



# COLORADO

## Department of Public Health & Environment

### WATER QUALITY CONTROL DIVISION

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COMPLIANCE ORDER ON CONSENT

NUMBER: MC-150612-1

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IN THE MATTER OF:        TOWN OF ANTONITO  
                                     CDPS PERMIT NO. CO0040975  
                                     PWSID NO. CO0111100  
                                     CONEJOS COUNTY, COLORADO

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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, and pursuant to the Department's authority under §25-1.5-201 to -209, C.R.S. and its implementing regulations, and §25-1-114.1, C.R.S., with the express consent of the Town of Antonito (the "Town"). The Division and The Town 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:
  - a. To establish compliance requirements and criteria for the continued operation of the Town's domestic wastewater treatment facility located at or near Latitude: 37° 4' 13.81", Longitude: -106° 0' 11.62", in or near the Town of Antonito, Conejos County, Colorado (the "Facility");
  - b. To establish an enforceable compliance schedule for the Town to achieve compliance with its Colorado Discharge Permit System permit, Permit Number: CO0040975;
  - c. To establish an enforceable compliance schedule for the Town to achieve compliance with the Colorado Primary Drinking Water Regulations, 5-CCR 1002-11 ("Regulation 11");
  - d. To resolve, without litigation, the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number: MO-130830-1 (the "NOV/CDO"), that the Division issued to the Town on August 30, 2013, and the associated civil penalties; and
  - e. To resolve, without litigation, Enforcement Order Number: DC-131008-1 (the "EO"), that the Division issued to the Town on October 8, 2013, and the associated administrative penalties.

## DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

### Domestic Wastewater Treatment Facility Findings of Fact

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 the Town, the Facility and the Town's compliance with the Act and the Permit.
3. At all times relevant to the violations cited herein, the Town was a municipality as defined by §31-1-101(6), C.R.S.
4. The Town 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).
5. The Facility consists of an aerated lagoon system. The Facility has a hydraulic capacity of 0.205 MGD and the organic capacity of 355 lbs BOD<sub>5</sub>/day.
6. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO0040975 (the "Permit"). The previous permit became effective on December 1, 2007 (the "2007 Permit") and was set to expire November 30, 2012. The current permit became effective December 1, 2013 (the "2013 Permit") and is set to expire on November 30, 2018.
7. The Permit authorizes the Town to discharge treated wastewater from the Facility through Outfall 001A, into Rio San Antonio. Outfall 001A is the only discharge outfall authorized by the Permit. The discharge is subject to the specific effluent limitations and other conditions of the Permit.
8. Outfall 001A is a "point source" as defined by §25-8-103(14), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (75).
9. The Rio San Antonio 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).
10. Pursuant to 5 CCR 1002-61, §61.8, the Town 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

11. Pursuant to Part I.A.5. and Part I.A.6. of the 2007 Permit and Part I.A.2. of the 2013 Permit, the Town's effluent at Outfall 001A shall not exceed, among others not subject of this action, the effluent discharge limitations and percent removal values specified below:

EFFLUENT PARAMETER	DISCHARGE LIMITATION	
	30-Day Average	7-Day Average
5-Day Biochemical Oxygen Demand ("BOD <sub>5</sub> ") (mg/l)	30	45
BOD <sub>5</sub> Removal (%)	85	-
Fecal Coliform Bacteria (#/100mL) Through November 30, 2013	200	400
<i>E. coli</i> (#/100) Starting December 1, 2013	200	400
Total Ammonia as Nitrogen (mg/L) Through December 31, 2011	30-Day Average	Daily Maximum
January through May	30.00	-
June	27.00	-
July	10.00	-
August	24.00	-
September and October	14.00	-
November	17.00	-
December	18.00	-
Total Ammonia as Nitrogen (mg/L) Beginning January 1, 2012	30-Day Average	Daily Maximum
January	16.00	32.00
February	24.00	Report
March	34.00	Report
April	34.00	Report
May	4.40	19.00
June	3.70	20.00
July	3.20	21.00
August	3.30	20.00
September	3.50	19.00
October	4.50	20.00
November	33.00	Report
December	18.00	29.00
Total Ammonia as Nitrogen (mg/L) Beginning January 1, 2012	30-Day Average	Daily Maximum
January	9.9	16
February	9.3	16.5

Total Ammonia as Nitrogen (mg/L) Beginning January 1, 2012	30-Day Average	Daily Maximum
March	12.1	23.2
April	28	55
May	3.6	9.6
June	3.3	10.5
July	3.2	12.3
August	3.2	11.2
September	3.3	9.6
October	3.6	9.9
November	10.4	19.3
December	8.7	13.3

12. Pursuant to Part I.B.2. of the 2007 Permit and Part I.A.2 of the 2013 Permit, the Town is required to monitor effluent parameters at required frequencies in order to obtain an indication of the quality of the wastewater discharged from the Facility into the Rio San Antonio.
13. Pursuant Part I.D.2. of the 2007 Permit and Part I.D.1. of the 2013 Permit, the monitoring results of the samples collected at Outfall 001A are required to be summarized and reported to the Division via monthly Discharge Monitoring Report forms ("DMRs").
14. The Town's DMRs submitted to the Division include the following effluent concentration data for BOD<sub>5</sub>, BOD<sub>5</sub> Removal, Fecal Coliform Bacteria, *E. coli*, Total Ammonia as Nitrogen and Total Suspended Solids, which exceeded the effluent limits listed in Part I.A.5. and Part I.A.6. of the 2007 Permit and Part I.A.2. of the 2013 Permit.

REPORTED EFFLUENT SELF-MONITORING DATA (OUTFALL 001A)		
DMR Reporting Period and Parameter	30-Day Average	7-Day Average
BOD <sub>5</sub> (in mg/l)	Limit = 30 mg/l	Limit = 45mg/l
January 1 - January 31, 2007	47	47
April 1 - April 30, 2008	34	*
March 1 - March 31, 2011	51	51
April 1 - April 30, 2011	47	47
June 1 - June 30, 2011	33	*

REPORTED EFFLUENT SELF-MONITORING DATA (OUTFALL 001A)		
DMR Reporting Period and Parameter	30-Day Average	7-Day Average
<b>BOD<sub>5</sub> Removal (in %)</b>	<b>Limit = 85 % (min.)</b>	<b>N/A</b>
April 1 - April 30, 2011	80	-
<b>Fecal Coliform Bacteria</b>	<b>Limit = 200 #/100mL</b>	<b>Limit = 400 #/mL</b>
October 1 - October 31, 2008	486	486
March 1 - March 31, 2009	240	*
April 1 - April 30, 2011	344	*
June 1 - June 30, 2011	452	452
September 1 - September 30, 2011	226	*
November 1 - November 30, 2011	240	*
February 1 - February 29, 2012	530	530
September 1 - September 30, 2012	345	*
November 1 - November 30, 2012	540	540
January 1 - January 31, 2013	1,144	1,144
<b><i>E. coli</i></b>	<b>Limit = 200 #/100mL</b>	<b>Limit = 400 #/mL</b>
January 1 - January 31, 2014	2,300	2,300
April 1 - April 30, 2015	260	*
<b>Total Suspended Solids</b>	<b>Limit = 75 (mg/L)</b>	<b>Limit = 110 (mg/L)</b>
April 1 - April 30, 2008	82	*
<b>Total Ammonia as Nitrogen</b>	Reported Value (mg/L)	Reported Value (mg/L)
	Limit (mg/L)	Limit (mg/L)
May 1 - May 31, 2012	14	*
	4.4	19.00
June 1 - June 30, 2012	8.5	*
	3.7	20.00
October 1 - October 31, 2012	4.98	*
	4.5	20.00
May 1 - May 30, 2013	7.5	*
	4.4	19.00
January 1 - January 31, 2014	13	*
	9.9	16
February 1 - February 28, 2014	18.4	18.4
	9.3	16.5
March 1 - March 31, 2014	16.7	*
	12.1	23.2

REPORTED EFFLUENT SELF-MONITORING DATA (OUTFALL 001A)		
DMR Reporting Period and Parameter	30-Day Average	7-Day Average
Total Ammonia as Nitrogen	Reported Value (mg/L)	Reported Value (mg/L)
	Limit (mg/L)	Limit (mg/L)
May 1 - May 31, 2014	6	*
	3.6	9.6
June 1 - June 30, 2014	3.33	*
	3.3	10.5
July 1 - July 31, 2014	5.26	*
	3.2	12.3
February 1 - February 28, 2015	13.3	*
	9.3	16.5

\*Data was excluded from the table as it did not constitute an effluent violation.

15. BOD<sub>5</sub>, BOD<sub>5</sub> Removal, Fecal Coliform Bacteria, *E. coli*, Total Ammonia as Nitrogen and Total Suspended Solids are "pollutants," or indicators thereof, as defined by §25-8-103(15), C.R.S., and its implementing permit regulation 5 CCR 1002-61, §61.2(76).
16. The Town's failure to comply with the effluent limitations and minimum percent removal requirements set forth above constitutes violations of Part I.A.5. and Part I.A.6. of the 2007 Permit and Part I.A.2. of the 2013 Permit.

#### Failure to Properly Monitor and Report

17. Pursuant to Part I.B.1. of the 2007 Permit and Part I.A.3. of the 2013 Permit, regardless of whether or not effluent discharge occurs at the Facility, the Town is required to monitor influent parameters on a monthly basis and report the results on a DMR.
18. Pursuant to Part I.B.2. of the 2007 Permit and Part I.A.2. of the 2013 Permit, in order to obtain an indication of compliance or non-compliance with the effluent limitations specified in Part I.A.5 of the 2007 Permit and Part I.A.2. of the 2013 Permit, the Town is required to monitor effluent parameters at the frequencies specified by the Permit and report the results on a DMR.
19. Pursuant to Part I.D.2. of the 2007 Permit and Part I.D.1. of the 2013 Permit, the monitoring results of the samples collected at Outfall 001A are required to be summarized and reported to the Division via monthly DMR forms. The DMRs are required to be filled out accurately and completely, and the Town is required to ensure that the DMRs are mailed to the Division so that they are received no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. If no discharge occurs during the reporting period, "No Discharge" shall be reported.
20. Division records, as supplemented by the Town's DMRs, establish that the Town failed to submit DMRs by the due date required in Part I.D.2. of the 2007 permit and Part I.D.1. of the 2013 Permit, for the following reporting periods:

DMR Reporting Period	Monitoring Point	DMR Due Date	DMR Received Date
December 1 - December 31, 2007	001A	1/28/2008	3/19/2008
April 1 - April 30, 2008	001A	5/28/2008	8/13/2008
May 1 - May 31, 2008	001A	6/28/2008	8/13/2008
June 1 - June 30, 2008	001A	7/28/2008	12/9/2008
August 1 - August 31, 2008	001A	9/28/2008	12/9/2008
September 1 - -September 30, 2008	001A	10/28/2008	12/9/2008
December 1 - December 31, 2008	001A	1/28/2009	Not Received
January 1 - January 31, 2009	001A	2/28/2009	4/3/2009
April 1 - April 30, 2009	001A	5/28/2009	7/27/2009
July 1 - July 31, 2009	001A	8/28/2009	11/17/2009
August 1 - August 31, 2009	001A	9/28/2009	11/17/2009
January 1 - January 31, 2010	001A	2/28/2010	8/19/2010
February 1 - February 28, 2010	001A	3/28/2010	8/19/2010
March 1 - March 31, 2010	001A	4/28/2010	8/19/2010
April 1 - April 30, 2010	001A	5/28/2010	8/19/2010
May 1 - May 31, 2010	001A	6/28/2010	Not Received
August 1 - -August 31, 2010	001A	9/28/2010	1/21/2011
January 1 - January 31, 2011	001A	2/28/2012	6/7/2011
May 1 - May 31, 2011	001A	6/28/2011	10/20/2011
June 1 - June 30, 2011	001A	7/28/2011	10/20/2011
July 1 - July 31, 2011	001A	8/28/2011	1/12/2012
August 1 - August 31, 2011	001A	9/28/2011	1/12/2012
September 1 - September 30, 2011	001A	10/28/2011	1/12/2012
October 1 - October 31, 2011	001A	11/28/2011	1/12/2012
January 1 - January 31, 2012	001A	2/28/2012	5/28/2013
July 1 - July 31, 2012	001A	8/28/2012	5/28/2013
August 1 - August 31, 2012	001A	9/28/2012	5/28/2013
September 1 - September 30, 2012	001A	10/28/2012	5/28/2013
October 1 - October 31, 2012	001A	11/28/2012	5/28/2013
November 1 - November 30, 2012	001A	12/28/2012	5/28/2013
December 1 - December 31, 2012	001A	1/28/2013	5/28/2013
January 1 - January 31, 2013	001A	2/28/2013	5/28/2013
February 1 - February 28, 2013	001A	3/28/2013	Not Received
March 1 - March 31, 2013	001A	4/28/2013	5/28/2013
April 1 - April 30, 2013	001A	5/28/2013	Not Received
June 1 - June 30, 2013	001A	7/28/2013	Not Received
July 1 - July 31, 2013	001A	8/28/2013	Not Received
August 1 - August 31, 2013	001A	9/28/2013	12/26/2013

DMR Reporting Period	Monitoring Point	DMR Due Date	DMR Received Date
September 1 - September 30, 2013	001A	10/28/2013	Failure to Monitor
October 1 - October 31, 2013	001A	11/28/2013	12/26/2013
November 1 - November 30, 2013	001A	12/28/2013	Failure to Monitor
December 1 - December 31, 2013	001A	1/28/2014	2/18/2014
January 1 - January 31, 2014	001A	2/28/2014	3/4/2014
February 1 - February 28, 2014	001A	3/28/2014	4/7/2014
March 1 - March 31, 2014	001A	4/28/2014	5/14/2014
June 1 - June 30, 2014	001A	7/28/2014	8/4/2014
October 1 - October 31, 2014	001A	11/28/2014	3/3/2015
December 1 - December 31, 2007	300I	1/28/2008	8/13/2008
April 1 - April 30, 2008	300I	5/28/2008	8/13/2008
May 1 - May 31, 2008	300I	6/28/2008	12/9/2008
June 1 - June 30, 2008	300I	7/28/2008	12/9/2008
August 1 - August 31, 2008	300I	9/28/2008	12/9/2008
September 1 - -September 30, 2008	300I	10/28/2008	12/9/2008
December 1 - December 31, 2008	300I	1/28/2009	Not Received
January 1 - January 31, 2009	300I	2/28/2009	7/27/2009
April 1 - April 30, 2009	300I	5/28/2009	11/17/2009
July 1 - July 31, 2009	300I	8/28/2009	11/17/2009
August 1 - August 31, 2009	300I	9/28/2009	8/19/2010
January 1 - January 31, 2010	300I	2/28/2010	8/19/2010
February 1 - February 28, 2010	300I	3/28/2010	8/19/2010
March 1 - March 31, 2010	300I	4/28/2010	8/19/2010
April 1 - April 30, 2010	300I	5/28/2010	8/19/2010
May 1 - May 31, 2010	300I	6/28/2010	Not Received
September 1 - September 30, 2010	300I	10/28/2010	1/21/2011
October 1 - October 31, 2010	300I	11/28/2010	1/21/2011
January 1 - January 31, 2011	300I	2/28/2011	6/7/2011
February 1 - February 28, 2011	300I	3/28/2011	6/7/2011
March 1 - March 31, 2011	300I	4/28/2011	6/7/2011
May 1 - May 31, 2011	300I	6/28/2011	10/20/2011
June 1 - June 30, 2011	300I	7/28/2011	10/20/2011
July 1 - July 31, 2011	300I	8/28/2011	1/12/2012
August 1 - August 31, 2011	300I	9/28/2011	1/12/2012
September 1 - September 30, 2011	300I	10/28/2011	1/12/2012
October 1 - October 31, 2011	300I	11/28/2011	1/12/2012

DMR Reporting Period	Monitoring Point	DMR Due Date	DMR Received Date
January 1 - January 31, 2012	300I	2/28/2012	Not Received
July 1 - July 31, 2012	300I	8/28/2012	5/28/2013
August 1 - August 31, 2012	300I	9/28/2012	5/28/2013
September 1 - September 30, 2012	300I	10/28/2012	5/28/2013
October 1 - October 31, 2012	300I	11/28/2012	5/28/2013
November 1 - November 30, 2012	300I	12/28/2012	5/28/2013
December 1 - December 31, 2012	300I	1/28/2013	5/28/2013
January 1 - January 31, 2013	300I	2/28/2013	5/28/2013
February 1 - February 28, 2013	300I	3/28/2013	5/28/2013
March 1 - March 31, 2013	300I	4/28/2013	5/28/2013
April 1 - April, 30, 2013	300I	5/28/2013	Not Received
June 1 - June 30, 2013	300I	7/28/2013	Not Received
July 1 - July 31, 2013	300I	8/28/2013	Not Received
August 1 - August 31, 2013	300I	9/28/2013	12/26/2013
September 1 - September 30, 2013	300I	10/28/2013	Failure to Monitor
October 1 - October 31, 2013	300I	11/28/2013	12/26/2013
November 1 - November 30, 2013	300I	12/28/2013	Failure to Monitor
December 1 - December 31, 2013	300I	1/28/2014	2/18/2014
January 1 - January 31, 2014	300I	2/28/2014	3/4/2014
February 1 - February 28, 2014	300I	3/28/2014	4/7/2014
March 1 - March 31, 2014	300I	4/28/2014	5/14/2014
June 1 - June 30, 2014	300I	7/28/2014	8/4/2014
October 1 - October 31, 2014	300I	11/28/2014	3/3/2015

21. Division records, as supplemented by the Town's DMRs, establish that the Town failed to submit DMR data for the following reporting periods and influent/effluent parameters by the due date required in the 2007 Permit and 2013 Permit:

DMR Reporting Period	Monitoring Point	DMR Due Date	Date DMR Data Received Date
<b>BOD, 5-day, 20 deg. C (30 day average)</b>			
November 1 - November 30, 2009	300I	12/28/2009	Failure to monitor
July 1 - July 31, 2011	300I	8/28/2011	Failure to monitor
<b>Total Suspended Solids (30 Day Average)</b>			
November 1 - November 30, 2009	300I	12/28/2009	Failure to monitor

DMR Reporting Period	Monitoring Point	DMR Due Date	Date DMR Data Received Date
<b><i>E. coli</i> (30 Day Average)</b>			
December 1 - December 31, 2013	001A	1/28/2014	Failure to monitor
January 1 - January 31, 2014	001A	2/28/2014	3/3/2015
February 1 - February 28, 2014	001A	3/28/2014	3/3/2015
March 1 - March 31, 2014	001A	4/28/2014	3/3/2015
April 1 - April 30, 2014	001A	5/28/2014	3/3/2015
May 1 - May 31, 2014	001A	6/28/2014	3/3/2015
June 1 - June 30, 2014	001A	7/28/2014	3/3/2015
July 1 - July 31, 2014	001A	8/28/2014	3/3/2015
September 1 - September 30, 2014	001A	10/28/2014	1/9/2015
<b><i>E. coli</i> (7 Day Max)</b>			
December 1 - December 31, 2013	001A	1/28/2014	Failure to monitor
January 1 - January 31, 2014	001A	2/28/2014	3/3/2015
February 1 - February 28, 2014	001A	3/28/2014	3/3/2015
March 1 - March 31, 2014	001A	4/28/2014	3/3/2015
April 1 - April 30, 2014	001A	5/28/2014	3/3/2015
May 1 - May 31, 2014	001A	6/28/2014	3/3/2015
June 1 - June 30, 2014	001A	7/28/2014	3/3/2015
July 1 - July 31, 2014	001A	8/28/2014	3/3/2015
September 1 - September 30, 2014	001A	10/28/2014	1/9/2015
<b>Temperature (Max Weekly Average)</b>			
April 1 - April 30, 2014	001A	5/28/2014	Failure to monitor
May 1 - May 31, 2014	001A	6/28/2014	Failure to monitor
June 1 - June 30, 2014	001A	7/28/2014	Failure to monitor
July 1 - July 31, 2014	001A	8/28/2014	Failure to monitor
<b>Temperature (Daily Max)</b>			
April 1 - April 30, 2014	001A	5/28/2014	Failure to monitor
May 1 - May 31, 2014	001A	6/28/2014	Failure to monitor
June 1 - June 30, 2014	001A	7/28/2014	Failure to monitor
July 1 - July 31, 2014	001A	8/28/2014	Failure to monitor
January 1 - January 31, 2015	001A	2/28/2015	Failure to monitor
<b>% Plant Capacity (Organic)</b>			
December 1 - December 31, 2013	001A	1/28/2014	3/3/2015
January 1 - January 31, 2014	001A	2/28/2014	3/3/2015
February 1 - February 28, 2014	001A	3/28/2014	3/3/2015
March 1 - March 31, 2014	001A	4/28/2014	3/3/2015
April 1 - April 30, 2014	001A	5/28/2014	3/3/2015
May 1 - May 31, 2014	001A	6/28/2014	3/3/2015

DMR Reporting Period	Monitoring Point	DMR Due Date	Date DMR Data Received Date
<b>% Plant Capacity (Organic)</b>			
June 1 - June 30, 2014	001A	7/28/2014	3/3/2015
July 1 - July 31, 2014	001A	8/28/2014	3/3/2015
<b>% Plant Capacity (Hydraulic)</b>			
December 1 - December 31, 2013	001A	1/28/2014	3/3/2015
January 1 - January 31, 2014	001A	2/28/2014	3/3/2015
February 1 - February 28, 2014	001A	3/28/2014	3/3/2015
March 1 - March 31, 2014	001A	4/28/2014	3/3/2015
April 1 - April 30, 2014	001A	5/28/2014	3/3/2015
May 1 - May 31, 2014	001A	6/28/2014	3/3/2015
June 1 - June 30, 2014	001A	7/28/2014	3/3/2015
July 1 - July 31, 2014	001A	8/28/2014	3/3/2015

22. Division records as supplemented by the Town's DMRs, establish that the Town failed to submit influent DMR data for the following reporting periods when "No Discharge" was reported for outfall 001A:

DMR Reporting Period	Monitoring Point
May 1 - May 31, 2011	300I
July 1 - July 31, 2012	300I
December 1 - December 31, 2012	300I
February 1 - February 28, 2013	300I

23. The Town's failure to monitor and/or submit complete DMR data for each influent parameter, for each reporting period regardless of whether or not an effluent discharge occurred, constitutes violations of Part I.B.1. and/or Part I.D.2. of the 2007 Permit and Part I.A.3. and/or Part I.D.1. of the 2013 Permit.
24. The Town's failure to monitor and/or submit complete DMR data for each effluent parameter, for each reporting period, constitutes violations of Part I.B.2. and/or Part I.D.2. of the 2007 Permit and Part I.A.2. and/or Part I.D.1. of the 2013 Permit.
25. The Town's failure to submit DMRs to the Division by the 28<sup>th</sup> day of the month following each reporting period constitutes violations of Part I.D.2. of the 2007 Permit and Part I.D.1 of the 2013 Permit.

Failure to Comply with Planning/Expansion Requirements

26. Pursuant to Part I.B.3. of the 2013 Permit, the Town is required to initiate engineering and financial planning for expansion of the domestic wastewater treatment works whenever throughput reaches eighty (80) percent of the treatment capacity. The Town shall commence construction of such domestic wastewater treatment works expansion whenever throughput reaches ninety-five (95) percent of the treatment capacity.

27. Division records as supplemented by the Town’s DMRs, establish that the Town observed hydraulic loading values that exceeded one-hundred (100) percent in April and December 2014 as listed in the table below:

DMR Reporting Period	Monitoring Point	Data Reported
Plant Capacity (% Hydraulic)		30 Day Average
April 1 - April 30, 2014	300I	370.13%
December 1 - December 31, 2014	300I	113.48%

28. The Town’s failure to begin planning and commence construction to expand treatment constitutes violations of Part I.B.3. of the 2013 Permit.

Failure to Adhere to Permit Compliance Schedule

29. Pursuant to Part I.A.7.a. of the 2007 Permit, the Town was required to adhere to a compliance schedule for construction (if deemed necessary) in order to meet the new ammonia limits that went into effect on January 1, 2012.

Compliance Schedule: Activities to Meet Ammonia Limits		
Permit	Activity	Milestone Date
Part I.A.7.a.i.	The permittee shall complete plans and specifications for construction of facilities or activities determined to be necessary to meet the final Total Ammonia limitations, and submit them.	June 30, 2008
Part I.A.7.a.ii.	The permittee shall begin implementing the approved plan for construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	October 31, 2008
Part I.A.7.a.iii.	The permittee shall submit a construction progress report summarizing the progress in construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	June 30, 2009
Part I.A.7.a.iv.	The permittee shall submit a second construction progress report summarizing the progress in construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	December 31, 2009
Part I.A.7.a.v.	The permittee shall submit a third construction progress report summarizing the progress in construction or other activities such that compliance with the final Total Ammonia limitations may be attained.	August 31, 2010
Part I.A.7.a.vi.	The permittee shall complete construction of facilities or other appropriate actions, which will allow the permittee to meet the final Total Ammonia limitations.	January 1, 2012

30. Pursuant to Part I.A.7. and Part I.D.3.d. of the 2007 Permit, the Town was required to submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements by no later than 14 calendar days following each date identified in the schedules of compliance.

31. Division records establish that the Town failed to submit to the Division its complete plans and specifications for construction, notice that the approved plan for construction or other activities were being implemented, notice that construction was completed, or any of the progress reports and/or compliance/noncompliance notifications required by Part I.A.7. and Part I.D.3.d. of the 2007 Permit.
32. Pursuant to Part I.B.5.a. of the 2013 Permit, the Town is required to adhere to a compliance schedule for installation of temperature monitoring equipment, which was to be completed by March 31, 2014.

Compliance Schedule: Installation of Temperature Monitoring Equipment		
Permit	Activity	Milestone Date
Part I.B.5.a.	The permittee is to submit a document certifying that continuous temperature monitoring equipment has been installed and is operational.	March 31, 2014

33. Division records establish that the Town failed to submit to the Division a document certifying the installation and operation of continuous temperature monitoring equipment as required by Part I.B.5.a. of the 2013 Permit.
34. Pursuant to Part I.B.5.b. of the 2013 Permit, the Town is required to adhere to a compliance schedule for meeting final *E. coli* limits, which will take effect on July 1, 2016, as outlined in the table below.

Compliance Schedule: Activities to Meet <i>E.coli</i> Limits		
Event	Activity	Milestone Date
Hire Consultant/Professional Engineer	Submit a letter of notification that a Colorado licensed engineering consultant has been obtained and funding has been secured for planning aspects.	June 30, 2014
Plan, Report, or Scope of Work	Submit a letter of notification that Preliminary Effluent Limits (PELs) have been received and report progress in obtaining funding for design and construction aspects.	December 31, 2014
Engineering Plan	Submit a letter of notification that funding has been obtained for design and construction aspects, and final plans specifications have been submitted to the Division. Note that a Site Application and preliminary design must be submitted and approved by the Division prior to final plans and specifications.	June 30, 2015
Commence Required Work or On-Site Construction	Submit a letter of notification that Final Design Approval has been received from the Division and construction has commenced.	December 31, 2015
Complete Required Work or On-Site Construction	Complete construction of facilities or other appropriate actions, which will allow the permittee to meet the final limitations.	June 30, 2016

35. Division records establish that the Town submitted a letter of notification regarding retaining the services of a professional engineer on October 10, 2014. The letter was delinquent and failed to address funding for the planning aspects as required by Part I.B.5.b. of the 2013 Permit.
36. Division records establish that the Town failed to submit a letter of notification stating Preliminary Effluent Limits had been obtained as required by Part I.B.5.b. of the 2013 Permit.
37. Pursuant to Part I.B.5.c. of the 2013 Permit, the Town is required to adhere to a compliance schedule to ensure ground water protection, as outlined in the table below.

Compliance Schedule: Ground Water Protection		
Event	Activity	Milestone Date
Inflow/Infiltration Report	Investigate and submit conclusive information on the seepage from the lagoon system to determine if the allowable exfiltration rate of $10^{-6}$ cm/sec is exceeded. If liner integrity is the basis for the determination that the seepage meets the criteria, then the report must be prepared by a professional engineer registered in Colorado.	June 30, 2014
Written Commitment to Perform Required Work	If the lagoon is found to be seeping in excess of the maximum rate, the facility must submit a plan for the installation of liners. Plan should include that funding has been obtained for design and construction aspects, and final plans specifications have been submitted to the Division. Note that a Site Application and a preliminary design must be submitted and approved by the Division prior to final plans and specifications.	June 30, 2015
Status/Progress Report	Submit a progress report summarizing the efforts to install the lagoon liner.	December 31, 2015
Corrective Action Completed	The permittee must submit a report completed by a professional engineer registered in the state of Colorado indicating that the liner of the lagoon has been replaced. The report must certify that the liner material meets the allowable seepage rate of $10^{-6}$ centimeters per second or less, and that the placement was accomplished according to the manufacturer's requirements (i.e., all welds were tested and the liner was checked for holes prior to backfilling).	June 30, 2016

38. Division records establish the Town failed to submit the Inflow/Infiltration Report as required by Part I.B.5.c. of the 2013 Permit.
39. The Town's failure to submit the required compliance schedule reports and to complete construction or other appropriate activities to meet the final Total Ammonia limitations constitutes violations of Part I.A.7. and Part I.D.3.d. of the 2007 Permit.
40. The Town's failure to submit certification of the installation and operation of continuous temperature monitoring equipment constitutes a violation of Part I.B.5.a. of the 2013 Permit.

41. The Town's failure to submit the required compliance schedule reports regarding activities to meet the final *E. coli* limitations constitutes violations of Part I.B.5.b. of the 2013 Permit.
42. The Town's failure to submit the required Inflow/Infiltration Report constitutes a violation of Part I.B.5.c. of the 2013 Permit.

### Drinking Water System Findings of Fact

43. Upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with § 25-1.5-203, C.R.S., the Division has made the following determinations regarding the Town's compliance with the *Colorado Primary Drinking Water Regulations*, 5-CCR 1002-11, "Regulation 11":
44. The Town owns and/or operates a drinking water system located in the vicinity of 12874 Country Road G, Town of Antonito, Conejos County, Colorado (the "System").
45. The Town is a "person" as defined by 5 CCR 1002-11, §11.3(51).
46. The Town is a "supplier of water" within the meaning of § 25-1.5-201(2), C.R.S. and its implementing regulation, 5 CCR 1002-11, §11.3(74). Hereafter, in reference to Regulation 11, the Town will be referred to as "the Supplier."
47. The System is a "public water system" as defined by §25-1.5-201(1), C.R.S. and its implementing regulation, 5 CCR 1002-11, §11.3(57).
48. The Public Water System Identification Number ("PWSID") assigned to the System by the Division is PWSID #: CO-0111100.
49. Pursuant to 5 CCR 1002-11, § 11.1(5), the System is subject to Regulation 11, the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.
50. Pursuant to 5 CCR 1002-11, §11.3(10), if a system provides at least fifteen (15) service connections used by year-round residents of the area served by the system and/or regularly serves at least twenty-five (25) year-round residents it is classified as a "community water system." Division records establish that the System serves 781 residents and is therefore classified as a community water system.
51. The System's source of water is "groundwater under the direct influence of surface water" as defined by 5 CCR 1002-11, § 11.3(36).
52. Per the Division's letter dated January 29, 2014, the source Infiltration Gallery No. 1 (WL004) was reclassified as ground water under the direct influence of surface water as defined by 5 CCR 1002-11, § 11.3(36). Pursuant to 5 CCR 1002-11, § 11.3(75). Groundwater found to be under the direct influence of surface water will be classified as surface water.
53. On February 26, 2014, the Division conducted a compliance inspection of the System, pursuant to the Division's authority under § 25-1.5-204, C.R.S. and 5 CCR 1002-11, § 11.1(6)(b), to determine the System's compliance with the Regulations.

## Drinking Water System Violations and Significant Deficiencies

54. The drinking water violations contained in Enforcement Order DC-131008-1 ("Order DC-131008-1")(Attachment A) are incorporated herein by reference.
55. Pursuant to 5-CCR 1002-11, § 11.8(1)(b)(iv), when the Division determines that a groundwater source is under the direct influence of surface water, and therefore the system is reclassified as a surface water system, the supplier must comply with the requirements specified in §11.8(1)(b) no later than 18 months after receiving written notification from the Division of the source's reclassification. In a letter from the Division to the Supplier dated February 6, 2014 (Source Water Inventory Change letter, Attachment B), the Supplier is required to install approved surface water treatment for Infiltration Gallery No. 1 (WL004) by July 31, 2015. Alternatively, the Supplier may discontinue use of this source.
56. Pursuant to 5-CCR 1002-11, § 11.38(3)(f), no later than 120 days after receiving written notice of significant deficiencies and/or violations in a sanitary survey the supplier must be in compliance with a Division-approved corrective action plan and schedule, including any Division-specified interim measures. A sanitary survey of the Supplier's drinking water system was conducted by the Division on February 26, 2014. In a letter from the Division to the Supplier dated September 17, 2014 (Corrective Action Plan Approved letter, Attachment C), the approved corrective action plan states that by July 31, 2015, the Supplier is required to resolve the following significant deficiencies identified during the sanitary survey:
- a) Significant Deficiency 3. D220- Distribution: Distribution System (SDWIS ID: DS001) Raw Water Bypass: Implement a permanent solution to make it impossible to bypass disinfection contact time.
  - b) Significant Deficiency 4. T160 - Treatment: WTP No.1 and Tank Site All Sources (SDWIS ID: 003) Chemical Safety: Implement a permanent solution to repair or upgrade the chlorine gas room to meet the requirements of the State of Colorado's Design Criteria for Potable Water Systems.
  - c) Significant Deficiency 5. T112 -Treatment: WTP No.1 and Tank Site All Sources (SDWIS ID: 003) Ground Water Disinfection: Implement a permanent solution to provide a Division-approved method of continuous disinfection treatment for Well No. 1 (WL 001).
57. In a letter from the Division to the Town dated September 17, 2014 (Corrective Action Plan Approved letter, Attachment C), the approved corrective action plan states that by March 31, 2016, the Supplier is required to resolve the following significant deficiencies identified during the sanitary survey:
- a) Significant Deficiency 2. S030- Source: Inf Gal No. 1 (SDWIS ID: 004) Implement a permanent solution to address the condition of the infiltration gallery to prevent contamination of the raw source water in the future.

## ORDER AND AGREEMENT

58. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and pursuant to its authority under §25-1.5-203, C.R.S. and its implementing regulations, and in satisfaction of the alleged violations cited herein and in the NOV/CDO and EO, the Division orders the Town to comply with all provisions of this Consent Order, including all requirements set forth below.
59. The Town agrees to the terms and conditions of this Consent Order. The Town 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, and is an order issued pursuant to 5 CCR 1002-11, §11.1(6)(c). The Town further agrees that this Consent Order is an enforceable requirement of Regulation 11. Violations of this Consent Order may be subject to civil or criminal actions pursuant to the provisions of §§25-1-114 and 25-1-114.1, CRS.. The Town also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by the Town 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 or under Regulation 11.
60. Notwithstanding the above, the Town does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by the Town pursuant to this Consent Order shall not constitute evidence of fault and liability by the Town with respect to the conditions of the Facility or System. The Town 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.

### Domestic Wastewater Treatment Facility Compliance Requirements (Summarized in Attachment D)

61. By June 30, 2015, the Town shall install disinfection treatment equipment that will ensure the Facility is able to meet the *E. coli* limitations of the 2013 Permit that are in effect until June 30, 2016. If deemed necessary, the Town shall dechlorinate wastewater as required to meet the Total Residual Chlorine ("TRC") limitations of the 2013 Permit. If the installation requires Division site location and/or design approval, the Town shall timely file a completed site location and/or design approval request in accordance with § 25-8-702, C.R.S. and 5 CCR 1002-22. The Town shall not initiate construction until such time as any necessary site location and design approval(s) have been obtained as required by § 25-8-702, C.R.S. and 5 CCR 1002-22, or unless otherwise specifically authorized, in writing, by the Division. If the Division does not approve any necessary site location or design within 30 days, the deadlines in this paragraph 61 shall be extended by the additional number of days preceding such approval. By August 30, 2015, the Town shall submit to the Division a written certification stating that the disinfection equipment has been installed and is operational. In accordance with Part I.B.5.b. the 2013 Permit, the Town shall complete construction or other appropriate actions by June 30, 2016 that will allow the Town to achieve compliance with the final *E. coli* limitations that will take effect on July 1, 2016.
62. By June 15, 2015, the Town shall submit an application for a Planning Grant through the Water

Pollution Control Revolving Fund. The Division will assist and cooperate with the Town, and its engineers, consultants and counsel, in the preparation of the application for funding.

63. By August 31, 2015, the Town shall submit an application for a Design and Engineering Grant through the Water Pollution Control Revolving Fund. The Division will assist and cooperate with the Town, and its engineers, consultants and counsel, in the preparation of the application for funding.
64. The Town shall submit an application for the Small Communities Water and Wastewater Grant Fund by the close of the next application cycle; to be used for the wastewater project. The Division will assist and cooperate with the Town, and its engineers, consultants and counsel, in the preparation of the application for funding.
65. By September 1, 2015, the Town shall complete an evaluation of biosolids accumulation in the Facility's lagoon and submit a report to the Division outlining whether dredging of the lagoon would provide a measureable increase in the Facility's treatment efficiency. The report shall include a cost-benefit analysis of dredging as an interim compliance measure. If the evaluation and cost-benefit analysis concludes that the Facility would obtain measureable benefits from the removal of the biosolids accumulation without being cost prohibitive, the Town shall submit with the report a schedule for completing dredging activities. The schedule submitted shall become a condition of this Consent Order and the Town shall implement the plan for lagoon dredging 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 Consent Order.
66. By October 1, 2015, the Town shall submit to the Division a site location application for treatment upgrades/improvements to the Facility that will ensure the Facility will reliably and consistently meet the effluent limitations and other terms and conditions of the 2013 Permit. The site location application shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.
67. By December 31, 2015, the Town shall submit to the Division a process design report ("PDR") for treatment upgrades/improvements, to include expansion of the Facility, if deemed necessary. The PDR and final plans and specifications shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.
68. By March 31, 2016, the Town shall submit to the Division final plans and specifications for treatment upgrades/improvements, to include expansion of the Facility, if deemed necessary. The final plans and specifications shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.
69. By April 1, 2016, the Town shall submit an application for the DOLA Tier II Energy/Mineral Impact Assistance Fund; to be used for the wastewater project.
70. By April 15, 2016, the Town shall submit an application for the State Revolving Fund; to be used for the wastewater project.
71. The Town shall respond to any Division site location or PDR review comments or requests for information within fourteen (14) days of the date of the request(s).

72. By September 30, 2016, the Town shall start construction of the Division-approved design for treatment upgrades/improvements to the Facility.
73. By September 30, 2017, the Town shall complete construction of the Division-approved design for treatment upgrades/improvement to the Facility.
74. If the Town becomes aware of any situation or circumstances, such as failure to obtain funding through applications as outlined in paragraphs 62 through 64, 69 and 70; the Town shall provide written notice to the Division within 10 calendar days of the Town becoming aware of such situation or circumstance. The Town's notice shall describe what effect if any, such situation or circumstance will have on the Town's ability to comply with the Act, the 2013 Permit, and any incomplete conditions and/or time schedules specified by this Consent Order. In the written notice, the Town shall outline what steps are being taken or will be taken in order to mitigate such effects. If funding fails to materialize following submission of the grant and loan applications as outlined by this Consent Order, the Town will submit a request for modification of this Consent Order with a revised implementation schedule to aggressively address any remaining requirements that are affected as a result of funding complications. Any such modifications and/or revisions to the schedule shall be subject to the mutual consent of the Town and the Division, which consent shall not be unreasonably withheld.

**Drinking Water System Compliance Requirements**  
**(Summarized in Attachment E)**

75. In the event that the Supplier does not meet the deadlines specified in the February 6, 2014 letter (Attachment B) to comply with the Surface Water Treatment Rule and the deadlines specified in the September 17, 2014 letter (Attachment C) to resolve the significant deficiencies outlined in the Enforcement Order, the Supplier will be in violation of Regulation 11. The Division, agrees to the schedule outlined in this section as an acceptable plan to return to compliance.
76. By June 30, 2016, the Supplier will achieve full compliance with the surface water treatment rule requirements of Regulation 11, specifically by having approved surface water treatment installed and operational, by having an operator certified at the correct certification level for the treatment plant, and by acting in accordance with all required drinking water compliance monitoring and reporting.
77. Until such time that the Supplier achieves full compliance with the surface water treatment rule requirements of Regulation 11, the Supplier must continue to act in accordance with the interim measures established in the February 6, 2014 letter (Attachment B).
78. By June 30, 2016, the Supplier will resolve Significant Deficiencies 3, 4 and 5 referenced in paragraph 56, above.
79. By September 30, 2016, the Supplier will resolve Significant Deficiency 2 referenced in paragraph 57, above.
80. Additionally, by April 1, 2015, the Town shall apply for a grant from the Department of Local Affairs ("DOLA") Energy/Impact Assistance Fund to fund specific parts of the drinking water project. The Division will assist and cooperate with the Town, and its engineers, consultants and counsel, in the preparation of the application for funding.

81. Should the proposed DOLA funding fail to materialize, the Division agrees that the Town will remain eligible to fund and proceed with the activities described within the Drinking Water Revolving Fund project number 140302D description (Attachment F).
82. If DOLA provides adequate funding to effectuate improvements to the System, by September 30, 2016, the Town shall utilize the Drinking Water Revolving Fund monies to perform the construction necessary to provide piped treated drinking water from the System to the customers currently served by the Conejos Water System, combining the Conejos Water System service area into the Town's service area. Additionally this project will include replacement of the distribution lines within the Conejos Water System service area, installation of water meters for the Conejos Water System customers, and a return pipe loop back to the Town's water system. The drinking water customers of the Conejos Water System will become drinking water customers of the Town, and the Conejos Water System will become inactive.

### Progress Reports

83. The Town shall submit bi-monthly progress reports to the Division outlining efforts taken to achieve compliance with this Consent Order. The first report shall be submitted to the Division on or before June 1, 2015. At a minimum, each report shall outline activities undertaken in the current reporting period and planned activities for the next two (2) months to remain in compliance with this Consent Order.
84. If the Town becomes aware of any situation or circumstances that cause the Town to become unable to comply with any condition or time schedules set forth by this Consent Order, the Town shall provide written notice to the Division within ten (10) calendar days of the Town becoming aware of such circumstances. The Town's notice shall describe what, if any, impacts will occur on the Town's ability to comply with the Colorado Water Quality Control Act, the Permit, and/or Regulation 11 and any impacts on the remaining conditions and/or time schedules specified by this Consent Order, and what steps are being taken to mitigate the impacts.
85. All documents submitted under this Consent Order shall use the same titles as stated in this Consent Order, and shall reference both the number of this Consent Order and the number of the paragraph pursuant to which the document is required. No plan submitted for Division approval under this Consent Order may be implemented unless and until written approval is received from the Division. All approved plans, including all procedures and schedules contained in the plans, are hereby incorporated into this Consent Order, and shall constitute enforceable requirements under the Act or under Regulation 11.

### CIVIL AND ADMINISTRATIVE PENALTIES

86. Pursuant to §25-8-608(1), C.R.S., the Town is liable to pay a civil penalty for the violations at the Facility described herein and in the NOV/CDO. If the Town materially complies with all compliance requirements and the deadlines outlined in this Consent Order (subject to the force majeure provisions), the Division agrees to forbear from imposing civil penalties for the violations described herein and in the NOV/CDO. Should the Town fail to comply with one or more of the compliance requirements described herein, the Division reserves the right to impose civil penalties for the violations outlined herein and in the NOV/CDO and for any ongoing violations.

87. Pursuant to § 25-1-114.1, C.R.S., the Town may be liable to pay an administrative penalty for the drinking water violations contained in the EO. The Division recognizes that the Town has shown cooperation in responding to the EO, and has made a commitment towards compliance with the surface water treatment requirements and correcting significant deficiencies. Moreover, the Town has demonstrated a willingness to supply drinking water to the customers served by the Conejos Water System to enable this neighboring community to achieve sustainable compliance, if funding is available for this purpose. For these reasons, if the Town materially complies with Drinking Water System Compliance Requirements and deadlines outlined within this Consent Order (subject to the force majeure provisions), the Division agrees to withdraw all administrative penalty development for the violations cited in the EO.

### SCOPE AND EFFECT OF CONSENT ORDER

88. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the violations cited herein and in the NOV/CDO and EO.
89. This Consent Order is subject to the Division's "Public Notification on Administrative Enforcement Actions Policy," which includes a thirty day public comment period. The Division and the Town 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.
90. This Consent Order constitutes a final agency order or action upon a determination by the Division following the public comment period. Any violation of the provisions of the Domestic Wastewater Treatment Facility Compliance Requirements portion of the Consent Order by the Town, 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.
91. Any violation of the provisions of the Drinking Water System Compliance Requirements portion of this Consent Order by the Town, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of § 25-1-114.1(2.5)(a), C.R.S. Any person who violates the Colorado Primary Drinking Water Regulations or any final Enforcement Order issued by the Department, shall be subject to an administrative penalty as follows:
- a) For systems that serve a population of more than ten thousand people, an amount not to exceed one thousand dollars per violation per day; or
  - b) For systems that serve a population of ten thousand people or less, an amount not to exceed one thousand dollars per violation per day, but only in an amount, as determined by the Department, that is necessary to ensure compliance.
92. The Parties' obligations under this Consent Order are limited to the matters expressly stated herein or in approved submissions required hereunder. All submissions made pursuant to this Consent Order are incorporated into this Consent Order and become enforceable under the terms of this Consent Order as of the date of approval by the Division.
93. The Division's approval of any submission, standard, or action under this Consent Order shall not constitute a defense to, or an excuse for, any prior violation of the Act or of Regulation 11.
94. Notwithstanding paragraph 60 above, the violations described in this Consent Order will constitute part of the Town's compliance history.

95. The Town shall comply with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and shall obtain all necessary approvals and/or permits to conduct the activities required by this Consent Order. The Division makes no representation with respect to approvals and/or permits required by Federal, State, or local laws other than those specifically referred to herein.

#### **LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY**

96. 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 the specific instances of violations cited herein and in the NOV/CDO and EO. 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.
97. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
98. The Town reserves its rights and defenses regarding the Facility and System other than proceedings to enforce this Consent Order.
99. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment. Any such additional requirements that affect any requirements of this Consent Order shall require the mutual consent of the Town and the Division.
100. The Town 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 the Town, or those acting for or on behalf of the Town, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. The Town shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by the Town 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.

#### **OFFSITE ACCESS**

101. To the extent any plan submitted by the Town requires access to property not owned or controlled by the Town, the Town shall use its best efforts to obtain site access from the present owners of such property to conduct required activities and to allow Division access to such property to oversee such activities. In the event that site access is not obtained when necessary, the Town shall notify the Division in writing regarding its best efforts and its failure to obtain such access.

## SITE ACCESS AND SAMPLING

102. The Division shall be permitted to oversee any and all work being performed under this Consent Order. The Division shall be permitted access to the Facility / System property at any time work is being conducted pursuant to this Consent Order, and during reasonable business hours during any period work is not being conducted, for the purposes of determining the Town's compliance with the Act, the Regulations, and this Consent Order. The Division shall be permitted to inspect work sites, operating and field logs, contracts, manifests, shipping records, and other relevant records and documents relating to this Consent Order or any requirement under this Consent Order and to interview the Town personnel and contractors performing work required by this Consent Order. Nothing in this paragraph limits or impairs the Division's statutory authorities to enter and inspect the Facility.
103. The Division may conduct any tests necessary to ensure compliance with this Consent Order and to verify the data submitted by the Town. The Town shall notify the Division in writing of any sampling activities undertaken pursuant to any plan or requirement of this Consent Order a minimum of seventy-two (72) hours prior to the sampling being conducted, and shall provide split samples to the Division upon request.
104. The Town shall notify the Division in writing of any excavation, construction (including the construction of monitoring wells) or other investigatory or remedial activities undertaken pursuant to any plan or requirement of this Consent Order a minimum of seventy-two (72) hours prior to beginning the excavation, construction, or required activity. The Town shall provide the Division any blue print, diagram, construction or other permits for any construction activity undertaken pursuant to this Consent Order upon request.

## FORCE MAJEURE

105. The Town shall perform the requirements of this Consent Order within the schedules and time limits set forth herein and in any approved plan unless the performance is prevented or delayed by events that constitute a force majeure. A force majeure is defined as any event arising from causes which are not reasonably foreseeable, which are beyond the control of the Town, or which cannot be overcome by due diligence.
106. Within seventy-two (72) hours of the time that the Town knows or has reason to know of the occurrence of any event which the Town has reason to believe may prevent the Town from timely compliance with any requirement under this Consent Order, the Town shall provide verbal notification to the Division. Within seven (7) calendar days of the time that the Town knows or has reason to know of the occurrence of such event, the Town shall submit to the Division a written description of the event causing the delay, the reasons for and the expected duration of the delay, and actions which will be taken to mitigate the duration of the delay.
107. The burden of proving that any delay was caused by a force majeure shall at all times rest with the Town. If the Division agrees that a force majeure has occurred, the Division will so notify the Town. The Division will also approve or disapprove of the Town's proposed actions for mitigating the delay. If the Division does not agree that a force majeure has occurred, or if the Division disapproves of the Town's proposed actions for mitigating the delay, it shall provide a written explanation of its determination to the Town. Pursuant to the Dispute Resolution section, within fifteen (15) calendar days of receipt of the explanation, the Town may file an objection.

108. Delay in the achievement of one requirement shall not necessarily justify or excuse delay in the achievement of subsequent requirements. In the event any performance under this Consent Order is found to have been delayed by a force majeure, the Town shall perform the requirements of this Consent Order that were delayed by the force majeure with all due diligence.

### DISPUTE RESOLUTION

109. If the Division determines that that a violation of this Consent Order has occurred; that a force majeure has not occurred; that the actions taken by the Town to mitigate the delay caused by a force majeure are inadequate; or that the Town's Notice of Completion should be rejected pursuant to paragraph 116, the Division shall provide a written explanation of its determination to the Town. Within fifteen (15) calendar days of receipt of the Division's determination, the Town shall:
- a. Submit a notice of acceptance of the determination; or
  - b. Submit a notice of dispute of the determination.

If the Town fails to submit either of the above notices within the specified time, it will be deemed to have accepted the Division's determination.

110. If the Division disapproves or approves with modifications any original or revised plan submitted by the Town pursuant to this Consent Order, the Division shall provide a written explanation of the disapproval or approval with modifications. Within fifteen (15) calendar days of receipt of the Division's approval with modifications or disapproval of the plan, the Town shall:
- a. In the case of an approval with modifications only, submit a notice of acceptance of the plan as modified and begin to implement the modified plan;
  - b. In the case of a disapproval only, submit a revised plan for Division review and approval. the Town may not select this option if the Division has included in its disapproval an alternate plan that shall be implemented by the Town; or
  - c. Submit a notice of dispute of the disapproval or approval with modifications.

If the Town fails to do any of the above within the specified time, the Town shall be deemed to have failed to comply with the Consent Order, and the Division may bring an enforcement action, including an assessment of penalties.

111. If the Town submits a revised plan, the plan shall respond adequately to each of the issues raised in the Division's written explanation of the disapproval or approval with modifications. The Division may determine that failure to respond adequately to each of the issues raised in the Division's written explanation constitutes a violation of this Consent Order. The Division shall notify the Town in writing of its approval, approval with modifications, or disapproval of the revised plan. If the Division disapproves the revised plan, it may include in its disapproval a plan for implementation by the Town. Such disapproval and plan shall be deemed effective and subject to appeal in accordance with the Act and the Colorado State Administrative Procedures Act, §§24-4-101 through 108, C.R.S. (the "APA"), unless the Town submits a notice of dispute, pursuant to paragraphs 109 and 110 above, of the Division's disapproval and plan for implementation. All requirements and schedules of the Division's plan shall not become effective pending resolution of the dispute.

112. If the Town files any notice of dispute pursuant to paragraph 109 or 110 the notice shall specify the particular matters in the Division's determination that the Town seeks to dispute, and the basis for the dispute. Matters not identified in the notice of dispute shall be deemed accepted by the Town. The Division and the Town shall have thirty (30) calendar days from the receipt by the Division of the notification of dispute to reach an agreement. If agreement cannot be reached on all issues within this thirty (30) calendar day period, the Division shall confirm or modify its decision within an additional fourteen (14) calendar days, and the confirmed or modified decision shall be deemed effective and subject to appeal in accordance with the Act and the APA.

### NOTICES

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

For the Division:

Alysia 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  
E-mail: [alysia.moores@state.co.us](mailto:alysia.moores@state.co.us)

AND

Emily Clark  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-DWCAS-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: 303-692-3535  
E-mail: [emily.clark@state.co.us](mailto:emily.clark@state.co.us)

For The Town:

Mayor  
Town of Antonito  
P.O. Box 86  
Antonito, Colorado 81120  
Telephone: (719) 376-2355  
Email: [antonitomayor@gmail.com](mailto:antonitomayor@gmail.com)

With A Copy To:

Peter Nichols  
Berg Hill Greenleaf Ruscitti LLP  
1712 Pearl Street  
Boulder, Colorado 80302  
Telephone: 303-402-1600  
E-mail: [pdn@bhgrlaw.com](mailto:pdn@bhgrlaw.com)

#### **OBLIGATIONS UNAFFECTED BY BANKRUPTCY**

114. The obligations set forth herein are based on the Division's police and regulatory authority. These obligations require specific performance by the Town of corrective actions carefully designed to prevent on-going or future harm to public health or the environment, or both. Enforcement of these obligations is not stayed by a petition in bankruptcy. The Town agrees that the penalties set forth in this Consent Order are not in compensation of actual pecuniary loss. Further, the obligations imposed by this Consent Order are necessary for the Town and the Facility and System to achieve and maintain compliance with State law.

#### **MODIFICATIONS**

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

#### **COMPLETION OF REQUIRED ACTIONS**

116. The Town shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Consent Order. The Division shall either accept or reject the Town's Notice of Completion in writing within thirty (30) calendar days of receipt. If the Division rejects the Town's Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. The Town shall, within fifteen (15) calendar days of receipt of the Division's rejection, either:
- a. Submit a notice of acceptance of the determination; or
  - b. Submit a notice of dispute.

If the Town fails to submit either of the above notices within the specified time, it will be deemed to have accepted the Division's determination.

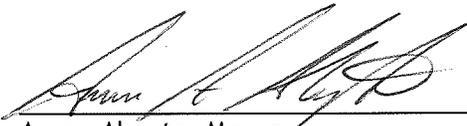
#### **NOTICE OF EFFECTIVE DATE**

117. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon notice from the Division following closure of the public comment period referenced in paragraph 89.

**BINDING EFFECT AND AUTHORIZATION TO SIGN**

118. This Consent Order is binding upon the Town and its elected officials, employees, agents, representatives, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. The Town agrees to provide a copy of this Consent Order to any contractors and other agents performing work pursuant to this Consent Order and require such agents to comply with the requirements of 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 THE TOWN OF ANTONITO:**

  
\_\_\_\_\_  
Aaron Abeyta, Mayor

Date: 6.8.19

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:**

  
\_\_\_\_\_  
Patrick J. Pfaltzgraff, Director  
WATER QUALITY CONTROL DIVISION

Date: 12 Jun 15

# ATTACHMENT A

## STATE OF COLORADO

John W. Hickenlooper, Governor  
Larry Wolk, MD, MSPH  
Executive Director and Chief Medical Officer

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

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
Located in Glendale, Colorado      (303) 692-3090

[www.colorado.gov/cdphe](http://www.colorado.gov/cdphe)



Colorado Department  
of Public Health  
and Environment

October 8, 2013

**Certified Mail Number: 7012 1010 0002 1774 4115**

PWSID# CO-0111100  
Town of Antonito  
Attention: Rossi Duran  
PO Box 86  
Antonito, CO 81120

RE: Service of Enforcement Order Number: DC-131008-1

Dear Mr. Duran:

The Town of Antonito is hereby issued the enclosed Enforcement Order # DC-131008-1 (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that the Town of Antonito has violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an Order, the Town of Antonito may request a formal hearing to contest the Order in accordance with the Regulations, 5 CCR 1003-1, §1.6.7(g). Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the Order. Such requests, at a minimum shall contain the information specified in 5 CCR 1003-1, §1.6.7(g), and 5 CCR 1002-21, §21.4(B)(2). Hearings on Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S., and the procedural rules promulgated in 5 CCR 1002-21.

This action could result in the imposition of administrative or civil penalties. The Department or a State District Court is authorized pursuant to § 25-1-114.1, C.R.S., to impose a penalty of up to \$1,000 per violation per day. An Order for Administrative Penalty will be issued upon completion of all Compliance Requirements outlined in the Order. Failure to comply with the Compliance Requirements outlined in the Order will result in immediate issuance of the Order for Administrative Penalty. The Division will take all aggravating and/or mitigating circumstances into consideration when calculating the final administrative penalty as provided in the Division's Public Water System Administrative Penalty Policy. The administrative penalty may be reduced for full and prompt cooperation with the terms of this Order and/or other mitigating factors the Division may deem appropriate. Please be advised that the Department is continuing its investigation into this matter and the Department may identify supplementary

# ATTACHMENT A

violations that warrant amendments to this Order or the issuance of additional enforcement actions.

Should you desire to informally discuss this matter with the Department or if the Town of Antonito has any questions regarding the Order, please don't hesitate to contact me at (303) 692-3546 or by electronic mail at russell.zigler@state.co.us.

Sincerely,



Russ Zigler, Associate Compliance and Enforcement Specialist  
Water Quality Control Division  
Colorado Department of Public Health and Environment

Enclosure

cc: Drinking Water Enforcement File CO-0111100

cc: Rossi Duran, [rossiduran@gmail.com](mailto:rossiduran@gmail.com)

Connie Edgar, Director of Public Health, Conejos County Public Health and Nursing Service  
(via: [connie@co.conejos.co.us](mailto:connie@co.conejos.co.us))

Cristina Miguel, Office Manager, Conejos County Public Health and Nursing Service (via:  
[cristina@co.conejos.co.us](mailto:cristina@co.conejos.co.us))

Jennifer Miller, Compliance Assurance Section Manager, CDPHE

Lauren Worley, Compliance Assurance Unit, CDPHE

Nicole Graziano, Compliance Assurance Unit Manager, CDPHE

Margaret Talbott, Compliance Assurance Unit Manager, CDPHE

Tyson Ingels, Lead Drinking Water Engineer, CDPHE

Bret Icenogle, Engineering Section Manager, CDPHE

Amy Zimmerman, Design Review Unit Manager, CDPHE

Doug Camrud, Design Review Unit Manager, CDPHE

Heather Drissel, Field Inspections Unit Manager, CDPHE

Kelly Jacques, Field Inspections Unit Manager, CDPHE

Dick Parachini, Watershed Program, CDPHE

Jackie Whelan, Facility Operators Program, CDPHE

Olive Hofstader, EPA Region VIII, [Hofstader.Olive@epa.gov](mailto:Hofstader.Olive@epa.gov)

Kimberly Pardue-Welch, EPA Region VIII, [Pardue-Welch.Kimberly@epa.gov](mailto:Pardue-Welch.Kimberly@epa.gov)

Michael Beck, Grants and Loans Unit Manager, CDPHE

Sean Scott, Division of Environmental Health and Sustainability, CDPHE

Barry Cress, DOLA, [barry.cress@state.co.us](mailto:barry.cress@state.co.us)

# ATTACHMENT A



## COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT WATER QUALITY CONTROL DIVISION

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**ENFORCEMENT ORDER**

**NUMBER: DC-131008-1**

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**IN THE MATTER OF: TOWN OF ANTONITO  
PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0111100  
CONEJOS COUNTY, COLORADO**

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority is implemented through the Department's Water Quality Control Division (the "Division"), the Division hereby makes the following findings and issues the following Enforcement Order:

### GENERAL FINDINGS

1. Town of Antonito owns and/or operates a drinking water system located in the vicinity of 12874 Country Road G, Town of Antonito, Conejos County, Colorado (the "System").
2. Town of Antonito is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Town of Antonito is a supplier of water within the meaning of §25-1.5-201(2), C.R.S., and its implementing regulation, 5 CCR 1003-1, §1.5.2(128).
4. The System is a public water system as defined by §25-1.5-201(1), C.R.S., and its implementing regulation, 5 CCR 1003-1, §1.5.2(107).
5. The Public Water System Identification Number ("PWSID") assigned to the System by the Division is PWSID #: CO-0111100.
6. Pursuant to 5 CCR 1003-1, §1.2, the System is subject to the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.
7. Pursuant to 5 CCR 1003-1, §1.5.2(15), if a system provides piped water for human consumption to at least fifteen (15) service connections used by year-round residents of the area served by the system and/or regularly serves at least twenty-five (25) year-round residents it is classified as a "community water system." Department records establish that the System serves 781 residents and is therefore classified as a community water system.
8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).

# **ATTACHMENT A**

9. On June 14, 2011, a Division representative conducted a sanitary survey of the System, pursuant to the Division's authority under §25-1.5-204, C.R.S. and 5 CCR 1003-1, §1.7, to determine the System's compliance with the Regulations.

## **First Violation** **(Failure to Monitor and/or Report for Nitrate)**

10. Pursuant to 5 CCR 1003-1, §6.1.5(e), all public water systems shall monitor to determine compliance with the maximum contaminant level for Nitrate.
11. Pursuant to 5 CCR 1003-1, § 6.1.5(e)(1), systems served by groundwater, shall monitor for Nitrate annually.
12. Pursuant to 5 CCR 1003-1, §6.1.5(b)(1), Town of Antonito is required to collect a minimum of one Nitrate sample at every entry point to the distribution system which is representative of each groundwater source after treatment.
13. The *Official 2012 Drinking Water Monitoring Schedule* provided for the Town of Antonito by the Department outlines that the Town was required to monitor for Nitrate at each entry point to the distribution system (after treatment) during calendar year 2012.
14. Pursuant to 5 CCR 1003-1, §1.6.4(a), Town of Antonito is required to report to the Department the results of the System's annual Nitrate analysis within (1) the first ten calendar days following the month in which a result is received, or (2) the first ten calendar days following the end of the required monitoring period, as stipulated by Department, whichever of these is shorter.
15. Department records to date establish that Town of Antonito failed to submit results to the Department of its annual Nitrate monitoring for calendar year 2012.
16. Town of Antonito's failure to submit the results of its annual Nitrate analysis to the Department constitutes violation(s) of 5 CCR 1003-1, §1.6.4(a). Additionally, if Town of Antonito failed to perform its annual Nitrate analysis during the identified period, such failure to perform the monitoring constitutes violations of 5 CCR 1003-1, §§6.1.5(e), 6.1.5(e)(1), and 6.1.5(b)(1).

## **Second Violation** **(Failure to Monitor and/or Report for Microbiological Contaminants)**

17. Pursuant to 5 CCR 1003-1, §5.1.1(a), the Town of Antonito must collect total coliform samples at sites, which are representative of water throughout the distribution system according to a written sample-siting plan.
18. Pursuant to 5 CCR 1003-1, §5.1.1(d), the Town of Antonito must monitor for total coliform at a frequency based on the population served by the System. The System, which serves less than 1,000 persons, is therefore required to collect one total coliform sample per month.

# ATTACHMENT A

19. Pursuant to 5 CCR 1003-1, §§1.6.4(a) and 5.1.1(b), the System is required to submit the results of all routine total coliform sampling and analyses to the Department for review within (a) the first ten (10) days following the month in which the result is received, or (b) the first ten (10) days following the end of the required monitoring period as stipulated by the Department, whichever of these is soonest.
20. Department records establish that the Town of Antonito has failed to provide the Department with the results of its routine total coliform analyses for the following monitoring periods:

<b>Month</b>	<b>Year</b>	<b>Number of Samples Required</b>	<b>Number of Samples Received</b>
July	2012	1	0
December	2012	1	0
February	2013	1	0

21. Town of Antonito's failure to submit the results of the System's routine total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003-1, §§1.6.4(a) and 5.1.1(b). Additionally, if Town of Antonito failed to perform routine total coliform monitoring during the identified periods, such failure to perform the monitoring further constitutes violation(s) of 5 CCR 1003-1, §5.1.1(d).

**Third Violation**  
**(Failure to Conduct and/or Report Follow-Up Routine Monitoring**  
**for Microbiological Contaminants)**

22. Pursuant to 5 CCR 1003-1, §5.1.2(f), when a system collecting fewer than five (5) routine samples per month has one or more total coliform-positive samples, the system must collect at least five (5) routine (follow-up) total coliform samples during the next month the system provides water to the public.
23. A review of microbiological monitoring data provided to the Department by the Town of Antonito, establishes that on June 28, 2013 the Town of Antonito collected a total coliform sample that was determined to be total coliform-positive. As a result of the June 28, 2013 total coliform-positive sample, the Town of Antonito was required to collect four (4) repeat total coliform samples within twenty-four (24) hours of notification of the total coliform positive result in accordance with 5 CCR 1003-1, §5.1.2, and five (5) routine (follow-up) total coliform samples during the month of July 2013 in accordance with 5 CCR 1003-1, §5.1.2(f).
24. Pursuant to 5 CCR 1003-1, §5.1.1(b), the Town of Antonito is required to submit the results of all routine total coliform sampling and analyses to the Department for review.
25. Department records establish that the Town of Antonito reported to the Department the four (4) repeat total coliform samples but did not report to the Department the results of the five (5) required routine (follow-up) total coliform samples for the month of July 2013.

# **ATTACHMENT A**

26. The Town of Antonito's failure to submit the results of the System's routine (follow-up) total coliform analyses to the Department constitutes violation(s) of 5 CCR 1003- §5.1.1(b). Additionally, if the Town of Antonito failed to perform the routine (follow-up) total coliform monitoring during the identified period, such failure to perform the monitoring further constitutes violation(s) of 5 CCR 1003-1, §5.1.2(f).

## **Fourth Violation**

### **(Failure to Measure/Report Residual Disinfection Concentration)**

27. Pursuant to 5 CCR 1003-1, §13.2(a)(2), the groundwater system must maintain a residual disinfectant concentration whenever serving water from a groundwater source to the public.
28. Pursuant to 5 CCR 1003-1, § 13.2(b)(2), the residual disinfectant concentration in the distribution system must be measured at least at the same points and at the same time as total coliforms are sampled. The Town of Antonito must monitor for total coliform in each month that the System provides water to the public pursuant to 5 CCR 1003-1, §5.1.1(e)(1).
29. Pursuant to 5 CCR 1003-1, §§13.6(a)(2) and 1.6.4(a), the Town of Antonito shall report to the state the results of any test measurement or analysis required by the *Colorado Primary Drinking Water Regulations* within (1) the first ten calendar days following the month in which the result is received, or (2) the first ten calendar days following the end of the required monitoring period, as stipulated by the Department, whichever of these is shorter.
30. Review of bacteriological sampling results submitted to the Department establishes that the System did not measure and/or report its residual disinfection concentration in July and December of calendar year 2012 and February of calendar year 2013.
31. Town of Antonito's failure to report for residual disinfectant concentrations in the distribution system constitutes violation(s) of 5 CCR 1003-1, §§13.6(a)(2) and 1.6.4(a). Furthermore, if the Town of Antonito failed to measure the residual disinfectant concentration in the distribution system, such failure constitutes violations of 5 CCR 1003-1, §13.2(b)(2).

## **Fifth Violation**

### **(Failure to Develop/Submit a Monitoring Plan)**

32. Pursuant to 5 CCR 1003-1, §1.12, each public water system shall develop and implement a monitoring plan. The public water system shall maintain the plan and make it available for inspection by the Department.
33. Pursuant to 5 CCR 1003-1, §1.12.1(e)(1-9), each monitoring plan prepared by the Town of Antonito must include Individual Rule Sampling Plans. Each sampling plan shall meet all requirements of the respective provision.
34. Pursuant to 5 CCR 1003-1, §1.12.2(a)(3), the Town of Antonito was required to submit a monitoring plan to the Department by April 10, 2005.

# ATTACHMENT A

35. During the June 14, 2011 sanitary survey of the System, the Division representative determined that the System did not have a General Monitoring Plan available for review.
36. In a letter reporting the results of the June 14, 2011 sanitary survey, dated August 5, 2011, which is incorporated herein by reference and enclosed as Exhibit A, the Department notified the Town of Antonito that the System did not have a monitoring plan in violation of 5 CCR 1003-1, §1.12.1. Exhibit A, p. 4.
37. Department records establish that the Town of Antonito has not submitted the required monitoring plan to the Department.
38. Town of Antonito's failure to submit a copy of the monitoring plan for the System to the Department constitutes a violation of 5 CCR 1003-1, §1.12.2(a)(3). If the Town of Antonito failed to develop a monitoring plan for the System, this constitutes a violation of 5 CCR 1003-1, §1.12.

## Sixth Violation

### (Failure to Implement a Cross-Connection Control Program)

39. Pursuant to 5 CCR 1003-1, §12.1(a-b), a public water system shall control hazardous cross-connections and protect the public water system from contamination by implementing a cross-connection control program in the following manner:
  - a. Identifying potentially uncontrolled hazardous service cross-connections.
  - b. Requiring system users to install and maintain containment devices on any uncontrolled hazardous service cross connections, provided the Department has determined that the device is consistent with the degree of hazard posed by the uncontrolled cross connection.
  - c. Installation of containment devices shall be approved by the public water system upon installation.
  - d. All containment devices shall be tested and maintained as necessary on installation and at least annually thereafter, by a Certified Cross-Connection Control Technician.
40. Pursuant to 5 CCR 1003-1, §12.1(c), each public water system shall retain maintenance records for three years for all containment devices and these records shall be available for Department inspection.
41. During the June 14, 2011 sanitary survey, the Division representative determined that there was no evidence available to demonstrate that the System was implementing a cross-connection control program.
42. In a letter reporting the results of the June 14, 2011 sanitary survey, dated August 5, 2011 (Exhibit A), the Division representative notified the Town of Antonito that the System did not have a completed cross-connection control program.

# ATTACHMENT A

43. Department records to-date establish that the Town of Antonito has failed to provide the Department with any information demonstrating that the System has implemented a cross-connection control program.
44. The Town of Antonito's failure to implement a cross-connection control program for the System constitutes violation(s) of 5 CCR 1003-1, §12.1.

## **Seventh Violation** **(Failure to Correct Significant Deficiencies in** **Sanitary Survey Written Notice)**

45. Pursuant to 5 CCR 1003-1, §11.2(d), a sanitary survey must be completed no less frequently than every three (3) years for community water systems.
46. On June 14, 2011, a Division representative conducted a sanitary survey of the System, pursuant to the Division's authority under §25-1.5-204, C.R.S., and 5 CCR 1003-1, §§1.7 and 11.2(d), to determine the System's compliance with the Regulations and identified, among others, violations cited in Violations Five and Six of this Order.
47. Pursuant to 5 CCR 1003-1, §11.4(c), within forty-five (45) days of receiving notice of significant deficiencies or violations, the public water system must submit a written response to the Department indicating the corrective actions the system will take to address the significant deficiencies or violations, and include a proposed schedule for completing those actions.
48. Pursuant to 5 CCR 1003-1, §11.4(d), within 120 days (or earlier if directed by the Department) of receiving notification from the Department of significant deficiencies or violations, a public water system must either: (1) have completed corrective action in accordance with applicable Department plan review processes including 5 CCR 1003-1, § 1.11 or other Department direction, if any, including Department specified interim measures; or, (2) be in compliance with a Department approved corrective action plan and schedule subject to the conditions specified in 5 CCR 1003-1, §11.4(d)(2)(i) and (d)(2)(ii).
49. In a letter reporting the results of the June 14, 2011 sanitary survey, dated August 5, 2011 (Exhibit A), the Division representative notified the Town of Antonito of the following significant deficiencies, among others:
  - a. The condition of the storage structure may allow potential sources of contamination to enter the tank. The Colorado Design Criteria for Potable Water Systems ("Design Criteria"), Appendix I, Part 1.0.6 requires that the overflow pipe outlet be screened with a 24 mesh non-corrodible screen. Exhibit A, p. 3.
  - b. Air vents are not turned down or covered to prevent entrance of rainwater or contaminants. The Design Criteria, Appendix I, Part 1.0.8 requires that storage tank vents shall have a 24 mesh non-corrodible screen to exclude insects, birds, and animals. Exhibit A, p. 3.

# ATTACHMENT A

50. The Town of Antonito was required to provide a written response to the August 5, 2011 sanitary survey report by September 19, 2011 outlining the course of action that has or will be taken and the date by which the deficiencies will be corrected in accordance with 5 CCR 1003-1, §11.4(c).
51. The Town of Antonito was required correct all significant deficiencies and/or violations identified in the letter by November 3, 2011 in accordance with 5 CCR 1003-1, §11.4(d).
52. In a letter dated January 11, 2012, the Department notified the Town of Antonito that it had not received a written response to the August 5, 2011 letter (Exhibit A).
53. In a letter dated January 24, 2012, the Town of Antonito provided a written response to the Department's sanitary survey report. The letter asserts that a 24 mesh vent screen was installed on the storage tank vent, that a check valve for the overflow line was ordered and would be installed upon receipt, that continued work was to be done on the cross connection control program, and that all training certificates and payments have been submitted to the [Water and Wastewater Facility Operator Certification Board] for renewal approval and a copy of the system operator's new license would be submitted upon receipt. No evidence of the installation of the 24 mesh screen was included with the letter.
54. In a letter dated February 21, 2012, the Department notified the Town of Antonito that it did not approve the corrective action plan proposed in the Town's January 24, 2012 letter. The corrective action plan was not approved because, although a check valve for the overflow line was ordered, a corrective action plan and a schedule for completion of the action plan to protect the finished drinking water in the storage tank was not proposed. Moreover, no evidence of the installation of the 24 mesh vent screen was provided to the Department.
55. Department records to-date establish that the Town of Antonito has not corrected the sanitary survey significant deficiencies outlined in paragraph 49 above, nor is it in compliance with a Department-approved corrective action plan.
56. The Town of Antonito's failure to correct the significant deficiencies outlined in the August 5, 2011 letter (Exhibit A) and cited in paragraph 49 of this Order, or be in a compliance with a Department-approved corrective action plan and schedule to correct said significant deficiencies, constitute violation(s) of 5 CCR 1003-1, §11.4(d).

## COMPLIANCE REQUIREMENTS

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Town of Antonito is hereby ordered to:

57. Immediately comply with the *Colorado Primary Drinking Water Regulations*, 5 CCR 1003-1, Articles 1 through 13.

Further, the Division hereby orders Town of Antonito to comply with the following specific terms and conditions of this Enforcement Order.

# ATTACHMENT A

58. Within thirty (30) calendar days from receipt of this Order, Town of Antonito shall submit the results of any Nitrate monitoring performed during the calendar year 2012 monitoring period. If the calendar year 2012 Nitrate monitoring has not been conducted by the Town of Antonito, it shall perform a Nitrate analysis on a representative water sample, taken from each entry point to the distribution system, within thirty (30) calendar days from receipt of this Order. The Nitrate sample(s) must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods and cited detection limits. The Town of Antonito shall provide the Department with the results of the Nitrate monitoring within ten (10) calendar days of receipt of the results from the laboratory.
59. Immediately take steps to comply with the microbiological contaminant monitoring/reporting obligations as required by 5 CCR 1003-1, Article 5. If the missing sampling results outlined in the Second and Third Violations were collected, submit such sampling results within thirty (30) calendar days after receipt of this Order. Total coliform samples must be collected properly and analyzed by a Department certified laboratory in accordance with approved methods. The Town of Antonito shall provide the Department with the results of all total coliform analyses within ten (10) calendar days of receipt of the results from the laboratory.
60. Immediately take steps to comply with the disinfectant residual monitoring/reporting obligations as required by 5 CCR 1003-1, Article 13. If the missing sampling results outlined in the Fourth Violation were collected, submit such sampling results within thirty (30) calendar days after receipt of this Order. The Town of Antonito shall provide the Department with the results of the disinfectant residual analysis within ten (10) calendar days of receipt of the results from the laboratory.
61. Within thirty (30) calendar days from receipt of this Order, the Town of Antonito shall develop and implement a monitoring plan pursuant to 5 CCR 1003-1, §1.12, which includes a microbiological contaminant sample-siting plan pursuant to 5 CCR 1003-1, §5.1.1(a), to reflect the System's current configuration, treatment and operation. The plan shall specifically outline how the Town of Antonito will ensure that samples collected are representative of water quality throughout the distribution system(s), that samples should be taken both with temporal and spatial separation to ensure representative samples are obtained of water quality throughout the distribution system and throughout the month of service and that samples are not to be taken all on the same day. The Town of Antonito shall provide the Department with a copy of its written monitoring plan upon completion.

*Guidance documents on how to prepare a monitoring plan can be viewed at the following internet site: [www.colorado.gov/cdphe/wqcompliance](http://www.colorado.gov/cdphe/wqcompliance)*

62. As outlined in page 3 of the Sanitary Survey Report (Exhibit A), and within thirty (30) calendar days after the issue date of this Order, the Town of Antonito shall develop and implement a written Cross-Connection Control Program, and retain records of, and standard operating procedures for, such program. Upon completion, the Town of Antonito shall submit documentation to the Department of such program.

*Guidance documents on how to prepare a cross connection control plan can be viewed at the following internet site: [www.colorado.gov/cdphe/wqcompliance](http://www.colorado.gov/cdphe/wqcompliance)*

# ATTACHMENT A

63. Within sixty (60) calendar days from the date of this Order, the Town of Antonito shall correct the following significant deficiencies outlined in the sanitary survey report (Exhibit A):
- a. The condition of the storage structure may allow potential sources of contamination to enter the tank. The Colorado Design Criteria for Potable Water Systems (“Design Criteria”), Appendix I, Part 1.0.6 requires that the overflow pipe outlet be screened with a 24 mesh non-corrodible screen. Exhibit A, p. 3.
  - b. Air vents are not turned down or covered to prevent entrance of rainwater or contaminants. The Design Criteria, Appendix I, Part 1.0.8 requires that storage tank vents shall have a 24 mesh non-corrodible screen to exclude insects, birds, and animals. Exhibit A, p. 3.
64. The Town of Antonito shall submit a detailed report outlining how each deficiency outlined in paragraph 63 was corrected, and provide evidence of such corrective action, within fifteen (15) calendar days of completion.
65. Within thirty (30) calendar days from receipt of this Order, if it has not already done so, Town of Antonito shall issue a public notice in accordance with 5 CCR 1003-1, §9.2 for each violation identified in this Order and continue to perform public notice as advised by the Division’s Compliance Assurance Section. Within ten (10) calendar days of completion of each required public notification, Town of Antonito shall submit to the Department, along with the mandatory certification, a representative copy of each type of notice distributed, published, posted, and/or made available to the persons served by the system and/or to the media.

*Additional guidance for proper public notification can be viewed at the following internet site at the forms link at the bottom of the page:*

[www.colorado.gov/cdphe/wqforms](http://www.colorado.gov/cdphe/wqforms)

66. All documents submitted under this Order shall use the same titles as stated in the Order and shall reference both the Order number and the paragraph number pursuant to which the document is required.

## NOTICES AND SUBMITTALS

67. For all documents, plans, records, reports and replies required to be submitted by this order, Town of Antonito shall submit an original and one copy (electronic is preferred) to the Division at the following address:

Colorado Department of Public Health and Environment  
Water Quality Control Division / WQCD-B1-CAS  
Compliance Assurance Section / DW Enforcement Unit  
Attention: Russell Zigler  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Email: russell.zigler@state.co.us  
Fax: (303) 758-1398

# **ATTACHMENT A**

*(For any facsimile transmittals, please include a cover sheet addressed to Mr. Zigler)*

68. All reports, notices, summaries, and certifications required to be submitted to the Division by the public water system must bear the original signature of the owner or the owner's authorized representative.

## **NOTICE OF COMPLETION**

69. Town of Antonito shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Enforcement Order. The Division shall either accept or reject the Notice of Completion in writing. If the Division rejects the Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. If Town of Antonito wishes to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) calendar days of receipt of the Division's rejection, submit a written statement as to its belief of full compliance, addressing in detail all concerns the Division raised in the rejection letter to the System's Notice of Completion.

## **PRIOR APPROVAL REQUIRED**

70. Pursuant to 5 CCR 1003-1, §1.11.2, no person shall commence construction of any new waterworks, or make improvements to or modify the treatment process of an existing waterworks, or initiate use of a new source, until plans and specifications for such construction, improvements, modifications or use have been submitted to, and approved by the Department. A Professional Engineer registered in the State of Colorado shall design all treatment systems serving a community water supply. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with all applicable laws, standards, rules and regulations.

## **POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES**

71. You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars (\$1,000) per violation per day, to be imposed by the Department or a State District Court. At the time the Compliance Requirements outlined in this Order are completed, the Department will issue the Order for Administrative Penalty. If the system fails to comply with the Compliance Requirements outlined in this Order, the Order for Administrative Penalty will be issued immediately upon such failure. Further, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an Enforcement Order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

# ATTACHMENT A

## REQUEST FOR HEARING OR APPEAL

72. You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests, at a minimum, shall contain the information specified in 5 CCR 1003-1, §1.6.7(g) and 5 CCR 1002-21, §21.4(B)(2). Hearings on Enforcement Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S. and the procedural rules promulgated in 5 CCR 1002-21.

## ADDITIONAL ACTION

73. You are further advised that under §25-1-114.1(1), C.R.S., the Department may institute a civil action against any person who violates a final Enforcement Order of the Department issued for violation of any minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S.
74. Additionally, the Department may request the Attorney General to seek a temporary restraining order or permanent injunction to prevent or abate any violation of a minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S. Further information concerning the aforementioned action is contained in §25-1-114.1(3), C.R.S.

Issued at Denver, Colorado, this 8 day of October, 2013.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**



Jennifer Miller, Section Manager  
Compliance Assurance Section  
Water Quality Control Division

# ATTACHMENT A

Exhibit A

## STATE OF COLORADO

John W. Hickenlooper, Governor  
Christopher E. Urbina, MD, MPH  
Executive Director and Chief Medical Officer

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Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
Located in Glendale, Colorado      (303) 692-3090  
<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

August 5, 2011

Certified Number: 7010 2780 0002 8752 2287

Rossi Duran  
PO Box 86  
Antonito, CO 81120

Subject: Sanitary Survey of the Town of Antonito  
Public Water System Identification (PWSID) No. CO0111100  
Conejos County

Dear Mr. Duran:

This letter serves to report the findings of the sanitary survey conducted by the Engineering Section of the Water Quality Control Division ("the Division") at the Town of Antonito ("the System") on June 14, 2011. The assistance that was provided was very helpful and is greatly appreciated. Table 1 identifies parties present during the sanitary survey.

**Table 1: Parties Present**

Name	Organization
Chris Etcheson	CDPHE-WQCD-ES
Rossi Duran	Town of Antonito
Moises Garcia	Town of Antonito

This letter is the System's notification of any significant deficiencies and/or alleged violations of the Colorado Primary Drinking Water Regulations (CPDWR) that were identified during the sanitary survey. A significant deficiency or violation of the CPDWR represents an unacceptable risk to public health or safe delivery of drinking water. Table 2 summarizes the number of findings and the required response and resolution dates.

**Table 2: Sanitary Survey Findings**

Severity	Number Identified	Written Response Due:	Resolution Due
Significant Deficiencies or Major Violations	2	9/19/2011	12/3/2011
Other Violations	3	-	-
Observations-Recommendations	2	-	-

# ATTACHMENT A

## Exhibit A

Rossi Duran  
Town of Antonito

August 5, 2011  
Page 2

The System's written response must outline the course of action that has or will be taken and the date by which the deficiencies will be corrected. Failure to provide a written response or resolution by the due dates is a violation of the CPDWR Article 11.4 (c), (d). The System must also contact the Division either by phone or email by **September 3, 2011** to discuss the findings.

### Description of Severity

- **Significant Deficiencies and Major Violations:** These items will be followed-up by the inspector who performed the sanitary survey. The written response to this letter must include all these items.
- **Other Violations:** The water system may be contacted by a compliance specialist for additional follow-up on these violations. The water system must address and correct these violations prior to the subsequent sanitary survey and will be verified at that time.
- **Observations/Recommendations:** While the Division will not directly follow-up on these items, it is highly recommended that the water system address these items.

### Reminders

- Article 1.11.2 (Prior Approval Required) requires the Department's approval prior to commencement of construction of any improvements, treatment process modifications, or the addition of new water sources.

Attached is a form that the System may use to document the required written response to this letter. While using this form is optional, it will fulfill the requirement to provide a written response if completed and submitted to the Division.

If you have any questions, please contact me by phone at 303-692-3551 or via e-mail to christopher.etcheson@state.co.us. Thank you for your time and cooperation.

Sincerely,



Chris Etcheson  
Community Groundwater Inspector  
Engineering Section  
Water Quality Control Division  
Colorado Department of Public Health and Environment

cc: Drinking Water File  
Conejos County Environmental Health Department  
Mike Trujillo, Mayor, Town of Antonito, 303 Main Street, Antonito, CO 81120  
Andrew Rice, District Engineer, WQCD-ES

Exhibit A

**Significant Deficiencies and Major Violations**

Storage -TANK 1 -	<p>The condition of the storage structure may allow potential sources of contamination to enter the tank. DCPWS Appx I, 1.0.9</p> <p>At the time of the inspection, it was observed that the storage tank overflow pipe outlet was not covered or screened and did not provide protection from the entrance of insects, birds and animals. The Colorado Design Criteria for Potable Water Systems Appendix I, Part 1.0.6 requires that the overflow pipe outlet be screened with a 24 mesh non-corrodible screen. Flapper style end caps are an acceptable alternative. The water system must cover the overflow outlet with a 24 mesh non-corrodible screen or flapper style end cap to prevent the entrance of insects, birds or animals into the finished water supply. The overflow pipe outlet is shown in Figure 1.</p>
Storage -TANK 1 -	<p>Air vents are not turned down or covered to prevent entrance of rainwater or contaminants. DCPWS Appx I, 1.0.8</p> <p>The storage tank vent screen is larger than 24 mesh and may allow the entrance of insects and other contaminants into the finished water storage tank. The Colorado Design Criteria for Potable Water Systems Appendix I, Part 1.0.8 requires that storage tank vents shall have a 24 mesh non-corrodible screen to exclude insects, birds and animals. The water system shall install a 24 mesh non-corrodible screen to cover the vent opening serving the water storage tank. The storage tank vent screen is shown in Figure 2.</p>

**Other Violations**

Management	<p>System has not implemented appropriate cross-connection control measures. This is a violation of CPDWR 12.1.</p> <p>During the inspection, it was observed that the water system did not have a completed cross-connection control program. The Colorado Primary Drinking Water Regulations Part 12.1 requires that public water systems shall identify potentially uncontrolled hazardous cross-connections. If any uncontrolled cross-connections are identified, the system should document them and the installation of backflow prevention devices. All cross-connection control program documentation should be maintained with the water system's records.</p>
Operator	<p>The system does not have a certified operator. This is a violation of Regulation 100 and CPDWR 7.1.1.c. (SW).</p> <p>At the time of the inspection, the water system did not have a designated certified water system operator in responsible charge of the water system. Regulation 100 Part 100.21.3 requires that each owner of a water facility shall ensure that a designated certified operator is available. The water system shall ensure that a certified water system operator is available for the water facility and provide the operator's information to the Division.</p>

Exhibit A

<p>M&amp;R and Data Verification</p>	<p>The system lacks a monitoring plan, the plan does not include the required content, the plan has not been updated for facility changes, or the plan has not been submitted. This is a violation of CPDWR 1.12.1.</p> <p>At the time of the inspection, the water system did not have a General Monitoring Plan available for review. The Colorado Primary Drinking Water Regulations Part 1.12.1 requires that a five part General Monitoring Plan shall be created and submitted to the Division. The water system is required to submit a copy of the monitoring plan to the Division for review and maintain a completed copy of the plan with the water system's records.</p>
--------------------------------------	--

**Observations/Recommendations**

<p>DISTRIBUTION SYSTEM -</p> <p>Storage - TANK 1 -</p>	<p>Inspector identified other distribution system observations.</p> <p>Free chlorine residual was measured at 0.1 mg/L in the distribution system by the operator. This meets the requirements of the Colorado Primary Drinking Water Regulations for water system chlorine residual level.</p> <p>The storage structure(s) lacks proper measures to prevent unauthorized access. Access hatches should be locked and the site should be protected from vandalism. DCPWS Appx I 1.0.4</p> <p>During the inspection, it was noted that the lock on the storage tank hatch was broken and would not protect the finished water from unauthorized entry. The Colorado Design Criteria for Potable Water Systems Appendix I, Part 1.0.7 states that water storage tank manholes above the waterline should have a locking device. The water system should replace the broken hatch cover lock.</p>
--	--

# ATTACHMENT A

Exhibit A

Figures



Figure 1 shows the water storage tank overflow pipe outlet.

# ATTACHMENT A

Exhibit A



Figure 2 shows the water storage tank vent screen.

# ATTACHMENT B

## STATE OF COLORADO

John W. Hickenlooper, Governor  
Larry Wolk, MD, MSPH  
Executive Director and Chief Medical Officer

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Phone (303) 692-2000      Denver, Colorado 80230-6928  
Located in Glendale, Colorado      (303) 692-3090

[www.colorado.gov/cdphe](http://www.colorado.gov/cdphe)



Colorado Department  
of Public Health  
and Environment

February 6, 2014

Rossi Duran, Administrative Contact  
Town of Antonito  
PO Box 86  
Antonito, CO 81120

RE: Source Water Inventory Change  
Requirements for Reclassification to Groundwater Under the Direct Influence of Surface Water  
PWSID CO0111100 – Town of Antonito, Community System - Conejos County

Dear Mr. Duran:

In a letter dated January 29, 2014, Town of Antonito was notified that Infiltration Gallery No. 1 (WL004) was reclassified to groundwater under the direct influence of surface water (GWUDI). The purpose of this letter is to provide you with information regarding the specific regulatory requirements associated with the reclassification of this source. These requirements are summarized below.

### 1.0 Treatment

1.1 Article 7.1.3 (d) of the Colorado Primary Drinking Water Regulations (CPDWR) requires that once a groundwater source is determined by the Department to be GWUDI, within eighteen (18) months of receiving notification from the Department, adequate surface water treatment that is comprised of both filtration and disinfection must be installed to treat that source.

Adequate surface water treatment is considered to be a treatment system that is designed and operated to:

- Achieve at least 99.99 percent (4-log) inactivation and/or removal of viruses. The inactivation of viruses is primarily accomplished by disinfection with chlorine.
- Achieve at least 99.9 percent (3-log) inactivation and/or removal of *Giardia lamblia* cysts and at least 99 percent (2-log) removal of *Cryptosporidium*. *Giardia lamblia* and *Cryptosporidium* cyst removal is achieved by filtration.
- In addition, under the Long Term 2 Enhanced Surface Water Treatment Rule, the outcome of a source water risk assessment may require additional treatment that is capable of removing/inactivating up to 99.9997 percent (5.5-log) of *Cryptosporidium*.

# **ATTACHMENT B**

Rossi Duran  
Town of Antonito  
February 6, 2014  
Page 2 of 3

Please note that additional daily turbidity and chlorine residual monitoring will also be required to meet the requirements of Article 7 of the CPDWR.

1.2 Based upon the January 29, 2014 notification date for Well 004, the deadline for Town of Antonito to install adequate surface water treatment is July 31, 2015. Alternatively, Town of Antonito may discontinue use of this source.

## **2.0 Plans and Specifications Approval**

2.1 Pursuant to CPDWR Section 1.11.2, prior to commencing construction of any new waterworks, making improvements to or modifying an existing treatment process(es) or initiating the use of a new source, plans and specifications associated with the construction/changes must be submitted to the Department for review and approval. For community water systems, the plans and specifications must be prepared by a Professional Engineer registered in the State of Colorado.

2.2 Plans and specifications approval for any changes to the existing treatment system at Town of Antonito must be obtained prior to installation/operation. Technical questions regarding plans and specifications submittal and review should be directed to the attention of Bret Icenogle, Engineering Section Manager. Bret can be reached by e-mail at [bret.icenogle@state.co.us](mailto:bret.icenogle@state.co.us) or via phone at 303.692.3278.

## **3.0 Interim Measures**

3.1 Town of Antonito is required to implement interim measures until full surface water treatment is installed and active. In order to protect public health and to comply with the CPDWR, all reclassified sources are evaluated by the Department to determine the degree of interim measures that are appropriate until adequate treatment is approved and installed.

3.1.1 Until adequate surface water treatment is approved, installed and operational, the following interim measures are required for all reclassified GWUDI systems:

3.1.2 A minimum entry point chemical disinfectant residual level of 2.0 mg/L must be maintained at all times unless Department approval of a system-specific, alternative minimum residual level is requested and obtained. Technical questions regarding approval of a system-specific, alternative minimum residual level should be directed to the attention of Bret Icenogle, Engineering Section Manager. Bret can be reached by e-mail at [bret.icenogle@state.co.us](mailto:bret.icenogle@state.co.us) or via phone at 303.692.3278.

3.1.3 If Town of Antonito would like to request a reduction of the required disinfectant residual, Town of Antonito must contact the Department by within 30 calendar days of the date of this letter.

3.1.4 The disinfection residual must be measured at least once daily and reported to the Department on a monthly basis. The disinfection residual must be measured, recorded and reported in accordance with the requirements in Sections 7.1.2 and 7.1.5, respectively. Enclosed is a copy of the monthly operating reporting (MOR) form to record and submit these readings. Questions regarding these requirements should be directed to my attention.

3.1.5 The Department may also require additional interim measures, depending on system-specific configuration and issues. Examples of additional interim measures that may be required include, but are not limited to the following:

# ATTACHMENT B

Rossi Duran  
Town of Antonito  
February 6, 2014  
Page 3 of 3

- An increase in monitoring and/or reporting to the Division;
- Operational changes (e.g. a minimum storage tank operating level), or;
- Any other measures that the Division determines are necessary to protect public health in the interim until filtration is installed and full treatment is provided.

At this time, the Department has not specified any additional interim measures. If additional interim measures are required in the future, the Department will notify the system in writing.

3.2 Based upon the January 29, 2014 notification date for Well 004, the deadline for Town of Antonito to be maintaining a 2.0 mg/L disinfection residual at all entry points served by Well 004 is March 29, 2014. On March 29, 2014 Town of Antonito must begin daily monitoring of the entry point. The first monthly operating report (MOR) must be submitted by April 10, 2014 and monthly thereafter. Please see the enclosed reporting form and additional reporting instructions.

#### **4.0 Changes to Monitoring Schedule**

4.1 Due to the reclassification of Well 004, the Town of Antonito's monitoring schedule for disinfection byproducts and volatile organic chemicals has been modified. These changes will be detailed in a separate letter.

Please feel free to contact me at [emily.clark@state.co.us](mailto:emily.clark@state.co.us) or via phone at 303.692.3535 with any questions regarding the deadlines indicated in this letter and Bret Icenogle at [bret.icenogle@state.co.us](mailto:bret.icenogle@state.co.us) or via phone at 303.692.3278 with any technical/engineering-related questions.

Sincerely,



Emily Clark  
Staff Compliance Specialist  
Safe Drinking Water Program  
Water Quality Control Division

Enclosure: MOR interim measures form

cc: DW File, PWSID CO0111100

ec: Jackie Whelan, Facility Operator Program, WQCD  
Bret Icenogle, Engineering Section Manager, WQCD  
Margaret Talbott, DW CAS Unit Manager  
Connie Edgar, Director of Public Health, Conejos County Public Health and Nursing Service (via [connie@co.conejos.co.us](mailto:connie@co.conejos.co.us))  
Mike Trujillo, Mayor of Town of Antonito (via [grayghosttrujillo@gmail.com](mailto:grayghosttrujillo@gmail.com))  
Ron Hope, citizen of Town of Antonito (via [peanuthope@gmail.com](mailto:peanuthope@gmail.com))

# ATTACHMENT C



## COLORADO

Department of Public  
Health & Environment

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

September 17, 2014

Mr. Aaron Abeyta, Mayor  
Town of Antonito  
PO Box 86  
Antonito, CO 81120

**RE: Corrective Action Plan Approved**  
Community Drinking Water System;  
Town of Antonito, PWSID No. CO0111100; Conejos County

Dear Mr. Abeyta:

The Field Services Section of the Colorado Department of Public Health and Environment's Water Quality Control Division (the Department), conducted a sanitary survey at the Town of Antonito (the System) on February 26, 2014. The Department sent a sanitary survey findings letter on March 28, 2014 that provided the System with written notice of significant deficiencies and/or violations identified during the sanitary survey. The sanitary survey findings letter required a written response for significant deficiencies and/or violations of the *Colorado Primary Drinking Water Regulations* (Regulation 11), 5 CCR 1002-11 by May 12, 2014.

As of the date of this letter, the Department received the following response(s) to the sanitary survey letter:

- May 9, 2014 email response sent by Rossi D. Duran, Town of Antonito Administrator and ORC.
- June 20, 2014 conference call including Aaron Abeyta, Rossi Duran, Emily Clark, Jorge Delgado and Monique Morey.
- August 11, 2014 email response sent by Rossi D. Duran, Town of Antonito Administrator and ORC.
- August 18, 2014 conference call including Aaron Abeyta, Rossi Duran, Amanda Atencio, Erick Worker and Monique Morey.
- September 15, 2014 conference call including Aaron Abeyta, Rossi Duran, Jorge Delgado and Monique Morey.

In accordance with Regulation 11, Section 11.38(3) (f), the System is required to resolve significant deficiencies and/or violations of the CPDWR within 120 days of the sanitary survey findings letter or be in compliance with a Department approved corrective action plan and schedule. The 120-day deadline for the System was July 26, 2014. Based upon the communications received to date by the Department, the following actions have been taken by the System to address the significant deficiencies and/or violations and a proposed schedule for completing the remaining actions are as follows:

1. Based upon the communications received from the System, the following item has been deemed resolved and no further action is required from the System at this time:
  - a) **Significant Deficiency No. 1. D901 - Distribution System Cross-Connection:** The System has provided documentation which adequately demonstrates that a survey to identify uncontrolled hazardous cross-connections in the distribution system has been performed and the System has required that backflow prevention assemblies or methods consistent with the degree of hazard be installed as appropriate at potentially hazardous uncontrolled cross-connections.
2. Based upon the communication(s) received to date by the Department, the following corrective action plan and schedule is approved:
  - (i) Resolve the following significant deficiencies by the proposed date of July 31, 2015:



# ATTACHMENT C

Mr. Aaron Abeyta, Mayor  
Town of Antonito

September 17, 2014  
Page 2

- a) **Significant Deficiency 3. D220 - Distribution: Distribution System (SDWIS ID: DS001) Raw Water Bypass:** Implement a permanent solution to make it impossible to bypass disinfection contact time.
  - b) **Significant Deficiency 4. T160 - Treatment: WTP No.1 and Tank Site All Sources (SDWIS ID: 003) Chemical Safety:** Implement a permanent solution to repair or upgrade the chlorine gas room to meet the requirements of the State of Colorado's Design Criteria for Potable Water Systems.
  - c) **Significant Deficiency 5. T112 - Treatment: WTP No.1 and Tank Site All Sources (SDWIS ID: 003) Ground Water Disinfection:** Implement a permanent solution to provide a Department approved method of continuous disinfection treatment for Well No. 1 (WL 001).
- (ii) Resolve the following significant deficiency by the proposed date of March 31, 2016:
- a) **Significant Deficiency 2. S030 - Source: Inf Gal No. 1 (SDWIS ID: 004)** Implement a permanent solution to address the condition of the infiltration gallery to prevent contamination of the raw source water in the future.

The System is expected to complete the corrective actions by the schedule listed above. The System then must supply evidence of the correction(s) to the Department and the date the correction(s) were made in accordance with Regulation 11, Section 11.38(3) g. Evidence can be in the form of photographs, documents, or other material that will function as proof that the significant deficiencies and/or violations have been resolved. If the System does not provide resolution to the deficiencies and violations cited in the sanitary survey, the System will be in violation of Regulation 11, Section 11.38(3) (f).

The CPDWR can be found on the Department's website at <http://wqcdcompliance.com>.

Thank you for your time and cooperation in this matter. If you have any questions or need additional information, please contact me by phone at (719) 295-5073 or via email at [monique.morey@state.co.us](mailto:monique.morey@state.co.us) .

Sincerely,



Monique Morey, E.I.T.  
Staff Engineer  
Field Services Section  
Water Quality Control Division  
Colorado Department of Public Health and Environment

Encl: Sanitary Survey Written Response Form

cc: Connie Edgar, Director of Public Health, Conejos County Public Health and Nursing Service  
Drinking Water File, PWSID No. CO0111100  
Pueblo Office Drinking Water File, PWSID No. CO0111100

Aaron Abeyta, Mayor, Town of Antonito  
Rossi Duran, Town Administrator and ORC, Town of Antonito  
Amanda Atencio, Atencio Engineering, Inc.  
Dan Romero, Sanitary Survey Follow-up Technician, Field Services Section  
Erick Worker, CDPHE-WQCD Grants and Loans Unit  
Emily Clark, CDPHE-WQCD Compliance Assurance Section  
Margaret Talbott, DW CAS Unit Manager, CDPHE-WQCD Compliance Assurance Section  
Sarah Robbin, CDPHE-WQCD Local Assistance Unit  
Dave Knope, Senior Review Engineer, CDPHE-WQCD Engineering Section  
Amy Zimmerman, Unit Manager, CDPHE-WQCD Engineering Section  
Bret Icenogle, Section Manager, CDPHE-WQCD Engineering Section  
Tyson Ingels, Lead Drinking Water Engineer, CDPHE-WQCD Engineering Section  
Heather Drissel, Unit Manager, CDPHE-WQCD-Field Services Section, Field Unit II  
Monique Morey, Staff Field Engineer, CDPHE-WQCD-Field Services Section, Field Unit II

# ATTACHMENT D

Compliance Order on Consent: Wastewater Compliance Requirements		
Event	Activity	Milestone Date
<u>Paragraph 61:</u> Installation of disinfection treatment	The Town shall install disinfection treatment equipment that will ensure the Facility is able to meet the <i>E. coli</i> limitations of the 2013 Permit that are in effect until June 30, 2016. In accordance with Part I.B.5.b. of the 2013 Permit, the Town shall complete construction or other appropriate actions by June 30, 2016 that will allow the Town to achieve compliance with the final <i>E. coli</i> limitations that will take effect on July 1, 2016.	June 30, 2015
<u>Paragraph 62:</u> Planning Grant Application	The Town shall submit an application for a Planning Grant through the Water Pollution Control Revolving Fund	June 15, 2015
<u>Part I.B.5.c. of the 2013 Permit:</u> Written Commitment to Perform Required Work	If the lagoon is found to be seeping in excess of the maximum rate, the facility must submit a plan for the installation of liners. Plan should include that funding has been obtained for design and construction aspects, and final plans specifications have been submitted to the Division. Note that a Site Application and a preliminary design must be submitted and approved by the Division prior to final plans and specifications.	June 30, 2015
<u>Paragraph 64:</u> Small Communities Wastewater Grant Application	The Town shall submit an application for the Small Communities Water and Wastewater Grant Fund by the close of the next application cycle; to be used for the wastewater project.	Estimated: July 2015
<u>Paragraph 63:</u> Design and Engineering Grant Application	The Town shall submit an application for a Design and Engineering Grant through the Water Pollution Control Revolving Fund.	August 31, 2015
<u>Paragraph 65:</u> Dredging Analysis & Schedule	The Town shall complete an evaluation of biosolids accumulation in the Facility's lagoon and submit a report to the Division outlining whether dredging of the lagoon would provide a measureable increase in the Facility's treatment efficiency. The report shall include a cost-benefit analysis of dredging as an interim compliance measure. If the evaluation and cost-benefit analysis concludes that the Facility would obtain measureable benefits from the removal of the biosolids accumulation without being cost prohibitive, the Town shall submit with the report a schedule for completing dredging activities. The schedule submitted shall become a condition of this Consent Order and the Town shall implement the plan for lagoon dredging 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 Consent Order.	September 1, 2015

# ATTACHMENT D

Compliance Order on Consent: Wastewater Compliance Requirements		
Event	Activity	Milestone Date
<u>Paragraph 66:</u> Site Location Application	The Town shall submit to the Division a site location application for treatment upgrades/improvements to the Facility that will ensure the Facility will reliably and consistently meet the effluent limitations and other terms and conditions of the 2013 Permit. The site location application shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.	October 1, 2015
<u>Paragraph 67:</u> Process Design Report	The Town shall submit to the Division a process design report ("PDR") for treatment upgrades/improvements, to include expansion of the Facility, if deemed necessary. The PDR and final plans and specifications shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.	December 31, 2015
<u>Part I.B.5.c. of the 2013 Permit:</u> Status / Progress Report	Submit a progress report summarizing the efforts to install the lagoon liner.	December 31, 2015
<u>Paragraph 68:</u> Final Plans & Specifications	The Town shall submit to the Division final plans and specifications for treatment upgrades/improvements, to include expansion of the Facility, if deemed necessary. The final plans and specifications shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.	March 31, 2016
<u>Paragraph 69:</u> Energy Impact Assistance Fund Application	The Town shall submit an application for the DOLA Tier II Energy / Mineral Impact Assistance Fund to be used for the wastewater project.	April 1, 2016
<u>Paragraph 70:</u> State Revolving Fund Application	The Town shall submit an application for the State Revolving Fund to be used for the wastewater project.	April 15, 2016
<u>Part I.B.5.b. of the 2013 Permit:</u> Complete Required Work or On-Site Construction	Complete construction of facilities or other appropriate actions, which will allow the permittee to meet the final <i>E. coli</i> limitations.	June 30, 2016
<u>Part I.B.5.c. of the 2013 Permit:</u> Corrective Action Completed	The permittee must submit a report completed by a professional engineer registered in the state of Colorado indicating that the liner of the lagoon has been replaced. The report must certify that the liner material meets the allowable seepage rate of 10 <sup>-6</sup> centimeters per second or less, and that the placement was accomplished according to the manufacturer's requirements (i.e., all welds were tested and the liner was checked for holes prior to backfilling).	June 30, 2016

# ATTACHMENT D

Compliance Order on Consent: Wastewater Compliance Requirements		
Event	Activity	Milestone Date
<u>Paragraph 72:</u> Commence Construction	The Town shall start construction of the Division-approved design for treatment upgrades/improvements to the Facility.	September 30, 2016
<u>Paragraph 73:</u> Complete Construction	The Town shall complete construction of the Division-approved design for treatment upgrades/improvement to the Facility.	September 30, 2017

Paragraph 71: The Town shall respond to any Division site location or PDR review comments or requests for information within fourteen (14) days of the date of the request(s).

Paragraph 74: If the Town becomes aware of any situation or circumstances, such as failure to obtain funding through applications as outlined in paragraphs 62 through 64, 69 and 70; the Town shall provide written notice to the Division within 10 calendar days of the Town becoming aware of such situation or circumstance. The Town's notice shall describe what effect if any, such situation or circumstance will have on the Town's ability to comply with the Act, the 2013 Permit, and any incomplete conditions and/or time schedules specified by this Consent Order. In the written notice, the Town shall outline what steps are being taken or will be taken in order to mitigate such effects. If funding fails to materialize following submission of the grant and loan applications as outlined by this Consent Order, the Town will submit a request for modification of this Consent Order with a revised implementation schedule to aggressively address any remaining requirements that are affected as a result of funding complications. Any such modifications and/or revisions to the schedule shall be subject to the mutual consent of the Town and the Division, which consent shall not be unreasonably withheld.

# ATTACHMENT E

<b>Compliance Order on Consent: Drinking Water Compliance Requirements</b>		
<b>Event</b>	<b>Activity</b>	<b>Milestone Date</b>
<p><u>Paragraph 76:</u> Full compliance with the surface water treatment rule</p>	<p>If the deadlines specified in the February 6, 2014 letter cannot be met, the Town must have approved surface water treatment installed and operational, have an operator certified at the correct certification level for the treatment plant, and act in accordance with all required drinking water compliance monitoring and reporting.</p>	<p>June 30, 2016</p>
<p><u>Paragraph 77:</u> Ongoing compliance with interim measures</p>	<p>The Town must continue to act in accordance with the interim measures established in the February 6, 2014 letter.</p>	<p>ongoing</p>
<p><u>Paragraph 78:</u> Resolution of Significant Deficiencies 3, 4, and 5</p>	<p>The Town will resolve the following significant deficiencies, as described in the September 17, 2014 letter:</p> <ul style="list-style-type: none"> <li>a) Significant Deficiency 3. D220- Distribution: Distribution System (SDWIS ID: DS001) Raw Water Bypass: Implement a permanent solution to make it impossible to bypass disinfection contact time.</li> <li>b) Significant Deficiency 4. T160 - Treatment: WTP No.1 and Tank Site All Sources (SDWIS ID: 003) Chemical Safety: Implement a permanent solution to repair or upgrade the chlorine gas room to meet the requirements of the State of Colorado's Design Criteria for Potable Water Systems.</li> <li>c) Significant Deficiency 5. T112 -Treatment: WTP No.1 and Tank Site All Sources (SDWIS ID: 003) Ground Water Disinfection: Implement a permanent solution to provide a Division-approved method of continuous disinfection treatment for Well No. 1 (WL 001).</li> </ul>	<p>June 30, 2016</p>
<p><u>Paragraph 79:</u> Resolution of Significant Deficiency 2</p>	<p>The Town will resolve the following significant deficiency, as described in the September 17, 2014 letter:</p> <ul style="list-style-type: none"> <li>a) Significant Deficiency 2. S030- Source: Inf Gal No. 1 (SDWIS ID: 004) Implement a permanent solution to address the condition of the infiltration gallery to prevent contamination of the raw source water in the future.</li> </ul>	<p>September 30, 2016</p>

# ATTACHMENT E

Compliance Order on Consent: Drinking Water Compliance Requirements		
Event	Activity	Milestone Date
<u>Paragraph 80:</u> Apply for a grant from DOLA	The Town shall apply for a grant from the Department of Local Affairs (“DOLA”) Energy/Impact Assistance Fund to fund specific parts of the drinking water project.	April 1, 2015
<u>Paragraph 82:</u> Complete Conejos Project	Pending the outcome of funding from DOLA, the Town shall utilize the Drinking Water Revolving Fund monies to perform the construction necessary to provide piped treated drinking water from the System to the customers currently served by the Conejos Water System, combining the Conejos Water System service area into the Town’s service area.	September 30, 2016
<u>Paragraph 83:</u> Progress Reports	The Town shall submit bi-monthly progress reports to the Division outlining efforts taken to achieve compliance with the Consent Order. At a minimum, each report shall outline activities undertaken in the current reporting period and planned activities for the next two (2) months to remain in compliance with the Consent Order.	June 1, 2015 and bi-monthly thereafter

# ATTACHMENT F

## Drinking Water Revolving Fund Project Number 140302D Description Town of Antonito

- 1) Should the Town of Antonito receive DOLA funding, the proposed work will include:
  - a) Work solely funded by the Drinking Water Revolving Fund (DWRF):
    - i) consolidation with the Conejos Water System
  - b) Work funded by both the DWRF and DOLA:
    - i) water treatment system improvements,
    - ii) distribution system improvements,
    - iii) sanitary sewer system improvements related to the water treatment plant backwash disposal,
    - iv) tank rehabilitation work, and
    - v) new tank construction.
  - c) Work funded by DOLA and the Town:
    - i) Infiltration gallery improvements.

The consolidation component (contingent upon securing the DOLA EIAF grant) will include constructing a new transmission main connecting the Conejos community, replacing existing distribution system piping, looping and all associated appurtenances necessary to optimally connect and operate the two systems.

- 2) Should the Town of Antonito not receive DOLA funding, the Conejos consolidation project will be removed, and the proposed work to be funded through the DWRF will include:
  - a) water treatment system improvements,
  - b) distribution system improvements,
  - c) sanitary sewer system improvements related to the water treatment plant backwash disposal,
  - d) tank rehabilitation work, and
  - e) new tank construction.