 2013 NOV/CDO.

NOTICE OF VIOLATION

- 65. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Krelae, LLC has violated the following sections of the Permit.

Part I.B.7.a. of the 2005 Permit which states in part: "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), the permitted discharge shall not contain effluent parameter concentrations, which exceed the following limitations: . . ."

Part I.B.7.a.i. of the 2005 Permit which states in part: "In addition to the concentration limitations for BOD₅ indicated above (. . .) the arithmetic mean of the BOD₅ (. . .) concentrations for effluent samples collected during the calendar month shall demonstrate a minimum of eighty-five percent (85%) removal of BOD₅ . . ."

Part I.B.1. of the 2013 Permit which states in part: "In order to obtain an indication of the probable compliance or non-compliance with the effluent limitations specified in Part I, Section B(9) below, the permittee shall monitor the following effluent parameters at their associated frequencies and sample types, as identified in the certification of this permit. The results are to be reported on the Discharge monitoring Report . . ."

(. . .) Percentage Removal Requirements (BOD₅ and TSS Limitations) - If noted in the limits table(s), the arithmetic mean of the BOD₅ and TSS concentrations for effluent samples collected during the DMR reporting period shall demonstrate a minimum of eighty-five percent (85%) removal of BOD₅ or CBOD₅, and TSS as measured..."

Part I.B.2. of the 2013 Permit which states in part: "The following effluent limitations may apply to mechanical domestic wastewater treatment plants, with a design capacity less than 0.25 million gallons per day, as identified in the certification for coverage under (. . .) this permit. . . ."

Part I.C.1. of the 2005 Permit which states in part: "Regardless of whether or not an effluent discharge occurs and in order to obtain an indication of the current influent loading as compared to the approved capacity specified in the certification and in Part I, Section B.2.; the permittee shall monitor influent parameters at the following required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report. . . ."

Part I.B.6. of the 2013 Permit which states in part: “Regardless of whether or not an effluent discharge occurs and in order to obtain an indication of the current influent loading as compared to the approved capacity specified in the certification and in Part I.B.; the permittee shall at least monitor the following influent parameters at the required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report. . . .”

Part I.C.2. of the 2005 Permit which states in part: “In order to obtain an indication of the probable compliance or non-compliance with the effluent limitations specified in Part I, Section B.2, the permittee shall monitor effluent parameters at the following required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report. . . .”

Part I.C.4. of the 2013 Permit which states in part: “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control. . . .”

Part I.C.7. of the 2013 Permit which states in part: “A certification under this general permit may contain a compliance schedule if there is a new limitation, or if a limitation becomes more stringent. The terms and conditions of the compliance schedule will be included in the certification under this permit, including dates for submitting specific reports, or for completion of various activities needed to meet the final permit limitations...The specific report or action item is due by the date listed in the compliance schedule.”

Part I.F.2. of the 2005 Permit which states in part: “Monitoring results shall be summarized for each month and reported on the Discharge Monitoring Report forms (EPA forms 3320 1). One form shall be mailed to the Water Quality Control Division, as indicated below, so that the DMR is received no later than the 28th day of the following month. 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. . . .”

Part I.D.1. of the 2013 Permit which states in part: “...Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms (EPA form 3320-1). The permittee must submit these forms either by mail, or by using the Division’s Net-DMR services (when available). DMRs must be received by the Division no later than the 28th day of the month following the monitoring period...If no discharge occurs during the reporting period, “No Discharge” shall be reported on the DMR.”

Part I.D.5. of the 2013 Permit which states in part: “The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. All sampling shall be performed by the permittee according to specified methods in 40 C.F.R. Part 136...If the analytical method cannot achieve a PQL that is less than or equal to the permit limit, then the method or a more precise method, must achieve a PQL that is less than or equal to the PQL in the table below. . . .”

Part I.D.6. of the 2013 Permit which states in part: “The permittee shall establish and maintain records. ... The permittee shall retain for a minimum of three (3) years records of all monitoring information, including all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by this permit and records of all data used to complete the application for this permit. . . .”

Part I.D.7 of the 2013 Permit which states in part: "...the permittee must be able to show proof of the accuracy of any flow-measuring device used in obtaining data submitted in the monitoring report. The flow-measuring device must indicate values within ten (10) percent of the actual flow being measured."

Part I.E.1. of the 2013 Permit which states in part: "'Composite" sample is a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow. . . ."

Part II.A.8. of the 2005 Permit which states in part: "The permittee shall furnish to the division, within a reasonable time, any information which the division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit."

Part II.B.3. of the 2013 Permit which states in part: "The permittee shall furnish to the Division, within a reasonable time, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit."

5 CCR 1002-85.6(d) which states in part: "The permittee shall submit a certification to the Division that the sampling and analysis plan is in place and that monitoring is taking place by March 1, 2013."

REQUIRED CORRECTIVE ACTION

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

66. 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 Krelae, LLC to comply with the following specific terms and conditions of this Order:

67. Krelae, LLC shall immediately initiate measures to ensure complete DMRs are submitted to the Division pursuant to the terms and conditions of the 2013 Permit. Within thirty (30) calendar days of receipt of this Order, Krelae, LLC shall submit a written plan and certification to the Division outlining Krelae, LLC's actions to ensure that DMRs are submitted to the Division accurately and completely by no later than the 28th day of the month following the end of a monitoring period.
68. Within thirty (30) calendar days of receipt of this Order, Krelae, LLC shall submit all records of its influent and effluent discharge monitoring at the Facility for all monitoring periods in which DMRs have not been submitted to the Division 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. E. 4. of the 2005 Permit and Part I.D.6. of the 2013 Permit.

69. Krelae, LLC shall immediately initiate measures to ensure a Nutrient Monitoring Program and SAP for the Facility have been developed, implemented and documented in accordance with 5 CCR 1002-85, §§85.6(2)(b) and 85.6(4). Within thirty (30) calendar days of receipt of this Order, Krelae, LLC shall **submit a written certification to the Division** that a SAP for the Facility is in place and that monitoring is being conducted.
70. Within thirty (30) calendar days of receipt of this Order, Krelae, LLC shall review the requirements of the Permit and Certification with its staff responsible for ensuring compliance with the terms and conditions of the Permit and Certification. The review shall focus on, but not be limited to, 1) the effluent limitations imposed by the Permit and Certification, 2) the effluent and influent monitoring requirements of the Permit and Certification, 3) the record keeping requirements of the Permit and Certification, 4) the reporting requirements of the Permit and Certification, including the instruction for proper completion and submittal of DMRs required by the Permit and Certification, and 5) the noncompliance notification procedures required by the Permit and Certification. Within forty five (45) calendar days of receipt of this Order, Krelae, LLC shall **submit a written certification to the Division** stating that it has completed the review of the Permit and Certification with its responsible staff.
71. Within thirty (30) calendar days of receipt of this Order, Krelae, 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 all 2013 Permit-required effluent limitations are reliably and consistently met at Outfall 001A and that the Facility complies with all other terms and conditions of the 2013 Permit. The evaluation shall include, but not be limited to:
- a. An evaluation of the facility to validate the current hydraulic and organic loading capacities in order to obtain appropriate Site Approval;
 - b. An evaluation of flow measuring devices and other treatment processes to identify any deficiencies in the current Facility design;
 - c. 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;
 - d. An evaluation, recommendation, and plan for upgrades and improvements to ensure the Facility will reliably and consistently achieve compliance with all effluent limitations of the 2013 Permit.
72. Within forty five (45) calendar days of the receipt of this Order, Krelae, LLC shall **provide documentation to the Division** that it has retained the services of the qualified individual or entity described in paragraph 71. The documentation shall include at, a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for such services, including a copy of the scope of services to be provided.
73. Within ninety (90) calendar days of receipt of this Order, Krelae, LLC shall **submit to the Division a report summarizing the results** of the engineering evaluation identified in paragraph 71 above. The report shall also include a plan and an aggressive time schedule for the implementation of specific interim and long-term measures that Krelae, LLC will complete to address the deficiencies identified through the evaluation and to ensure the Facility consistently meets effluent limitations and other terms and conditions of the 2013 Permit. This includes a specific plan and time schedule for commencing and completing construction of a treatment expansion and/or upgrades, if

necessary. The submitted plan and time schedule shall become a condition of this Order and Krelae, 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.

74. In accordance with §25-8-702, C.R.S. and 5 CCR 1002-22, if any of the corrective measures require additional Division site location and design approval, Krelae, LLC shall timely file a completed site location and/or design approval request as outlined in the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22 ("Regulation 22"). Krelae, 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.
75. Krelae, LLC shall **submit monthly progress reports to the Division** outlining efforts taken to achieve and maintain compliance with this Order and the Permit and Certification. The first report shall be submitted to the Division on or before March 1, 2016. At a minimum, each report shall outline activities completed in the previous thirty (30) calendar days and planned activities for the next thirty (30) calendar days 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 frequency of the reports may be reduced or the reports are no longer necessary.
76. All documents submitted under this Order shall be under the signature of Krelae, LLC and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required.
77. If Krelae, LLC becomes aware of any situation or circumstances that cause Krelae, LLC to become unable to comply with any condition or time schedules set forth by this Order, Krelae, LLC shall provide written notice to the Division within five (5) calendar days of Krelae, LLC becoming aware of such circumstances. Krelae, LLC's notice shall describe what, if any, impacts will occur on Krelae, 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.
78. 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, Krelae, 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, Krelae, LLC shall submit an original and an electronic copy to the Division at the following address:

Aly Moores
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) 692-3163
Email: alysia.moores@state.co.us

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

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

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

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

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

FALSIFICATION AND TAMPERING

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

POTENTIAL CIVIL AND CRIMINAL PENALTIES

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 803, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits

criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S., and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

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

EFFECT OF ORDER

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

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

Issued at Denver, Colorado, this 9th day of December, 2015.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Nicole Rowan, P.E.
Clean Water Program Manager
Water Quality Control Division

EXHIBIT A



**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
DIVISION OF ADMINISTRATION
WATER QUALITY CONTROL DIVISION**

NOTICE OF VIOLATION / CEASE AND DESIST ORDER / ORDER FOR CIVIL PENALTY

NUMBER: DO-130403-1

**IN THE MATTER OF: KRELAE, LLC
 d/b/a: SAN SOUCI MOBILE HOME PARK
 CDPS PERMIT NO. COG-588000
 CERTIFICATION NO. COG-588101
 BOULDER 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, 25-8-605 and 25-8-608, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order / Order for Civil Penalty:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the violations cited herein, Krelae, LLC was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.
2. Krelae, 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. Krelae, LLC owns and/or operates San Souci Mobile Home Park wastewater treatment facility, located at 1561 S. Foothills Hwy., in or near the City of Boulder, Boulder County, Colorado, (the "Facility").
4. The Facility is subject to the Colorado Discharge Permit System General Permit Number: COG-588000 (the "Permit"). The current Permit became effective on June 1, 2005, and was set to expire on May 31, 2010, but is currently administratively continued until issuance of a renewal permit. Krelae, LLC, doing business as San Souci Mobile Home Park, obtained authorization to discharge under the Permit via Certification Number: COG-588101 (the "Certification").

EXHIBIT A

5. The Permit and Certification authorizes Krelae, LLC to discharge treated wastewater from the Facility through Outfall 001A into South Boulder Creek. The discharge is subject to the specific effluent limitations and other conditions of the Permit and Certification.
6. South Boulder Creek is “state waters” as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(102).
7. Pursuant to 5 CCR 1002-61, §61.8, Krelae, LLC must comply with all the terms and conditions of the Permit and Certification, and violations of such terms and conditions as specified in the Permit and Certification may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

Failure to Submit Discharge Monitoring Reports

8. Pursuant to Part I. C. 1. of the Permit, regardless of whether or not effluent discharge occurs at the Facility, Krelae, LLC is required to monitor influent parameters at specified frequencies and report the results on a Discharge Monitoring Report (“DMR”).
9. Pursuant to Part I. C. 2. of the Permit, Krelae, LLC is required to monitor effluent parameters at specified frequencies and report the results on a DMR.
10. Pursuant to Part I. F. 2. of the Permit, Krelae, LLC is required to report all monitoring results on a monthly basis using Division approved DMRs. Krelae, 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 monitoring period. The Permit specifies that if no discharge occurs during the monitoring period, “No Discharge” shall be reported.
11. Division records establish that Krelae, LLC failed to submit influent DMRs to the Division for monitoring point 300I at the Facility for the reporting periods of March 2012 through February 2013.
12. Division records establish that Krelae, LLC failed to submit effluent DMRs to the Division for monitoring point 001A at the Facility for the reporting periods of March 2012 through February 2013.
13. Krelae, LLC’s failure to submit DMRs to the Division by the 28th day of the month following each monitoring period constitutes violations of Part I. F. 2. of the Permit.

NOTICE OF VIOLATION

14. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Krelae, LLC has violated the following sections of the Permit.

Part I. F. 2. of the Permit which states in part, “Monitoring results shall be summarized for each month and reported on the DMR forms (EPA form 3320-1). The forms shall be mailed to the agencies listed below so that the DMR is received by the agencies no later than the 28th day

EXHIBIT A

of the following month. If no discharge occurs during the reporting period, "No Discharge" shall be reported. The DMR forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms..."

REQUIRED CORRECTIVE ACTION

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

15. 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 Krelae, LLC to comply with the following specific terms and conditions of this Order:

16. Within thirty (30) calendar days of receipt of this Order, Krelae, LLC shall submit all records of its influent and effluent discharge monitoring at the Facility for all monitoring periods in which DMRs have not been submitted to the Division 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. E. 4. of the Permit.
17. Within thirty (30) calendar days of receipt of this Order, Krelae, LLC shall review the requirements of the Permit and Certification with its staff responsible for ensuring compliance with the terms and conditions of the Permit and Certification. The review shall focus on, but not be limited to, 1) the effluent limitations imposed by the Permit and Certification, 2) the effluent and influent monitoring requirements of the Permit and Certification, 3) the record keeping requirements of the Permit and Certification, 4) the reporting requirements of the Permit and Certification, including the instruction for proper completion and submittal of DMRs required by the Permit and Certification, and 5) the noncompliance notification procedures required by the Permit and Certification. Within forty five (45) calendar days of receipt of this Order, Krelae, LLC shall submit a written certification to the Division stating that it has completed the review of the Permit and Certification with its responsible staff.

ORDER FOR CIVIL PENALTY

18. Pursuant to §25-8-608(1), C.R.S. any person who violates any provision of the Colorado Water Quality Control Act, 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 shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs.
19. Based upon the Findings of Fact and Notice of Violation above, the Executive Director, through his designee (hereinafter the "Executive Director"), has determined that a civil penalty is appropriate and warranted in this matter. Therefore, the Executive Director hereby imposes a civil penalty in the amount of Six Thousand Dollars (\$6,000.00) against Krelae, LLC for the violations cited above.

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The civil penalty was determined in accordance with the procedures outlined in the Division's Civil Penalty Policy (May 1, 1993). A copy of the civil penalty calculation is attached hereto as Exhibit A and is incorporated herein by reference.

20. If Krelae, LLC does not contest the findings and penalty assessment set out above, the civil penalty shall be paid within sixty (60) calendar days of the date of this Notice of Violation / Cease and Desist Order / Order for Civil Penalty. 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:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CWE-B2
Attention: Aly Moores
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation / Cease and Desist Order / Order for Civil Penalty, Krelae, 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: Aly Moores
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Telephone: (303) 692-3163
Email: alysia.moores@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order / Order for Civil Penalty, 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."

EXHIBIT A

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.

APPEAL OF CIVIL PENALTY

Pursuant to 5 CCR 1002, §21.12(B) and 5CCR 1002, §21.4(A)(3)(b), an appeal of the determination of the civil penalty by the Executive Director shall be made in writing to the Division. Requests for such an appeal should be made in accordance with 5 CCR 1002, §21.12(B), shall be filed no later than thirty (30) calendar days after issuance of this action and shall include the information specified in 5 CCR 1002, §21.4(B)(2).

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 CRIMINAL PENALTIES

You are also advised that 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 / Order for Civil Penalty, the State has not waived its right to bring an action for penalties under §25-8-609, C.R.S, and may bring such action in the future.

EXHIBIT A

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.

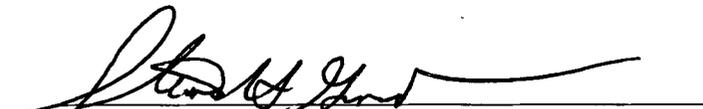
EFFECT OF ORDER

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 / Order for Civil Penalty, 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 3rd day of April 2013.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT


Steven H. Gunderson, Director
WATER QUALITY CONTROL DIVISION