



## COLORADO

Department of Public  
Health & Environment

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

August 27, 2015

Irvin B. Frazier, Town Manager  
Town of Dove Creek  
PO Box 508  
Dove Creek, CO 81324

Certified Mail Number: 7012 1640 0000 0801 9380

**RE: Service of Notice of Violation/Cease and Desist Order, Number: MO-150825-1**

Dear Mr. Frazier:

The Town of Dove Creek is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). The NOV/CDO is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §§25-8-602 and 25-8-605, C.R.S., of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases the NOV/CDO upon findings that the Town of Dove Creek has violated the Act and/or permit or control regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., the Town of Dove Creek is required, within thirty (30) calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S., to impose a penalty of \$10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.



Should you or representatives of the Town of Dove Creek desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact me by phone at (303) 692-3584 or by electronic mail at [christy.pickens@state.co.us](mailto:christy.pickens@state.co.us).

Sincerely,



Christy Pickens, Enforcement Specialist  
Clean Water Enforcement Unit  
WATER QUALITY CONTROL DIVISION

*Enclosure(s)*

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII  
Melissa Mathews, Dolores County (Montezuma) Environmental Health Department  
Nicole Rowan, Watershed Section, CDPHE  
Michael Beck, Grants and Loans Unit, CDPHE  
Doug Camrud, Engineering Section, CDPHE  
Kelly Jacques, Field Services Section, CDPHE  
Janet Kieler, Permits Section, CDPHE  
Mike Harris, Clean Water Enforcement Unit, CDPHE  
Tania Watson, Compliance Assurance, CDPHE  
Barry Cress, DOLA



# COLORADO

## Department of Public Health & Environment

### WATER QUALITY CONTROL DIVISION

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NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: MO-150825-1

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IN THE MATTER OF:      TOWN OF DOVE CREEK  
   CDPS PERMIT NO. COG589000  
   CERTIFICATION NO. COG589079  
   DOLORES COUNTY, COLORADO

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605 C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the violations cited herein, The Town of Dove Creek (the "Town") was a municipality as defined by §31-1-101(6), C.R.S.
2. 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).
3. The Town owns and/or operates the Town of Dove Creek wastewater treatment facility, at 37.76859, -108.906944, located south of the Town on the west side of Dove Creek, in Dolores County, Colorado, (the "Facility").
4. The Facility is a lagoon system that consists of two aeration cells with a fermentation basin and a settling pond. There are five constructed wetlands with re-circulation capabilities. The treatment plant also has a chlorination facility with a de-chlorination unit.
5. Outfall 001A is the external outfall following chlorination and sand filter treatment and prior to entering Dove Creek. Outfall 300I is an influent structure at a representative location prior to chemical, physical, or biological treatment. The hydraulic and organic capacities of the Facility are 0.115 MGD and 288 lbs BOD<sub>5</sub>/day, respectively.
6. The Facility is the subject of the Colorado Discharge General Permit System, Permit No. COG589000 (the "Permit"). During the times relevant to the alleged violations identified herein, a version of the Permit was in place that was effective from October 1, 2008 through September 30,

2013 (the “2008 Permit”). The current version of the Permit became effective on October 1, 2013 and remains in effect until September 30, 2018 (the “2013” Permit”). The Town obtained authorization to discharge under the 2008 Permit and the 2013 Permit via Certification Number COG589079 (the “2008 Certification” and the “2013 Certification,” respectively). Most recently, the 2013 Certification was reissued effective October 1, 2013 under the 2013 Permit, and remains in effect until September 20, 2018.

7. The Permit authorizes the Town to discharge treated wastewater from the Facility through Outfall 001A, into Dove Creek. Outfall 001A is physically located at 37.753889, -108.906944. Outfall 001A is the only outfall permitted to the Town. The 2013 Permit and 2013 Certification also include requirements to monitor influent loading to the Facility at a representative point prior to entering any lagoon and prior to any biological treatment, which is designated in each permit as Outfall 300I.
8. 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 Adhere to Permit Compliance Schedule

9. Pursuant to Part I.C.6. of the 2013 Permit, facilities that utilize lagoon treatment are required to have evidence that the lagoon liner meets the allowable seepage rate of  $1 \times 10^{-6}$  cm/second, and a compliance schedule may be included in the certification to show that a liner is in place and is functioning properly.
10. Pursuant to the 2013 Certification, the Town is required to investigate and submit conclusive information on the seepage from the lagoon system to determine if the allowable seepage rate of  $1 \times 10^{-6}$  cm/second is exceeded. An associated Inflow/Infiltration Report was due to the Division by October 1, 2014.
11. Division records establish that the Town failed to submit information documenting the seepage rate from the lagoon system.
12. The Town’s failure to submit information documenting the seepage rate from the lagoon system constitutes a violation of Part I.C.6. of the 2013 Permit and the terms of the 2013 Certification.
13. Pursuant to Part I.C.7. of the 2013 Permit, the certification under the Permit may contain a compliance schedule if there is a new limitation, or if a limitation becomes more stringent. If applicable, the terms and conditions of the compliance schedule will be included in the certification, including dates for submitting specific reports or for completion of activities to meet the final permit limits.
14. Pursuant to the 2013 Certification, the Town is required to implement activities to meet total ammonia limits. By April 30, 2014, the Town was required to submit a letter of notification to the Division with current total ammonia effluent data that establishes that the Facility can meet the new total ammonia limits, or if the Facility cannot meet the new total ammonia limits, the Town was required to submit a letter of notification to the Division by October 1, 2014, that a Colorado licensed engineering consultant had been obtained and funding had been secured for planning.

15. Division records establish that the Town failed to submit a letter of notification documenting whether total ammonia effluent limitations can be met at the Facility, nor a letter of notification that a licensed engineering consultant has been obtained.
16. The Town's failure to submit the letters of notification described in paragraphs 14-15 above constitutes violations of Part I.C.7. of the 2013 Permit and the terms of the 2013 Certification.

**Failure to Properly Monitor and Report**

17. Pursuant to Part I.B.5. of the 2013 Permit, regardless of whether or not effluent discharge occurs at the Facility, and in order to obtain an indication of the current influent loading as compared to the approved capacity of the Facility, the Town is required to monitor influent parameters at specified frequencies and report the results of such monitoring on a Discharge Monitoring Report ("DMR").
18. Pursuant to Part I.B.1. of the 2013 Permit, in order to provide an indication of compliance or non-compliance with the effluent limitations of the Permit, the Town is required to monitor defined effluent parameters at specified frequencies and report the results on a DMR.
19. Pursuant to Part I.D.1. of the 2013 Permit, the Town is required to report all monitoring results on Division approved DMRs. The Town is required to ensure 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 monitoring period. Additionally, the Permit specifies that the DMR forms shall be filled out accurately and completely in accordance with requirements of the Permit and the instructions on the forms.
20. Division records establish that the Town failed to monitor and/or submit DMRs to the Division following the monitoring periods identified below:

<b>Town of Dove Creek DELINQUENT DISCHARGE MONITORING REPORTS</b>	
<b>MONITORING PERIOD</b>	<b>OUTFALL NUMBER</b>
January 1-31, 2014	001A, 300I
February 1-28, 2014	001A, 300I
March 1-31, 2014	001A, 300I
April 1-30, 2014	001A, 300I
May 1-31, 2014	001A, 300I
June 1-30, 2014	001A, 300I
July 1-31, 2014	001A, 300I
August 1-31, 2014	001A, 300I
September 1-30, 2014	001A, 300I
October 1-31, 2014	001A, 300I
November 1-30, 2014	001A, 300I
December 1-31, 2014	001A, 300I
January 1-31, 2015	001A, 300I
February 1-28, 2015	001A, 300I
March 1-31, 2015	001A, 300I
April 1-30, 2015	001A, 300I
May 1-31, 2015	001A, 300I
June 1-30, 2015	001A, 300I
July 1-31, 2015	001A, 300I

21. The Town's failure to monitor and/or submit DMRs to the Division following each reporting period constitutes violations of Part I.B.5, Part I.B.1 and Part 1.D.1. of the 2013 Permit.

**Failure to Comply with Permit Effluent Limitations**

22. Pursuant to Part I.B.7. of the 2008 Permit, Part I.B.2. of the 2013 Permit, and the associated 2008 Certification and 2013 Certification, effluent at Outfall 001A shall not exceed, among others not subject of this action, the effluent discharge limitations specified below:

<b>Town of Dove Creek DISCHARGE LIMITATIONS</b>		
<b>Effluent Parameter</b>	<b>30- Day Average</b>	<b>7-Day Average</b>
BOD <sub>5</sub> , percent removal	85%(min)	NA
BOD <sub>5</sub> , mg/l	30	45
<i>E.coli</i> , no/100 ml	126	252
Total Suspended Solids, mg/l	75	110

23. Pursuant to Part I.C.1. of the 2008 Permit and Part I.B.5 of the 2013 Permit, the Town is required to monitor defined effluent parameters at specified frequencies in order to provide an indication of compliance or non-compliance with the effluent limitations of the Permit.
24. Pursuant to Part I.E.1 of the 2008 Permit and Part I.D.1 of the 2013 Permit, the Town is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly DMRs. Each DMR is to include a certification by the Town that the information provided therein is true, accurate and complete to the knowledge and belief of the Town.
25. The Town's DMRs submitted for Outfall 001A for the monitoring periods between April 2010 and July 2013 include, among other information and data, the following effluent concentration summary data which exceeded the limitations listed in Part I.B.7. of the 2008 Permit, Part I.B.2. of the 2013 Permit, and the associated 2008 Certification and 2013 Certification:

<b>Town of Dove Creek EFFLUENT SELF MONITORING DATA</b>		
<b>DISCHARGE MONITORING PERIOD</b>	<b>Sample Measurements FOR OUTFALL 001A</b>	
<b>BOD<sub>5</sub>, percent removal</b>	<b>30 DAY AVG. LIMIT= 85%(min)</b>	
April 1 - 30, 2010	80%	
August 1 - 31, 2010	59%	
<b>BOD<sub>5</sub>, mg/l</b>	<b>30 DAY AVG. LIMIT= 30 mg/l</b>	<b>7 DAY AVG. LIMIT = 45 mg/l</b>
August 1 - 31, 2010	74 mg/l	74 mg/l
January 1 - 31, 2013	32 mg/l	

Town of Dove Creek EFFLUENT SELF MONITORING DATA		
DISCHARGE MONITORING PERIOD	Sample Measurements FOR OUTFALL 001A	
<i>E. coli</i> , no/100 ml	30 DAY AVG. LIMIT= 126	7 DAY AVG LIMIT = 45 mg/l
September 1, 2010 - September 30, 2010	921	921
July 1 - July 31, 2011	365	
August 1 - August 31, 2011	912	1,413.6
July 1 - July 31, 2012	1,203	1,203
January 1 - January 31, 2013	1,300	1,300
July 1 - July 31, 2013	2,419	2,419
<b>Total Suspended Solids, mg/l</b>	<b>30 DAY AVG. LIMIT= 75 mg/l</b>	
April 1 - April 30, 2012	100 mg/l	

26. Biological Oxygen Demand (“BOD<sub>5</sub>”), *E. coli*, and Total Suspended Solids (“TSS”) 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).
27. The Permit does not authorize the pollutant levels identified above in paragraph 25. Division records establish that the Town does not have any other permit authorizing such discharge from the Facility into State Waters.
28. The Town’s failure to comply with the Permit effluent limitations, as identified above in paragraph 25, constitutes violations of Part I.B.7. of the 2008 Permit, the 2008 Certification, Part I.B.2. of the 2013 Permit, and the 2013 Certification.

**NOTICE OF VIOLATION**

29. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that the Town has violated the following sections of the 2008 Permit, the 2008 Certification, the 2013 Permit, and the 2013 Certification.

**Part I.C.6. of the 2013 Permit**, which states: “For those facilities that use a lagoon as treatment for meeting the permit limitations, the Division will require evidence that the lagoon liner [sic] meets the allowable seepage rate of  $1 \times 10^{-6}$  cm/sec. The certification for discharge may include a compliance schedule or other permit requirement to show that the liner is in place, and is functioning appropriately.”

**2013 Certification**, which establishes the following compliance schedule item:

Event	Description	Due 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 <sup>-6</sup> cm/sec is exceeded. If liner integrity is the basis for determination that the seepage meets the criteria, then the report must be prepared by a professional engineer registered in Colorado.	10/01/2014

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

**2013 Certification**, which establishes the following compliance schedule item:

Event	Description	Due 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 <sup>-6</sup> cm/sec is exceeded. If liner integrity is the basis for determination that the seepage meets the criteria, then the report must be prepared by a professional engineer registered in Colorado.	10/01/2014

**Part I.B.5. of the 2013 Permit**, which states in part: “Regardless of whether or not an effluent discharge occurs and in order to obtain an indication of the current influent loading as compared to the approved capacity specified in the certification and in Part I.B.; the permittee shall at least monitor the following influent parameters at the required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report ... Self-monitoring samples taken in compliance with the monitoring requirements specified shall be taken at the following location: Monitoring point 300I (or its equivalent as noted in the certification), at a representative point prior to any biological treatment.”

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

**Part 1.D.1. of the 2013 Permit**, which states in part: “Reporting of the data gathered in compliance with Part I.A or Part I.B shall be on a **monthly** basis ... Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms (EPA form 3320-1). The permittee must submit these forms either by mail, or by using the Division’s Net-DMR services (when available). DMRs must be received by the Division no later than the 28<sup>th</sup> day of the month following the monitoring period. If no discharge occurs during the reporting period, “No Discharge” shall be reported on the DMR...The Discharge Monitoring Report forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms.”

Part I.B.7.b. of the 2008 Permit and Part I.B.2 of the 2013 Permit, which states in part: “In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), the permitted discharge shall not contain effluent parameter concentrations, which exceed the following limitations:”

### REQUIRED CORRECTIVE ACTION

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

30. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders the Town to comply with the following specific terms and conditions of this Order:

31. Within thirty (30) calendar days of receipt of this Order, the Town shall submit all delinquent DMRs as well as records of its effluent discharge monitoring at the Facility for the period from January 1, 2014 through the date of this Order. The records shall include all laboratory data reports, all field measurement reports, and all calibration and maintenance records, including all other information required to be retained by Part I.D.6. of the 2013 Permit. The records shall be summarized in Excel format and shall be clear and understandable.
32. Within thirty (30) calendar days of receipt of this Order, the Town shall review the requirements of the Permit and Certification with its staff responsible for ensuring compliance with the terms and conditions of the Permit. The review shall focus on, but not be limited to: 1) the effluent limitations imposed by the Permit; 2) the effluent monitoring requirements of the Permit; 3) the record keeping requirements of the Permit; 4) the reporting requirements of the Permit, including the instruction for proper completion and submittal of DMRs required by the Permit; and 5) the noncompliance notification procedures required by the Permit. Within forty five (45) calendar days of receipt of this Order, the Town shall submit a written certification to the Division stating that it has completed the review of the Permit and Certification with its responsible staff.
33. Within thirty (30) calendar days of receipt of this Order, the Town shall retain the services of a professional engineer registered in the state of Colorado and experienced in domestic wastewater treatment to perform an evaluation of the Facility and recommend measures that ensure proper operation and maintenance of the Facility take place, and that adequate treatment is provided such that the Facility complies with the terms and conditions of the 2013 Permit and Certification. At a minimum, the engineering evaluation should include, but not be limited to, the following items:
  - a. An evaluation on the seepage from the lagoon system to determine if the allowable seepage rate of  $1 \times 10^{-6}$  cm/sec is exceeded. If seepage from the lagoon system is determined to exceed the allowable seepage rate, the evaluation shall include a plan for the installation of liners or other appropriate upgrades;
  - b. An evaluation of the Facility’s ability to meet the new total ammonia effluent limitations of the 2013 Permit and Certification, which take effect on October 1, 2018;
  - c. An evaluation of measures to improve the Facility’s current operation and maintenance practices to identify and correct any deficiencies that may impact the Facility’s ability to

- comply with the 2013 Permit; and,
- d. An evaluation and plan for upgrades or expansion of the Facility, if determined necessary, which will ensure the Facility has adequate treatment capacity and can reliably and consistently comply with the 2013 Permit and Certification.
34. Within forty-five (45) calendar days of receipt of this Order, the Town shall provide documentation to the Division that it has retained the services of the qualified individual or entity described in paragraph 33. The documentation shall include, at a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for services, including a copy of the scope of services to be provided.
  35. Within ninety (90) calendar days of receipt of this Order, the Town shall submit to the Division a report summarizing the results of the engineering evaluation identified in paragraph 33. At a minimum, the report shall include a detailed narrative of each component described in paragraph 33, and an aggressive plan and schedule for the implementation of specific interim and long-term measures that the Town will complete to address the deficiencies identified through the engineering evaluation and to ensure the Facility consistently meets influent and effluent limitations and other terms and conditions of the 2013 Permit and Certification. This includes a specific plan and schedule for commencing and completing construction of Facility expansion and/or upgrades, if necessary. If any of the corrective measures require Division site location and design approval, 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 it has obtained the necessary site location and design approval(s) as required by §25-8-702, C.R.S. and 5 CCR 1002-22, or unless otherwise specifically authorized, in writing, by the Division. The submitted plan and time schedule shall become a condition of this Order and the Town shall implement the plan and time schedule as submitted unless notified by the Division, in writing, that an alternate plan or time schedule is appropriate. If the Division imposes an alternate plan or time schedule, it shall also become a condition of this Order.
  36. Within one hundred eighty (180) calendar days of receipt of this Order, and every ninety (90) days thereafter until the Division deems it no longer necessary, the Town shall submit a quarterly progress report to the Division summarizing the activities completed during the current quarter and activities planned for the next quarter.
  37. 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 Order, the Town shall provide written notice to the Division within five (5) 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 and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.
  38. All documents submitted under this Order shall use the same titles as stated in this Order, and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required. Within thirty (30) calendar days of receiving Division comments on submitted documents, the Town shall revise the submitted document(s) to properly address the Division's comments and resubmit the document(s) for Division review.

## NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, the Town shall submit an original and an electronic copy to the Division at the following address:

Christy Pickens  
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) 692-3584  
Email: [christy.pickens@state.co.us](mailto:christy.pickens@state.co.us)]

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

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

## OBLIGATION TO ANSWER AND REQUEST FOR HEARING

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

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

## FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be

punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**POTENTIAL CIVIL AND CRIMINAL PENALTIES**

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 803, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S., and may bring such action in the future.

**RELEASE OR DISCHARGE NOTIFICATION**

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

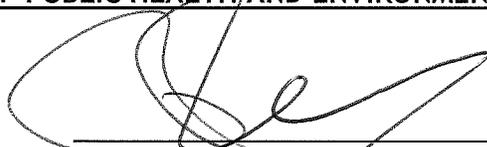
**EFFECT OF ORDER**

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

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

Issued at Denver, Colorado, this 25<sup>th</sup> day of August 2014.

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

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