



COLORADO

Department of Public
Health & Environment

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

February 23, 2016

Town of Seibert
Dovi Peterson, Mayor
PO Box 224
Seibert, Colorado 80834

Certified Mail Number: 7014 2870 0000 7699 6587

RE: Service of Notice of Violation / Cease and Desist Order, Number: MO-160218-1

Dear Ms. Peterson:

The Town of Seibert 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 Seibert has violated the Act and/or permit or control regulations promulgated pursuant to the Act and/or a permit, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., the Town of Seibert 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. Pursuant to §25-8-608, C.R.S., the Division is authorized to impose a penalty of \$10,000 per day for each day during which such violation occurs.

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

Should you or your representatives desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact me at (303) 692-2283 or mandy.mercer@state.co.us.



Sincerely,



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

Enclosure(s)

cc: Enforcement File

ec: Michael Boeglin, EPA Region VIII
Kelly Alvarez, Kit Carson County Health and Human Services
Nicole Rowan, Clean Water Program, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Amy Zimmerman, Engineering Section, CDPHE
Heather Drissel, Field Services Section, CDPHE
Kenan Diker, Permits Section, CDPHE
Mike Harris, Clean Water Enforcement Unit, CDPHE
Tania Watson, Data Management, CDPHE



COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: MO-160218-1

IN THE MATTER OF: TOWN OF SEIBERT
 CDPS PERMIT NO. COG589000
 CERTIFICATION NOS. COG589028 AND COG589120
 KIT CARSON COUNTY, COLORADO

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the violations cited herein, the Town of Seibert (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 Seibert wastewater treatment facility, located at 39°18'02" North and 102°52'35.5" West, near the Town of Seibert, Kit Carson County, Colorado (the "Facility").
4. The Facility is comprised of two aerated lagoons followed by a two-cell constructed wetlands system with chlorine disinfection. The lagoons and wetlands are located north of 2nd Street/Highway 24 at the northwest corner of the Town. Based on Site Approval Number 1862 (as amended), the Facility's approved hydraulic and organic loading capacities are 0.024 million gallons per day ("MGD") and 44.8 pounds ("lbs") biochemical oxygen demand ("BOD₅") per day, respectively.
5. The Facility is subject to the Colorado Discharge Permit System General Permit Number COG-589000 (the "Permit"). During the times relevant to the alleged violations identified herein, two versions of the Permit were in place: the version that was effective from October 1, 2008 through September 30, 2013 (the "2008 Permit"), and the current version of the permit that 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 via Certification Number COG-589028 (the “2008 Certification”). In order to amend the 2008 Certification while the 2008 Permit was under administrative extension, the Facility was assigned Certification Number COG-589120 on October 26, 2011. The Town is currently authorized to discharge under the 2013 Permit via Certification Number COG-589120 (the “2013 Certification”). The 2013 Certification became effective October 1, 2013 and remains in effect until September 30, 2018.

6. The 2008 Permit and 2008 Certification and the 2013 Permit and 2013 Certification authorize the Town to discharge treated wastewater from the Facility through Outfall 001A into an unnamed tributary to Sand Creek. Outfall 001A is physically located at 39°18’03.24” North and 102°52’39.68” West. Outfall 001A is the only outfall permitted to the Town. The 2008 Permit and 2008 Certification and 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 as Permitted Feature 300I.
7. 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 Submit Timely, Complete and Accurate Discharge Monitoring Reports

8. Pursuant to Part I.C.1. of the 2008 Permit and 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”).
9. Pursuant to Part I.C.2. of the 2008 Permit and 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.
10. Pursuant to Part I.E.1. of the 2008 Permit and Part I.D.1. of the 2013 Permit, the Town is required to 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 no later than the 28th 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.
11. Division records, including DMRs, establish that the Town failed to monitor and report influent and/or effluent parameters for the monitoring periods identified below:

**Town of Seibert
INCOMPLETE DMRS**

MONITORING PERIOD	MONITORING POINT NUMBER	DEFICIENT PARAMETERS		
		Parameter	Parameter Type	Value Type
July 1-31, 2011	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	Daily max	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
		Flow	Daily max	Quantity or Loading
October 1-31, 2011	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	Daily max	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
		Flow	Daily max	Quantity or Loading
January 1-31, 2012	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	Daily max	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
		Flow	Daily max	Quantity or Loading
June 1-30, 2012	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	Daily max	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
		Flow	Daily max	Quantity or Loading
July 1-31, 2012	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	Daily max	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
		Flow	Daily max	Quantity or Loading
June 1-30, 2013	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	7-day average	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
July 1-31, 2013	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	7-day average	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
August 1-31, 2013	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	7-day average	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading



Town of Seibert INCOMPLETE DMRS				
MONITORING PERIOD	MONITORING POINT NUMBER	DEFICIENT PARAMETERS		
		Parameter	Parameter Type	Value Type
September 1-30, 2013	300I	BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	7-day average	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	30-day average	Quantity or Loading
March 1-31, 2014	001A	Flow	Daily max	Quantity or Loading
	300I	Plant Capacity, hydraulic	30-day average	Quality or Concentration
		Plant Capacity, organic	30-day average	Quality or Concentration
		BOD, 5-Day	30-day average	Quantity or Loading
		BOD, 5-Day	7-day average	Quantity or Loading
		BOD, 5-Day	30-day average	Quality or Concentration
		BOD, 5-Day	7-day average	Quality or Concentration
		Flow	Daily max	Quantity or Loading
November 1-30, 2014	001A	BOD, 5-day, percent removal	Monthly average minimum	Quality or Concentration

12. Division records, including DMRs, establish that the Town failed to submit DMRs to the Division by the 28th day of the month following the monitoring periods identified below:

Town of Seibert DELINQUENT and LATE DMRS		
MONITORING PERIOD	MONITORING POINT NUMBER	DMR RECEIPT DATE
July 1-31, 2011	300I, 001A	September 13, 2011
August 1-31, 2011	300I	Not Received
September 1-30, 2011	300I	Not Received
November 1-30, 2011	300I, 001A	Not Received
December 1-31, 2011	300I, 001A	Not Received
January 1-31, 2012	300I, 001A	August 20, 2012
February 1-29, 2012	300I	April 13, 2012
February 1-29, 2012	001A	June 20, 2012
March 1-31, 2012	001A	August 20, 2012
April 1-30, 2012	300I, 001A	Not Received
May 1-31, 2012	300I, 001A	November 16, 2012
June 1-30, 2012	300I, 001A	August 20, 2012
August 1-31, 2012	300I, 001A	Not Received
September 1-30, 2012	300I, 001A	Not Received
October 1-31, 2012	300I, 001A	December 18, 2012
December 1-31, 2012	300I, 001A	July 17, 2013
January 1-31, 2013	300I, 001A	March 15, 2013
March 1-31, 2013	300I, 001A	May 21, 2013
April 1-30, 2013	300I, 001A	June 20, 2013
May 1-31, 2013	300I, 001A	July 17, 2013
June 1-30, 2013	300I, 001A	November 19, 2013
July 1-31, 2013	300I, 001A	November 19, 2013
August 1-31, 2013	300I, 001A	November 19, 2013
September 1-30, 2013	300I, 001A	November 19, 2013
October 1-31, 2013	300I, 001A	December 13, 2013

Town of Seibert DELINQUENT and LATE DMRS		
MONITORING PERIOD	MONITORING POINT NUMBER	DMR RECEIPT DATE
November 1-30, 2013	300I	January 17, 2014
November 1-30, 2013	001A	June 18, 2014
April 1-30, 2014	300I, 001A	June 17, 2014
May 1-31, 2014	300I, 001A	Not Received
June 1-30, 2014	300I, 001A	Not Received
July 1-31, 2014	300I, 001A	Not Received
August 1-31, 2014	300I, 001A	Not Received
September 1-30, 2014	300I, 001A	Not Received
October 1-31, 2014	300I, 001A	January 21, 2015
November 1-30, 2014	300I, 001A	February 20, 2015
December 1-31, 2014	300I, 001A	February 20, 2015
January 1-31, 2015	300I, 001A	December 8, 2015
February 1-28, 2015	300I, 001A	December 8, 2015
March 1-31, 2015	300I, 001A	December 8, 2015
April 1-30, 2015	300I, 001A	December 8, 2015
May 1-31, 2015	300I, 001A	December 8, 2015
June 1-30, 2015	300I, 001A	December 8, 2015
July 1-31, 2015	300I, 001A	December 8, 2015
August 1-31, 2015	300I, 001A	December 8, 2015
September 1-30, 2015	300I, 001A	December 8, 2015
October 1-31, 2015	300I, 001A	December 8, 2015

13. On March 19, 2014, a representative from the Division (the “Inspector”) conducted an on-site inspection of the Facility pursuant to the Division’s authority under §25-8-306, C.R.S., to determine the Town’s compliance with the Water Quality Control Act and the 2013 Permit. During the inspection, the Inspector interviewed Facility representatives, reviewed the Facility’s records, and performed a physical inspection of the Facility.
14. During the March 19, 2014 inspection, the Inspector reviewed DMR forms submitted by the Facility for the months of October 2013, November 2013, and January 2014. Among other findings, the Inspector observed that the Town calculated the 30-day average BOD₅ loading value incorrectly and subsequently reported an inaccurate 30-day average BOD₅ loading value on the DMRs. The Inspector noted that the Town was calculating the 30-day average BOD₅ loading values using the 30-day average effluent flow value, rather than by using the total daily influent flow value measured on the day the influent BOD₅ sample was collected. Additionally, the Inspector noted that the Town reported incorrect values for daily maximum flow. The Town was taking the peak monthly flow in gallons per minute and converting it to gallons per day to report the daily maximum flow, rather than obtaining total daily flow values for each day in a given month and reporting the largest value for the daily maximum flow in gallons per day.
15. The Town’s failure to monitor influent parameters at the specified frequencies and report the results of such monitoring on a DMR, as identified in paragraph 11, constitutes violations of Part I.C.1.b. of the 2008 Permit and Part I.B.5. of the 2013 Permit.
16. The Town’s failure to monitor effluent parameters at the specified frequencies and report the results of such monitoring on a DMR, as identified in paragraph 11, constitutes a violation of Part I.B.1. of the 2013 Permit.



17. The Town’s failure to submit complete DMRs to the Division by the 28th day of the month following each reporting period, as identified in paragraph 12, constitutes violations of Part I.E.1. of the 2008 Permit and Part 1.D.1. of the 2013 Permit.
18. The Town’s failure to accurately report influent 30-day average BOD₅ loading and daily maximum flow, as identified in paragraph 14, constitutes a violation of Part 1.D.1. of the 2013 Permit.

Failure to Comply with Permit Effluent Limitations

19. Pursuant to Part I.C.2. of the 2008 Permit and 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.
20. Pursuant to Part I.B.7.a. of the 2008 Permit and Part I.B.2. of the 2013 Permit, the Town’s permitted discharge shall not contain effluent concentrations that exceed the limitations for the following parameters, among others not subject to this action:

Town of Seibert EFFLUENT LIMITATIONS			
EFFLUENT PARAMETER	LIMITATION		
	30-day average	7-day average	Daily Max
Flow, MGD (Effective from 10/1/08 to 9/30/13)	0.03	--	Report only
Flow, MGD (Effective from 10/1/13 to 9/30/18)	0.024	--	Report only
BOD ₅ , milligrams per liter (“mg/L”) (Effective from 10/1/08 to 9/30/18)	30	45	--
Total residual chlorine, mg/L (Effective from 10/1/08 to 9/30/18)	Report only	--	0.5
pH, standard units (SU) (Effective from 10/1/10 to 9/30/18)	--	--	6.5 - 9.0
E. coli, number colonies per 100 milliliters (“no/100 mL”) (Effective from 10/1/10 to 9/30/18)	630	1260	--

21. Division records, including DMRs, establish that the Town’s permitted discharge exceeded the effluent limitations for the following parameters during the monitoring periods identified below:

Town of Seibert EFFLUENT SELF-MONITORING DATA				
MONITORING PERIOD	OUTFALL NUMBER	PARAMETER	REPORTED VALUE	PERMIT LIMIT
February 1-29, 2012	001A	Total residual chlorine, daily max	0.64	0.5
February 1-29, 2012	001A	pH	9.2	9.0
March 1-31, 2012	001A	pH	9.6	9.0
October 1-31, 2012	001A	BOD ₅ , 30-day average	41.7	30
October 1-31, 2012	001A	pH	9.1	9.0
November 1-30, 2012	001A	pH	9.1	9.0
December 1-31, 2012	001A	pH	9.4	9.0
January 1-31, 2013	001A	E. coli, 30-day average	>2400	630
January 1-31, 2013	001A	E. coli, 7-day average	>2400	1260

**Town of Seibert
EFFLUENT SELF-MONITORING DATA**

MONITORING PERIOD	OUTFALL NUMBER	PARAMETER	REPORTED VALUE	PERMIT LIMIT
January 1-31, 2013	001A	Flow, 30-day average	0.026	0.024
February 1-28, 2013	001A	Total residual chlorine, daily max	1	0.5
February 1-28, 2013	001A	Flow, 30-day average	0.068	0.024
March 1-31, 2013	001A	Total residual chlorine, daily max	1.1	0.5
May 1-31, 2013	001A	E. coli, 30-day average	1700	630
May 1-31, 2013	001A	E. coli, 7-day average	1700	1260
May 1-31, 2013	001A	Flow, 30-day average	0.058	0.024
November 1-30, 2013	001A	Total residual chlorine, daily max	0.82	0.5
November 1-30, 2013	001A	Flow, 30-day average	0.16	0.024
December 1-31, 2013	001A	E. coli, 30-day average	>2400	630
December 1-31, 2013	001A	E. coli, 7-day average	>2400	1260
September 1-30, 2015	001A	E. coli, 30-day average	1100	630

22. The Town's failure to comply with the effluent limitations noted above constitutes violations of Part I.B.7.a. of the 2008 Permit and Part I.B.2. of the 2013 Permit.

Improper Operation and Maintenance / Failure to Maintain Records

23. Pursuant to Part I.B.4. of the 2008 Permit and Part I.C.4. of the 2013 Permit, the Town shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the Town as necessary to achieve compliance with the conditions of the Permit. Proper operation and maintenance also includes effective performance, and adequate laboratory and process controls, including appropriate quality assurance procedures.
24. Pursuant to Part I.E.5. of the 2008 Permit and Part I.D.5. of the 2013 Permit, the Town shall install, calibrate, use, and maintain monitoring methods and equipment.
25. Pursuant to Part I.E.6. of the 2008 Permit and Part I.D.6. of the 2013 Permit, the Town shall retain for a minimum of three (3) years records of all monitoring information, including all original strip chart recordings for continuous monitoring instrumentation, all calibration and maintenance records, copies of all reports required by the Permit and records of all data used to complete the application for the Permit.
26. Pursuant to Part I.E.7. of the 2008 Permit and Part I.D.7. of the 2013 Permit, the flow measuring device must be capable of indicating values within ten (10) percent of actual flow being measured.
27. During the March 19, 2014 inspection, the Inspector evaluated the influent and effluent flow structures at the Facility. The Inspector observed that a six-inch Palmer-Bowlus flume on the influent structure and a 22.5° V-notch weir on the effluent structure. Additionally, the influent and effluent structures were each equipped with an ultrasonic flow meter and recorder to facilitate continuous flow monitoring as required by the 2013 Permit and 2013 Certification. During the inspection, the Inspector observed that the staff gauge for the six-inch Palmer-Bowlus flume at the influent structure was falling off and obstructing flow through the flume, preventing the Town from accurately recording influent flow measurements. The Inspector additionally noted that the ultrasonic flow meter had not been calibrated since it was installed in 2012. The Inspector identified that the Town did not have calibration records or other records to verify the accuracy of

influent and effluent flow measurements. Failure to calibrate the flow measuring device was also noted during an inspection that occurred on June 9, 2010.

28. During the March 19, 2014 inspection, the Inspector evaluated the Town’s calibration procedures for the on-site pH meter that is used by the Town to monitor monthly pH values. The Inspector noted that the pH meter is calibrated approximately once every other month and that no records of the calibrations are kept. The Inspector noted that the pH meter was not being calibrated prior to each use, and that the pH buffers used for calibration were expired. Failure to properly calibrate the pH meter was also noted during an inspection that occurred on June 9, 2010.
29. The Town’s failure to properly maintain the six-inch Palmer-Bowlus flume, as identified in paragraph 27, constitutes violations of Parts I.C.4. and I.D.7. of the 2013 Permit.
30. The Town’s failure to calibrate the flow measuring devices and the pH meter, as identified in paragraphs 27 and 28, constitutes a violation of Part I.E.5. of the 2008 Permit and Part I.D.5. of the 2013 Permit.
31. The Town’s failure to maintain calibration records, as identified in paragraphs 27 and 28, constitutes a violation of Part I.E.6. of the 2008 Permit and Part I.D.6. of the 2013 Permit.

NOTICE OF VIOLATION

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

Part I.C.1.b. of the 2008 Permit, which states in part: “Regardless of whether or not an effluent discharge occurs and in order to obtain an indication of the current influent loading as compared to the approved capacity specified in the certification and in Part I, Section B.2.; the permittee shall monitor influent parameters at the following required frequencies, as identified in the certification of this permit, the results to be reported on the Discharge Monitoring Report.”

<u>Influent Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow, MGD	Continuous	Recorder
BOD ₅ , mg/L	Monthly	Composite
BOD ₅ , lbs/day	Monthly	Calculated

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.”

<u>Influent Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>
Facility Capacity (% of Hydraulic Capacity)	Monthly	Calculated
Facility Capacity (% of Organic Capacity)	Monthly	Calculated

Flow, MGD	Continuous	Recorder
BOD ₅ , mg/L	Monthly	Composite
BOD ₅ , lbs/day	Monthly	Calculated

Part I.B.1. of the 2013 Permit, which states in part: “In order to obtain an indication of the probable compliance or non-compliance with the effluent limitations specified in Part I, Section B(9), 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 ... Self-monitoring samples taken in compliance with the monitoring requirements specified in this permit shall be taken at the location(s) designated in the certification authorizing discharge under this permit, following final treatment but prior to entering the receiving stream...”

<u>Effluent Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow, MGD	Continuous	Recorder
BOD ₅ , percent removal	Monthly	Calculated

Part I.E.1. of the 2008 Permit, which states in part: “Reporting of the data gathered in compliance with Part I.B.1. shall be on a monthly basis. Reporting of all data gathered shall comply with the requirements of Part I.E. (General Requirements). Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms. One form shall be mailed to the Water Quality Control Division ... so that the DMR is received no later than the 28th day of the following month. If no discharge occurs during the reporting period, “No Discharge” shall be reported ... The Discharge Monitoring Report forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms.”

Part 1.D.1. of the 2013 Permit, which states in part: “The permittee must submit these forms either by mail, or by using the Division’s Net-DMR services (when available). DMRs must be received by the Division no later than the 28th day of the month following the monitoring period. If no discharge occurs during the reporting period, “No Discharge” shall be reported on the DMR...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.a. of the 2008 Permit, which states in part: “...the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations:”

<u>Effluent Parameter</u>	<u>Limitation (Daily Max)</u>
Flow, MGD	0.03 ¹
BOD ₅ , 30-day average, mg/L	30
BOD ₅ , 7-day average, mg/L	45
Total Residual Chlorine, Daily max, mg/L	0.5
pH, SU	6.5 - 9.0 ¹
E. coli, 30-day average, no/100 mL	630 ¹
E. coli, 7-day average, no/100 mL	1260 ¹

¹ Specified in the 2008 Certification

Part I.B.2. of the 2013 Permit, which states in part: “...the permitted discharge shall not contain effluent parameter concentrations which exceed the following limitations:”

<u>Effluent Parameter</u>	<u>Limitation (Daily Max)</u>
Flow, MGD	0.024 ¹
Total Residual Chlorine, Daily max, mg/L	0.5
E. coli, 30-day average, no/100 mL	630 ¹
E. coli, 7-day average, no/100 mL	1260 ¹

¹ Specified in the 2013 Certification

Part I.C.4. of the 2013 Permit, which states in part: “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control... and related appurtenances... which are installed or used by the permittee as necessary to achieve compliance with the conditions of the Permit.”

Part I.D.7. of the 2013 Permit, which states in part: “Flow metering at the headworks shall be provided to give representative values of throughput and treatment of the wastewater system. The metering device shall be equipped with a local flow indication instrument and a flow indication-recording-totalization device suitable for providing permanent flow records...For lagoons, an instantaneous or continuous effluent flow measuring device shall be required in addition to the above described influent flow measuring device. The flow-measuring device must indicate values within ten percent (10%) of the actual flow entering the facility.”

Part I.D.5. of the 2013 Permit, which states: “The permittee shall install, calibrate, use and maintain monitoring methods and equipment, including biological and indicated pollutant monitoring methods. All sampling shall be performed by the permittee according to specified methods in 40 C.F.R. Part 136; methods approved by EPA pursuant to 40 C.F.R. Part 136; or methods approved by the Division, in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136.”

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

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 Seibert is hereby ordered to:

33. 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:

34. The Town shall immediately initiate measures to ensure that complete and accurate DMRs are submitted to the Division pursuant to the terms and conditions of the 2013 Permit. The Town is expected to review the requirements of the 2013 Permit and Certification with its staff responsible for ensuring compliance with the terms and conditions of the 2013 Permit and Certification. The review shall focus on, but not be limited to:

- a. The permit limitations imposed by the 2013 Permit and Certification;
- b. The methods used to calculate daily maximum flow, hydraulic and organic loading, and facility capacity values;
- c. The record keeping requirements of the 2013 Permit and Certification; and,
- d. The reporting requirements of the 2013 Permit and Certification, including the instruction for proper completion and submittal of DMRs required by the 2013 Permit and Certification. In addition to information contained in the 2013 Permit, detailed instructions on how to properly calculate daily maximum flow, hydraulic and organic loading, and facility capacity values are discussed in the Division's Discharge Monitoring Report Guidance Document, which can be found on the Division's webpage.

Within thirty (30) calendar days of receipt of this Order, the Town shall submit a written plan to the Division outlining the actions the Town will take to ensure that complete and accurate DMRs are submitted to the Division by no later than the 28th day of the month following the end of a monitoring period. The written plan shall include a certification that the above-described terms, conditions, and guidance have been reviewed.

35. 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 of 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 Certification;
 - b. An evaluation of the Facility and its treatment processes to identify any deficiencies in the current design of the Facility that may prevent the Facility from meeting permit limitations; and,
 - c. 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.

36. 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 35. 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.

37. Within sixty (60) calendar days of receipt of this Order, the Town shall submit the following documents to the Division:
 - a. All DMRs that were noted as *incomplete* in paragraph 11 of this Order for the three-year period dating back to January 1, 2013 through the date of this Order. The incomplete DMRs should be revised with correct values, the revised values should be highlighted, and the DMRs should be clearly marked as "REVISED" at the top of each page;
 - b. All DMRs that were noted as *not received* in paragraph 12 of this Order for the three-year period dating back to January 1, 2013 through the date of this Order;
 - c. A spreadsheet that includes correctly-calculated daily maximum flow values and correctly-calculated 30-day average BOD₅ loading values for each monthly monitoring period from

March 2014 through the date of this Order. The spreadsheet should include the following information: facility identification information (Town of Seibert's name and address, facility name and address, permit number, outfall number, and monitoring period). The spreadsheet should also include the calculations used to determine the daily maximum flow values and 30-day average BOD₅ loading values for each month. If the Town is unable to provide accurate flow and BOD₅ loading values, then the Town shall submit a written certification explaining why the values cannot be calculated and provide a solution and timeframe to address this deficiency.

- d. Photographs demonstrating that the six-inch Palmer-Bowlus flume and staff gauge on the influent structure have been repaired and are functioning appropriately and as designed;
 - e. Calibration records for the influent and effluent flow measuring devices for the period from February 1, 2015 through the date of this Order. The flow calibration records should demonstrate that the devices are able to indicate values within 10% of the actual flow being measured. The Town shall also provide a calibration schedule for the flow devices; and,
 - f. Calibration records for the pH meter for the period from February 1, 2015 through the date of this Order. The Town shall also provide a description of the pH meter calibration procedures, and a calibration schedule for the pH meter.
38. 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 35. At a minimum, the report shall include a detailed narrative of each component described in paragraph 35, 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 permit 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.
39. Beginning June 1, 2016, 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 efforts the Town has taken to achieve compliance with this Order and the 2013 Permit and Certification. At a minimum, each progress report shall include a description of activities completed during the current quarter and a description and time schedule for activities planned for the next quarter.
40. If the Town becomes aware of any situation or circumstance that causes it to become unable to comply with any condition or time schedules set forth by this Order, the Town shall provide written notice to the Division within five (5) calendar days of becoming aware of such circumstances. The Town's notice shall describe what, if any, impacts will occur on its ability to comply with the Colorado Water Quality Control Act and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.

41. 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:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CWE-B2
Attention: Mandy Mercer
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-2283
Email: mandy.mercer@state.co.us

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

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

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

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

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

FALSIFICATION AND TAMPERING

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

POTENTIAL CIVIL AND CRIMINAL PENALTIES

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

RELEASE OR DISCHARGE NOTIFICATION

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

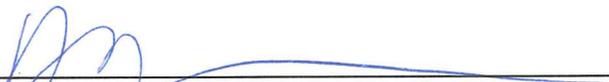
EFFECT OF ORDER

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

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

Issued at Denver, Colorado, this 18th day of February, 2016.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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