COLORADO
Department of Public
Health & Environment

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

August 29, 2016

Mickey Smith, Mayor
Town of Rye
P.O. Box 236
Rye, Colorado 81069

Certified Mail Number: 7014 2870 0000 7699 5269

RE: Order for Civil Penalty, Number: IP-160829-1

Dear Mr. Smith:

The Town of Rye is hereby served with the enclosed Order for Civil Penalty ("Penalty Order"). This Penalty Order 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 §25-8-608(2) of the *Colorado Revised Statutes*. Payment of the imposed civil penalty should be made in accordance with the methods referenced in the Penalty Order.

If you have any questions regarding the Penalty Order or the payment method, please do not hesitate to contact me at (303) 692-6498 or by electronic mail at andrea.beebout@state.co.us.

Sincerely,

Andrea Beebout, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s): Order for Civil Penalty IP-160829-1

cc: Enforcement File

ec: Michael Boeglin, EPA Region VIII
Chad Wolgram, Pueblo City -County Health Department
Aimee Konowal, Watershed Section, CDPHE
Corrina Quintana, Grants and Loans Unit, CDPHE
Amy Zimmerman, Engineering Section, CDPHE
Heather Drissel, Field Services Section, CDPHE
Lillian Gonzalez, Permits Section, CDPHE
Tania Watson, Data Management, CDPHE
Barry Cress, DOLA
Lauren McDonell, SEP Coordinator, CDPHE

COLORADO
Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY NUMBER: IP-160829-1

IN THE MATTER OF: TOWN OF RYE
CDPS PERMIT NO. COG641000
CERTIFICATION NO. COG641125
PUEBLO COUNTY, COLORADO

This matter having come to my attention as the Designee of the Executive Director of the Colorado Department of Public Health and Environment, pursuant to §25-8-608 C.R.S, I hereby impose a civil penalty in the amount of Six Thousand Four Hundred and Ninety-Seven Dollars ($6,497.00) against The Town of Rye for the violations cited in the July 20, 2016 Compliance Order on Consent (Number: IC-160720-1). A copy of the Compliance Order on Consent is attached hereto as Exhibit A and is incorporated herein by reference. The civil penalty shall be paid through three (3) installment payments, with the first due within thirty (30) calendar days of the date of this Order for Civil Penalty, and as set forth in the Compliance Order on Consent.

"Method of payment shall be by certified or cashier's check drawn to the order of the 'Colorado Department of Public Health and Environment,' and delivered to:

Andrea Beebout
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530"

Dated this 29th day of August 2016.

Patrick J. Pfaltzgraff, Director
Water Quality Control Division
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

EXHIBIT A

COLORADO
Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT **NUMBER: IC-160720-1**

IN THE MATTER OF: **TOWN OF RYE**
CDPS PERMIT NO. COG641000
CERTIFICATION NO. COG641125
PUEBLO COUNTY, COLORADO

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

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, the civil penalties associated with alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number IO-140919-2 (the "NOV/CDO"), that the Division issued to the Town on September 19, 2014.

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding the Town, the Facility and the Town's compliance with the Act and its implementing permit regulations.

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 by §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

5. The Town owns and /or operates the Rye water treatment plant, located at 37°55'20" N and 104°56'14" E, near the Town of Rye, Pueblo County, Colorado (the "Facility").

6. The Facility uses a membrane filtration system in the process of generating potable water for municipal use. The membrane filtration system requires routine cleaning, which is accomplished via a backwashing process. The backwash waste stream is sent to a settling tank prior to discharge.

7. The Facility is subject to the Colorado Discharge Permit System General Permit, Number COG641000, for Water Treatment Plants (the "Permit"). The Permit became effective November 1, 2005 and was set to expire October 31, 2010, but is currently administratively continued until issuance of a renewal permit. The Town is authorized to discharge under the Permit via Certification Number COG641125 (the "Certification"), which became effective on January 26, 2009 and is currently administratively continued until Permit reissuance.

8. The Permit and Certification authorize the Town to discharge filter backwash water from the Facility through Outfall 001A to Greenhorn Creek in accordance with specific effluent limitations and other terms and conditions of the Permit and Certification.

9. Pursuant to 5 CCR 1002-61, §61.8, the Town must comply with all 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

10. Pursuant to Parts I.B.1. of the Permit and the Certification, the Town's effluent at Outfall 001A shall not exceed the effluent discharge limitations specified below:

TOWN OF RYE EFFLUENT LIMITATIONS			
EFFLUENT PARAMETER	**30- DAY AVERAGE**	**7-DAY AVERAGE**	**DAILY MAXIMUM**
Total residual chlorine ("TRC"), mg/l	0.011	NA	0.019
pH, s.u.	NA	NA	9.0

11. Pursuant to Part I.C.1. of the 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 the DMR.

12. Pursuant to Part I.F.2. of the Permit, the Town is required to summarize and report the analytical results of its effluent monitoring to the Division via quarterly Discharge Monitoring Report ("DMR") forms. 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.

13. The Town's DMRs for the 1st Quarter 2014 (1/1/2014-3/31/2014) and 2nd Quarter 2014 (4/1/2014-6/30/2014) establish that the Town monitored its effluent for free chlorine instead of monitoring for total residual chlorine, as required by the Permit. The Town's DMRs reported the following effluent data for free chlorine:

TOWN OF RYE EFFLUENT SELF-MONITORING DATA				
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 001A			
	30 DAY AVG. FREE CHLORINE REPORTED, mg/l	30 DAY AVG. TRC LIMIT, mg/l	DAILY MAX FREE CHLORINE REPORTED, mg/l	DAILY MAX TRC LIMIT, mg/l
1st Quarter 2014 (1/1/2014-3/31/2014)	0.2	**0.011**	0.25	**0.019**
2nd Quarter 2014 (4/1/2014-6/30/2014)	0.134	**0.011**	0.18	**0.019**

Total residual chlorine is the sum of the combined chlorine and free chlorine concentrations in water that has been treated with chlorine. Therefore, the total residual chlorine concentration in treated water will always be greater than the free chlorine concentration of water. The free chlorine concentrations reported by the Town for the 1st quarter 2014 and 2nd quarter 2014 were greater than the total residual chlorine limitations of the Permit and, therefore, establish total residual chlorine concentrations which exceeded the limitations listed in Part I.B.1. of the Permit.

14. The Town's DMRs include, among other information and data, the following effluent concentration data which exceeded the effluent limitations in Part I.B.1. of the Permit and the Certification:

TOWN OF RYE EFFLUENT SELF-MONITORING DATA				
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTFALL 001A			
	DAILY MAX TRC REPORTED, mg/l	DAILY MAX TRC LIMIT, mg/l	MAXIMUM pH REPORTED, s.u.	pH LIMIT, s.u.
3rd Quarter 2014 (7/1/2014-9/30/2014)	0.02	**0.019**	**10.55**	**9.0**
4th Quarter 2014 (10/1/2014-12/31/2014)	0.02	**0.019**	--	--

15. TRC, free chlorine, and pH are "pollutants", or indicators thereof, as defined by §25-8-103, C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2(76).

16. The Permit does not authorize the pollutant levels identified above in paragraphs 13 and 14. Division records establish that the Town does not have any other permit authorizing such discharge into State Waters.

17. The Town's failure to comply with the Permit effluent limitations constitutes violations of Part I.B.1. of the Permit and the Certification.

Failure to Properly Monitor and Report

18. Pursuant to Part I.C.1. of the 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, including weekly for flow, oil and grease, and pH.

19. Pursuant to Part I.F.2. of the Permit, the Town is required to summarize and report all monitoring results on a monthly basis using Division approved DMRs. The Town is required to ensure the DMRs are mailed to the Division so that they are received by the Division no later than the 28th day of the month following the reporting period. The Permit specifies that if no discharge occurs during the reporting period, "No Discharge" shall be reported on the DMR.

20. The Town failed to monitor the Facility's effluent at the frequency required by Part I.C.1. of the Permit and the Certification for the reporting periods listed below:

TOWN OF RYE FAILURE TO MONITOR AT REQUIRED FREQUENCIES			
DMR REPORTING PERIOD	PARAMETER	REQUIRED MONITORING FREQUENCY	REPORTED MONITORING FREQUENCY
1st Quarter 2014 (1/1/2014-3/31/2014)	Flow, Oil and Grease, pH	Weekly	Monthly
2nd Quarter 2014 (4/1/2014-6/30/2014*)	Flow, Oil and Grease, pH	Weekly	Monthly

*Weekly monitoring resumed in June, 2014.

21. The Town failed to monitor the following effluent parameters during the reporting periods listed below:

TOWN OF RYE FAILURE TO MONITOR		
DMR REPORTING PERIOD	PARAMETER	OUTFALL
3rd Quarter 2013 (7/1/2013-9/30/2013)	Flow, Oil and Grease, pH, TRC, Total Suspended Solids ("TSS")	001A
4th Quarter 2013 (10/1/2013-12/31/2013**)	Flow Oil and Grease, pH, TRC, TSS	001A
1st Quarter 2014 (1/1/2014-3/31/2014)	TRC	001A
2nd Quarter 2014 (4/1/2014-6/30/2014)	TRC	001A

** According to correspondence with the Division, monitoring resumed in December, 2013.

22. The Town failed to submit DMRs to the Division for Outfall 001A for the 2nd Quarter 2013 (4/1/2013-6/30/2013) and 4th Quarter 2013 (10/1/2013-12/31/2013) reporting periods. The Town submitted these DMRs subsequent to the issuance of the NOV/CDO.

23. The Town failed to submit DMRs to the Division by the 28th day of the month following the end of the reporting periods identified in the table below:

TOWN OF RYE LATE DISCHARGE MONITORING REPORTS			
DMR REPORTING PERIOD	**OUTFALL NUMBER**	**DMR DUE DATE**	**DMR RECEIPT DATE**
Reporting Periods for 2009			
3rd Quarter 2009 (7/1/2009-9/30/2009)	001A	10/28/2009	2/10/2010
4th Quarter 2009 (10/1/2009-12/31/2009)	001A	1/28/2010	2/10/2010
Reporting Periods for 2010			
1st Quarter 2010 (1/1/2010-3/31/2010)	001A	4/28/2010	3/15/2011
2nd Quarter 2010 (4/1/2010-6/30/2010)	001A	7/28/2010	3/15/2011
3rd Quarter 2010 (7/1/2010-9/30/2010)	001A	10/28/2010	3/15/2011
4th Quarter 2010 (10/1/2010-12/31/2010)	001A	1/28/2011	3/15/2011
Reporting Periods for 2011			
1st Quarter 2011 (1/1/2011-3/31/2011)	001A	4/28/2011	2/13/2012
2nd Quarter 2011 (4/1/2011-6/30/2011)	001A	7/28/2011	2/13/2012
3rd Quarter 2011 (7/1/2011-9/30/2011)	001A	10/28/2011	2/13/2012
4th Quarter 2011 (10/1/2011-12/31/2011)	001A	1/28/2012	2/29/2012
Reporting Periods for 2012			
1st Quarter 2012 (1/1/2012-3/31/2012)	001A	4/28/2012	4/15/2013
2nd Quarter 2012 (4/1/2012-6/30/2012)	001A	7/28/2012	4/15/2013
3rd Quarter 2012 (7/1/2012-9/30/2012)	001A	10/28/2012	4/15/2013
4th Quarter 2012 (10/1/2012-12/31/2012)	001A	1/28/2013	4/15/2013
Reporting Periods for 2014			
1st Quarter 2014 (1/1/2014-3/31/2014)	001A	4/28/2014	7/15/2014

24. The Town's failure to monitor defined effluent parameters at specified frequencies, as identified above in paragraphs 20 and 21, constitutes violations of Part I.C.1. of the Permit and the Certification.

25. The Town's failure to submit DMRs to the Division by the 28th day of the month following each reporting period, as identified above in paragraphs 22 and 23, constitutes violations of Part I.F.2. of the Permit.

26. The Division acknowledges that the Town timely and satisfactorily performed all of the obligations and actions required under the September 19, 2014 Notice of Violation / Cease and Desist Order.

ORDER AND AGREEMENT

27. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the NOV/CDO, the Division orders the Town to comply with all provisions of this Consent Order, including all requirements set forth below.

28. 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. 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.

29. 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. 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.

CIVIL PENALTY AND SUPPLEMENTAL ENVIRONMENTAL PROJECTS

30. The Town shall pay Twenty Five Thousand Dollars ($25,000.00) in the form of civil penalties and expenditures on a Supplemental Environmental Project ("SEP") in order to achieve settlement of this matter.

31. Based upon factors set forth in §25-8-608(1), C.R.S., and consistent with Departmental policies for violations of the Act, the Town shall pay Six Thousand Four Hundred and Ninety-Seven Dollars ($6,497.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Six Thousand Four Hundred and Ninety-Seven Dollar ($6,497.00) civil penalty for the above violation(s) and the and the Town agrees to make the payment through three (3) installment payments as described in the table below:

Payment	Amount	Due Date
1	$1,624.25	Within thirty (30) calendar days of issuance of an Order for Civil Penalty by the Executive Director or his designee
2	$1,624.25	September 30, 2017

3	$3,248.50	December 31, 2018

Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Andrea Beebout
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

32. Failure to submit full payment of any installment by the due date described in paragraph 31 above shall be deemed a violation of this Consent Order.

33. In the event that the Town fails to comply with any of the terms or provisions of this Consent Order relating to payment of the civil penalty, the Town shall be liable for payment of the outstanding balance of the civil penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to the address specified in paragraph 31 above.

34. The Town shall also perform the SEP identified in Exhibit A. The Town's total expenditure for the SEP shall be not less than Eighteen Thousand Five Hundred and Three Dollars ($18,503.00). The Town shall include the following language in any public statement, oral or written, making reference to the SEP: "This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of the Colorado Water Quality Control Act."

35. The Town will be implementing two projects to improve energy efficiency and safety in the community of Rye, Colorado, as described in Exhibit A.

    a. The Town shall not deduct the expenses associated with the implementation of the SEP for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project.

    b. The Town hereby certifies that, as of the date of this Consent Order, it is not under any existing legal obligation to perform or develop the SEP. The Town further certifies that it has not received, and will not receive, credit in any other enforcement action for the SEP. In the event that the Town has, or will receive credit under any other legal obligation for the SEP, the Town shall pay Eighteen Thousand Five Hundred and Three Dollars ($18,503.00) to the Division as a civil penalty within thirty (30) calendar days of receipt of a demand for payment by the Division. Method of payment shall be as specified in paragraph 31 above.

    c. The Town shall submit a SEP Completion Report to the Division by 240 days from the effective date of this Order. The SEP Completion Report shall contain the following information:

        i. A detailed description of the SEP as implemented;

ii. A description of any operating problems encountered and the solutions thereto;
iii. Itemized costs, documented by copies of purchase orders and receipts or canceled checks or other forms of proof of payment;
iv. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and
v. A description of the environmental and public health benefits resulting from implementation of the SEP (with quantification of the benefits and pollutant reductions, if feasible).

d. Failure to submit the SEP Completion Report with the required information, or any periodic report, shall be deemed a violation of this Consent Order.

36. The SEP must be completed to the satisfaction of the Division within 240 days of the effective date of this Consent Order, and must be operated for the useful life of the SEP. In the event that the Town fails to comply with any of the terms or provisions of this Consent Order relating to the performance of the SEP, the Town shall be liable for penalties as follows:

a. Payment of a penalty in the amount of Eighteen Thousand Five Hundred and Three Dollars ($18,503.00). The Division, in its sole discretion, may elect to reduce this penalty for environmental benefits created by the partial performance of the SEP.

b. The Town shall pay this penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be as specified in paragraph 31 above.

SCOPE AND EFFECT OF CONSENT ORDER

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

38. 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.

39. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the penalty following the public comment period. Any violation of the provisions 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 §25-8-608, 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.

40. Notwithstanding paragraph 29 above, the violations described in this Consent Order will constitute part of the Town's compliance history.

41. 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

42. 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. 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.

43. This Consent Order does not grant any release of liability for any violations not specifically cited herein.

44. The Town reserves its rights and defenses regarding the Facility other than proceedings to enforce this Consent Order.

45. Nothing in this Consent Order shall preclude the Division from imposing additional requirements necessary to protect human health or the environment and to effectuate the purposes of the Consent Order. Nor shall anything in this Consent Order preclude the Division from imposing additional requirements in the event that additional information is discovered that indicates such requirements are necessary to protect human health or the environment.

46. 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.

FORCE MAJEURE

47. 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, and which cannot be overcome by due diligence.

48. 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.

49. 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.

50. 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

51. 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; that the Town's SEP Completion Report submitted pursuant to paragraph 35 is deficient, 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.

52. 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.

53. 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 paragraph 49 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.

NOTICES

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

For the Division:

Andrea Beebout
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303-692-6498
E-mail: andrea.beebout@state.co.us

For the Town:

Town of Rye
P.O. Box 236
Rye, Colorado 81069
Telephone: 719-489-2011
E-mail: rye.town.clerk@gmail.com

Corey Y. Hoffmann
Hoffmann, Parker, Wilson & Carberry, P.C.
511 16th Street, Suite 610
Denver, CO 80202
Telephone: 303-951-2094
Email: CYH@hpwclaw.com

MODIFICATIONS

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

NOTICE OF EFFECTIVE DATE

56. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty following closure of the public comment period referenced in paragraph 38.

EXHIBIT A

BINDING EFFECT AND AUTHORIZATION TO SIGN

57. 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 RYE:

Mickey Smith, Mayor
Town of Rye

Date: 2/13/16

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

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

Date: 7/20/16

COLORADO
Department of Public Health & Environment

EXHIBIT A
EXHIBIT A

SUPPLEMENTAL ENVIRONMENTAL PROJECTS (SEP) FIRST PARTY AGREEMENT

The Regulated Entity, identified below, submits the following SEP application to the Colorado Department of Public Health and Environment (the department) for consideration.

Enforcement Action Information	Town of Rye, Main & Boulder, Rye CO Pueblo County
Regulated Entity Project Manager	Sam Serracino, Trustee Town of Rye P.O. Box 236 Rye, CO 81069 719-489-2011 swhomesam@yahoo.com rye.town.clerk@gmail.com
CDPHE Contact Person	Lauren McDonell, SEP Coordinator CDPHE, 303-692-2979
Geographical Area to Benefit Most Directly From Project	Pueblo County, Town of Rye
Project Name	LED Street Lighting Upgrade & Rye Street Striping Project
Project Type	**First Party**
SEP Category	Pollution Prevention, Pedestrian and Vehicle Traffic Safety
Project Summary	The Town of Rye will implement two projects to improve energy efficiency and safety in the community. The first project involves the replacement of 19 100-watt high pressure street lights with new LED fixtures. Proposed is a an estimate to exchange all the remaining 100-watt High Pressure Sodium security lights located in the Town of Rye mostly along Main Street and Boulder to a comparable LED fixture. The second project will be to install crosswalks and striping in key areas of the community for the safety of the residents.

EXHIBIT A
EXHIBIT A

Project Description	The Town of Rye will replace the existing street lights with the help of San Isabel Electric expertise. Replace all the 100 watt High Pressure Sodium security lights to comparable LED fixture. Currently, San Isabel provides at its expense the maintenance, repair, and electric service for these lights to the Town in exchange for payment by the Town to San Isabel based on the applicable San Isabel tariff. The Town of Rye will install crosswalks and street striping in five areas around town: four at Boulder/Main and one Oak/Main. Currently there is no striping in these areas which poses a threat to the safety of pedestrians, and in particular schools children. The intersections that will have crosswalks installed are the routes taken by area children as they walk to the elementary and high school. This addition of striping will provide an added safety element to the two paths. The striping of the two main streets Boulder (North to South) and Main (East to West) will include white outside lane border striping and yellow lane divider striping once these are installed the street boundaries will be visible to all traffic users. The addition of these boundary stripes will make traffic flows much safer and also allow for the better and safer use of off street parking.
Expected Environmental and/or Public Health Benefits	The expected environmental impacts of the lighting project are a savings of 12,582 total KwH per year, which represents 25,164 lbs of $CO2_e$ Currently there is no striping in these areas which poses a threat to the safety of pedestrians, and in particular school children. The addition of crosswalk striping will provide an added safety element to the two paths. The addition of these boundary stripes will make traffic flows much safer and also allow for the better and safer use of off street parking.

Project Budget

Category	Description	Cost
Contractors/ Subcontractors	**Lighting Project:**	
	San Isabel Electric Labor to Install Lights	$2,294.25
	17 - Copper Lighting "Caretaker 48 watt LED" fixture	$2,505.80
	2 - American Electric "Autobahn 60 LED Light"	$1,828.50
	Equipment Charge ($50 an hour for use of the digger/bucket trucks)	$950.00
	Striping Project:	
	Painting Layout & stripe double yellow lines	$1,665.00
	Painting Layout & stripe White edge lines	$2,960.00
	Thermoplastic – install 35 crosswalk bars (2'x6') 7 per intersection	$4,200.00
	Milling – Mill areas for inlay of thermoplastic crosswalks (420 square feet)	$2,100.00
	Total:	$18,503.55

Budget Discussion	The tariffs charged to the town will remain the same; there are no rebates.

Project Schedule

Activities and Deliverables	Staff Responsible	Due Date

EXHIBIT A

	Start Date	Sam Serracino	**Within 30 days of the effective date of the Consent Order**
	Completion Date	Sam Serracino and San Isabel Electric and Hawkeye Striping (subcontractor)	**Within 240 days of the effective date of the Consent Order**
	SEP Completion Report Due	Sam Serracino	**Within 240 days of the effective date of the Consent Order**
Reporting Requirements	<u>SEP Completion Report</u> The SEP Completion report will be submitted within 30 days of project completion and contain at a minimum: • A detailed description of the project as implemented; • A summary table identifying project deliverables and tasks along with the associated completion date; • A description of any operating problems encountered and the solutions thereto; • A full expense accounting including itemized costs, documented by copies of purchase orders, contracts, receipts or canceled checks; • Certification and demonstration that the SEP has been fully implemented pursuant to the provisions of the Settlement Agreement and this SEP Agreement; • A description of the environmental and public health benefits resulting from implementation of the SEP along with **quantification** of the outcomes and benefits; Additional information will include: • Examples of brochures, educational or outreach materials developed or produced as part of the SEP; and • Photographs documenting the project.		
Has the applicant entered into any prior commitments to fund or implement this project, voluntary or otherwise? If yes, please explain.	No, the Town has not entered into any prior commitments to fund or implement these projects.		