COLORADO
Department of Public
Health & Environment

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

April 21, 2015

Certified Mail Number: 7005 1820 0000 3207 8111

Gene Cozzolino, Director of Water and Wastewater
Woodmen Hills Metropolitan District
8046 Eastonville Road
Falcon, CO 80831

RE: Order for Civil Penalty, Number: MP-150421-1

Dear Mr. Cozzolino:

Woodmen Hills Metropolitan District 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 Eric Mink of this office at (303) 692-2312 or by electronic mail at eric.mink@state.co.us.

Sincerely,

Eric T. Mink, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Tom Gonzales, El Paso County Public Health EH Director
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Amy Zimmerman, Engineering Section, CDPHE
Heather Drissel, Field Services Section, CDPHE
Erin Scott, Permits Section, CDPHE
Mike Harris, Compliance & Enforcement Unit, CDPHE
Tania Watson, Compliance Assurance, CDPHE
Barry Cress, DOLA

COLORADO
Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY **NUMBER: MP-150421-1**

IN THE MATTER OF: **WOODMEN HILLS METROPOLITAN DISTRICT**
CDPS PERMIT NO. CO0047091
EL PASO 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 One Hundred and Seventy Thousand Dollars ($170,000.00) against Woodmen Hills Metropolitan District for the violations cited in the March 12, 2015 Compliance Order on Consent (Number: MC-150312-1). 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 four (4) 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:

Eric T. Mink
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 21st day of April 2015.

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: MC-150312-1**

IN THE MATTER OF: **WOODMEN HILLS METROPOLITAN DISTRICT**
CDPS PERMIT NO. CO0047091
EL PASO 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 Woodmen Hills Metropolitan District ("Woodmen Hills"). The Division and Woodmen Hills may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are:

   a. To establish compliance requirements and criteria for the continued operation of Woodman Hills' Wastewater Reclamation Facility located at or near 9491 Meridian Ranch Blvd, near the Town of Peyton, El Paso County, Colorado (the "Facility"); and

   b. To resolve, without litigation, the civil penalties associated with alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number: MO-090905-1, which the Division issued to Paint Brush Hills Metropolitan District ("Paint Brush Hills") on September 5, 2009 (hereinafter, the "NOV/CDO").

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 Woodman Hills' and Paint Brush Hills' compliance with the Act and a discharge permit issued pursuant to the Act.

3. At all times relevant to the violations cited herein, the Woodmen Hills and Paint Brush Hills were "Special Districts" formed in El Paso County, Colorado pursuant to the Special District Act, §§32-1-101 through 32-1-1702 C.R.S.

4. Woodmen Hills and Paint Brush Hills are "persons" as defined by §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

5. The Facility is rated as being able to receive and treat up to 1.3 million gallons per day of domestic sewage. Woodmen Hills currently serves as a regional provider and currently provides service to a number of parties, including 4-Way Ranch Metropolitan District, Meridian Service Metropolitan District, Falcon Highlands Metropolitan District, and Paint Brush Hills Metropolitan District.

6. The Facility is the subject of Colorado Discharge Permit System, Permit No. CO0047091. Permit No. CO0047091 was issued to Paint Brush Hills on April 20, 2006 (the "2006 Permit"), was set to expire on May 31, 2011, but was administratively continued until the reissuance of the permit. The 2006 Permit was transferred to Woodmen Hills on July 22, 2011 and the transfer became effective August 1, 2011. Permit No. CO0047091 was reissued to Woodmen Hills on December 31, 2014 and became effective on February 1, 2015 (the "2015 Permit").

7. The 2006 Permit authorized Paint Brush Hills and later Woodmen Hills to discharge treated wastewater from the Facility through Outfall 001A into an unnamed tributary to Black Squirrel Creek. The discharge was/is subject to the specific effluent limitations and other conditions of the 2006 Permit and 2015 Permit.

8. The unnamed tributary to Black Squirrel Creek is "State Waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).

9. Section 61.8, 5 CCR 1002-61, states in part that "A permittee must comply with all the terms and conditions of the permit."

Failure to Comply with Permit Effluent Limitations

10. Pursuant to Parts I.A.5 and I.A.6 of the 2006 Permit, the discharge from the Facility at outfall 001A and should not have exceeded, among other parameters and limitations not listed herein, the effluent limitations specified below:

EFFLUENT PARAMETER	DISCHARGE LIMITATION			
	30-Day Average	7-Day Average	Instantaneous Minimum	Instantaneous Maximum
5-Day Biochemical Oxygen Demand ("BOD_5") (mg/l)	30	45	-	-
BOD_5 Removal (%)	85	-	-	-
Total Suspended Solids ("TSS") (mg/l)	75	110	-	-
Escherichia coli ("*E. coli*") (Number/100ml)	126	252	-	-
pH (s.u.)	-	-	6.5	-
Total Residual Chlorine (mg/l) (until 12/31/2010)	-	-	-	0.5
Total Residual Chlorine (mg/l) (after 1/1/2011)	-	-	-	0.019

11. Pursuant to the requirements of Part I.B.2 of the 2006 Permit, to provide an indication of the quality of the wastewater discharged into the unnamed tributary to Black Squirrel Creek, Paint Brush Hills and Woodmen Hills were required to collect specific samples of the effluent.

12. The analytical results of the samples collected at Outfall 001A are summarized and reported to the Division via monthly Discharge Monitoring Reports ("DMRs") which includes a certification initially by Paint Brush Hills and later by Woodmen Hills that the information provided therein is true, accurate and complete, to the knowledge and belief of Paint Brush Hills or Woodmen Hills.

13. The DMRs for the months of January 2008 through October 2014 include, in addition to other data not subject of this action, the following effluent concentration data for BOD_5, TSS, Total Residual Chlorine, BOD_5 removal, *Escherichia coli ("E. coli")*, and pH data.

REPORTED EFFLUENT SELF-MONITORING DATA (OUTFALL 001A)				
DMR Reporting Period and Parameter	**30-Day Average**	**7-Day Average**	**Instantaneous Minimum**	**Instantaneous Maximum**
BOD_5 (in mg/l)	**Limit = 30 mg/l**	**Limit = 45 mg/l**	**N/A**	**N/A**
January 1 - January 31, 2008	42.5	50	-	-
February 1 - February 29, 2008	45	53	-	-
March 1 - March 31, 2008	41.625	47	-	-
June 1 - June 30, 2008	40.1	47.3	-	-
August 1 - August 31, 2008	39.1	48.4	-	-
October 1 - October 31, 2008	33	-	-	-
February 1 - February 28, 2009	38.5	48.8	-	-
March 1 - March 31, 2009	36	-	-	-
April 1 - April 30, 2009	36	-	-	-
May 1 - May 31, 2009	31.6	-	-	-
March 1 - March 31, 2010	39.6	51		
April 1 - April 30, 2010	124.4	237	-	-
February 1 - February 28, 2011	32.7	56	-	-
March 1 - March 31, 2011	33	-	-	-
June 1 - June 30, 2011	49.6	123	-	-
April 1 - April 30, 2012	50	72	-	-

EXHIBIT A

May 1 - May 31, 2012	42	55	-	-
February 1 - February 28, 2013	32	-	-	-
March 1 - March 31, 2013	35	-	-	-
May 1 - May 31, 2013	32	-	-	-
January 1 - January 31, 2014	43	53	-	-
February 1 - February 28, 2014	57	68	-	-
May 1 - May 31, 2014	31	49	-	-
June 1 - June 30, 2014	36	-	-	-
January 1 - January 31, 2015	44	54	-	-
February 1 - February 28, 2015	39	-	-	-
BOD_5 Removal (in %)	**Limit = 85% (min)**	**N/A**	**N/A**	**N/A**
January 1 - January 31, 2008	83	-	-	-
August 1 - August 31, 2008	83	-	-	-
April 1 - April 30, 2010	64	-	-	-
February 1 - February 28, 2014	83	-	-	-
January 1 - January 31, 2015	84	-	-	-
TSS (in mg/l)	**Limit = 75 (mg/l)**	**Limit = 110 (mg/l)**	**N/A**	**N/A**
May 1 - May 31, 2009	82	120	-	-
April 1 - April 30, 2010	87	116	-	-
March 1 - March 31, 2011	77	-	-	-
June 1 - June 30, 2011	86.6	268	-	-
pH (in s.u.)	**N/A**	**N/A**	**Limit = 6.5 (s.u.)**	**Limit = 9.0 (s.u.)**
August 1 - August 31, 2008	-	-	5.67	-
Total Residual Chlorine (in mg/l) (until 12/31/2010)	**N/A**	**N/A**	**N/A**	**Limit = 0.5 (mg/l)**
January 1 - January 31, 2009	-	-	-	0.60
Total Residual Chlorine (in mg/l) (beginning 1/1/2011)	**Limit = 0.01 (mg/l)**	**N/A**	**N/A**	**Limit = 0.019 (mg/l)**
September 1 -September 30, 2013	-	-	-	0.02
***E. coli* (number/100ml)**	**Limit = 125c/**	**Limit = 252 c/**	**N/A**	**N/A**
March 1 - March 31, 2011	-	320	-	-

14. BOD_5, Total Residual Chlorine, pH, TSS, *E. coli* and BOD_5 Removal are "pollutants" as defined by §25-8-103(15), C.R.S., or indicators thereof.

15. The 2006 Permit did not authorize the pollutant discharge levels identified above in paragraph 13 and Woodmen Hills and/or Paint Brush Hills did not have any other permits authorizing such discharge into State Waters.

16. Woodmen Hills' and Paint Brush Hills' failure to comply with the effluent limitations set forth in the 2006 Permit and identified above in paragraph 13 constitutes alleged violations of Parts I.A.5 and I.A.6 of the 2006 Permit.

Failure to Complete Expansion Requirements

17. Pursuant to Part I.A.2 of the 2006 Permit, the Facility has a 30-day average organic design capacity of 3,470 lbs. BOD_5/day.

18. Pursuant to Part I.A.3 of the 2006 Permit, if during the previous calendar year, the monthly organic loading to the Facility exceeds eighty percent (80%) of the 30-day average design capacity, the permittee shall submit a report by March 31 of the following year including a schedule for planning for expansion, or an analysis indicating that the exceedance was an anomaly and is not expected to occur during the current calendar year.

19. Pursuant to the requirements of the Part I.B.1 of the 2006 Permit, Paint Brush Hills and Woodmen Hills were required to collect certain samples of the influent to the Facility. The analytical results of the influent samples are summarized and reported to the Division via the monthly DMRs. The analytical results of the influent BOD monitoring reflect, among other data, the following data as summarized on the DMRs:

REPORTING PERIOD	30-DAY AVERAGE LOADING (in lbs./day)
September 1 - September 30, 2008	2,784.13
December 1 - December 31, 2008	3,164.81
December 1 - December 31, 2009	2,862.72
January 1 - January 31, 2010	3574.04

20. The results listed in paragraph 19 above demonstrate that Paint Brush Hills exceeded eighty (80) percent of the 30-day average organic design capacity of the Facility.

21. Paint Brush Hills did not submit the required reports due on March 31, 2009, March 31, 2010, or March 31, 2011, including a schedule for planning for expansion or an analysis indicating that organic loading values in excess of eighty (80) percent of the organic capacity were an anomaly.

22. Paint Brush Hills' failure to initiate engineering and financial planning is a violation of Part I.A.3 of the 2006 Permit.

23. Paint Brush Hills' failure to submit the required reports due on March 31, 2009, March 31, 2010, or March 31, 2011, is a violation of Part I.A.3 of the 2006 Permit.

Failure to Complete Compliance Schedule

24. The 2006 Permit, in Part I.A.7.a, items 1-11, contained a compliance schedule for meeting more restrictive Total Residual Chlorine and *E. coli* limits that became effective January 1, 2011. Among other deadlines and requirements of the compliance schedule, Paint Brush Hills was to submit to the Division, by December 1, 2007, complete plans and specifications for facilities or activities necessary to meet final limitations. Paint Brush Hills was further required to submit a site location approval application and to advertise for bids and award a construction contract by December 31, 2007 and October 1, 2007, respectively.

25. Division records establish that Paint Brush Hills did not submit plans and specifications or site location approval application to the Division by the required dates, nor did Paint Brush Hills advertise for bids or award a construction contract for the facilities necessary to meet the Total Residual Chlorine limit and *E. coli* limits.

26. The 2006 Permit, in Part I.A.7.a, also required that Paint Brush Hills submit progress reports detailing completed and future activities relative to the compliance schedule. The first progress report was to be submitted by June 1, 2008.

27. Division records establish that Paint Brush Hills did not submit any progress reports required by the compliance schedule until after the NOV/CDO was issued.

28. Paint Brush Hills' failure to complete the activities and submit the required reports constitutes a violation of Part I.A.7.a of the 2006 Permit.

WOODMEN HILLS' POSITION ON ALLEGED VIOLATIONS

29. The Facility was designed in 2000 and subsequently approved for construction. The Facility employs an aerated lagoon system that experiences severe cold temperatures in winter. Woodmen Hills has completed numerous improvements and diligently operated the Facility to maintain compliance. While the Facility operates well during the summer, fall, and early winter, it is hampered in the late winter and early spring as the low water temperatures cause biological inhibition and loss of biological mass, thus limiting the effectiveness of efforts to reduce effluent concentration levels.

30. The inclusion of Woodmen Hills' position statement in this order should not be construed to constitute any admission or agreement by the Division as to the content of the position statement.

ORDER AND AGREEMENT

31. 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 civil penalties for the alleged violations cited herein and in the NOV/CDO, the Division orders Woodmen Hills to comply with all provisions of this Consent Order, including all requirements set forth below.

32. Woodmen Hills agrees to the terms and conditions of this Consent Order. The Parties agree 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. Woodmen Hills also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Woodmen Hills 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.

33. Notwithstanding the above, Woodmen Hills does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Woodmen Hills pursuant to this Consent Order shall not constitute evidence of fault and liability by Woodmen Hills with respect to the conditions of the Facility. Woodmen Hills 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.

COMPLIANCE REQUIREMENTS

34. Woodmen Hills shall promptly implement measures to maintain compliance with the Colorado Water Quality Control Act and the terms and conditions of the 2015 Permit.

35. By December 31, 2014, Woodmen Hills shall implement and continually optimize a BioShell pilot study as an interim measure to potentially reduce BOD levels until the planning, construction, and completion of facilities or other appropriate actions can be completed.

36. By January 31, 2015, Woodmen Hills shall submit a letter of notification that a Colorado-licensed engineering consultant has been obtained and funding has been secured for planning aspects.

37. By August 31, 2015, if a site approval is required and/or if changes to the most recent WQA are necessary, Woodmen Hills shall submit a letter of notification that Preliminary Effluent Limits (PELs) have been received and report progress in obtaining funding for design and construction aspects.

38. By February 29, 2016, Woodmen Hills shall submit a progress report to the Division outlining all efforts taken to achieve compliance with this Consent Order.

39. By June 30, 2016, Woodmen Hills shall complete the testing period for the BioShell pilot study and submit a performance report, as required in the Division's Authorization Letter for the BioShell Pilot Study dated July 14, 2014. Upon submittal of the performance report, and at the direction of the Division, Woodmen Hills will either file an application to permit the units or remove the units from the Facility.

40. By August 31, 2016, Woodmen Hills shall submit a letter of notification that funding has been obtained for design and construction aspects, and final plan specifications have been submitted to the Division. A Site Application and a preliminary design must be submitted and approved by the Division prior to final plans and specifications.

41. By May 31, 2017, Woodmen Hills shall submit a letter of notification that Final Design Approval has been received from the Division and construction has commenced.

42. By December 31, 2017, Woodmen Hills shall submit a construction progress report summarizing the progress in construction and other activities associated with meeting BOD limitations.

43. By May 31, 2018, Woodmen Hills shall submit a progress report to the Division outlining all efforts taken to achieve compliance with this Consent Order.

44. By October 31, 2018, Woodmen Hills shall complete construction of facilities or other appropriate actions, as required under the 2015 Permit, which will allow the permittee to meet the final BOD limitations and other effluent limitations of the 2015 Permit.

45. All documents submitted under this Consent Order shall use the same titles as stated in this Consent Order, and shall reference both the number of this Consent Order and the number of the paragraph pursuant to which the document is required. No plan submitted for Division approval under this Consent Order may be implemented unless and until written approval is received from the Division. Any approval by the Division of a plan submitted under this Consent Order is effective upon receipt by Woodmen Hills. All approved plans, including all procedures and schedules contained in the plans, are hereby incorporated into this Consent Order, and shall constitute enforceable requirements under the Act.

46. The Division understands that Woodman Hills' financial ability to undertake the obligations in this Consent Order is tied in part to its continued ability to obtain tap fees. The Division also understands that Woodmen Hills currently serves as a regional provider and currently provides service to a number of parties, including 4-Way Ranch Metropolitan District, Meridian Service Metropolitan District, Falcon Highlands Metropolitan District, Paint Brush Hills Metropolitan District. To the extent that Woodman Hills remains in compliance with the provisions of this Compliance Order, the Division acknowledges that Woodmen Hills may continue to obtain tap fees within its boundaries as a regional service provider. Notwithstanding the above, Woodman Hills and all parties served by Woodmen Hills shall not continue to add or connect taps in the event that Woodmen Hills' actual hydraulic or organic loading exceeds 95% of the Facility rating as defined in the 2015 Permit, unless and until otherwise notified by the Division in writing.

CIVIL PENALTY

47. Based upon the factors set forth in §25-8-608(1), C.R.S., and consistent with Departmental policies for violations of the Act, Woodmen Hills shall pay One Hundred and Seventy Thousand Dollars ($170,000.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the One Hundred and Seventy Thousand Dollars ($170,000.00) civil penalty for the above violations and Woodmen Hills agrees to make the payment through four (4) installment payments as described in the table below:

Payment	Amount	Due Date
1	$42,500	Within thirty (30) calendar days of issuance of a Penalty Order by the Executive Director or his designee
2	$42,500	February 1, 2016
3	$42,500	February 1, 2017

4	$42,500	February 1, 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:

Eric Mink
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

48. Failure to submit full payment of any installment by the due dates described in paragraph 47 above shall be deemed a violation of this Consent Order.

49. In the event that Woodmen Hills fails to comply with any of the terms or provisions of this Consent Order relating to payment of the civil penalty, Woodmen Hills shall be liable for payment of the outstanding balance of the civil penalty within thirty (30) 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 47 above.

SCOPE AND EFFECT OF CONSENT ORDER

50. 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 the NOV/CDO.

51. This Consent Order is subject to the Division's "Public Notification on Administrative Enforcement Actions Policy," which includes a thirty (30) day public comment period. The Division and Woodmen Hills each reserve the right to withdraw consent to this Consent Order if comments received during the thirty (30) day period result in any proposed modification to the Consent Order.

52. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty following the public comment period. Any violation of the provisions of this Consent Order by Woodmen Hills, 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.

53. The Parties' obligations under this Consent Order are limited to the matters expressly stated herein or in approved submissions required hereunder. All submissions made pursuant to this Consent Order are incorporated into this Consent Order and become enforceable under the terms of this Consent Order as of the date of approval by the Division.

54. The Division's approval of any submission, standard, or action under this Consent Order shall not constitute a defense to, or an excuse for, any prior violation of the Act, or any subsequent violation of any requirement of this Consent Order or the Act.

55. Notwithstanding paragraph 33 above, the violations described in this Consent Order will

constitute part of Woodmen Hills' compliance history, for purposes where such history is relevant.

56. Woodmen Hills 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

57. 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 civil penalties for 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.

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

59. Woodmen Hills reserves its rights and defenses regarding the Facility other than proceedings to enforce this Consent Order.

60. 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.

61. Woodmen Hills 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 Woodmen Hills, or those acting for or on behalf of Woodmen Hills, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Woodmen Hills shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by Woodmen Hills in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

OFFSITE ACCESS

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

SITE ACCESS AND SAMPLING

63. The Division shall be permitted to oversee any and all work being performed under this Consent Order. The Division shall be permitted access to the Facility property at any time work is being conducted pursuant to this Consent Order and during reasonable business hours during any period work is not being conducted, for the purposes of determining Woodmen Hills' compliance with the Act, the Regulations, and this Consent Order. The Division shall be permitted to inspect work sites, operating and field logs, contracts, manifests, shipping records, and other relevant records and documents relating to this Consent Order or any requirement under this Consent Order and to interview Woodmen Hills' personnel and contractors performing work required by this Consent Order. Nothing in this paragraph limits or impairs the Division's statutory authorities to enter and inspect the Facility.

64. The Division may conduct any tests necessary to ensure compliance with this Consent Order and to verify the data submitted by Woodmen Hills.

FORCE MAJEURE

65. Woodmen Hills 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 Woodmen Hills, and which cannot be overcome by due diligence.

66. Within seventy-two (72) hours of the time that Woodmen Hills knows or has reason to know of the occurrence of any event which Woodmen Hills has reason to believe may prevent Woodmen Hills from timely compliance with any requirement under this Consent Order, Woodmen Hills shall provide verbal notification to the Division. Within seven (7) calendar days of the time that Woodmen Hills knows or has reason to know of the occurrence of such event, Woodmen Hills 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.

67. The burden of proving that any delay was caused by a force majeure shall at all times rest with Woodmen Hills. If the Division agrees that a force majeure has occurred, the Division will so notify Woodmen Hills. The Division will also approve or disapprove of Woodmen Hills' proposed actions for mitigating the delay. If the Division does not agree that a force majeure has occurred, or if the Division disapproves of Woodmen Hills' proposed actions for mitigating the delay, it shall provide a written explanation of its determination to Woodmen Hills. Pursuant to the Dispute Resolution section, within fifteen (15) calendar days of receipt of the explanation, Woodmen Hills may file an objection.

68. 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, Woodmen Hills shall perform the requirements of this Consent Order that were delayed by the force majeure with all due diligence.

DISPUTE RESOLUTION

69. If the Division determines that a violation of this Consent Order has occurred; that a force majeure has not occurred; that the actions taken by Woodmen Hills to mitigate the delay caused by a force majeure are inadequate; or that Woodmen Hills' Notice of Completion should be rejected pursuant to paragraph 77, the Division shall provide a written explanation of its determination to Woodmen Hills. Within fifteen (15) calendar days of receipt of the Division's determination, Woodmen Hills shall:

    a. Submit a notice of acceptance of the determination; or
    b. Submit a notice of dispute of the determination.

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

70. If the Division disapproves or approves with modifications any original or revised plan submitted by Woodmen Hills 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, Woodmen Hills 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. Woodmen Hills may not select this option if the Division has included in its disapproval an alternate plan that shall be implemented by Woodmen Hills; or
    c. Submit a notice of dispute of the disapproval or approval with modifications.

    If Woodmen Hills fails to do any of the above within the specified time, Woodmen Hills 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.

71. If Woodmen Hills 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 Woodmen Hills 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 Woodmen Hills. 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 Woodmen Hills submits a notice of dispute, pursuant to paragraph 69 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.

72. If Woodmen Hills files any notice of dispute pursuant to paragraph 69, 70, or 71, the notice shall specify the particular matters in the Division's determination that Woodmen Hills seeks to dispute and the basis for the dispute. Matters not identified in the notice of dispute shall be deemed accepted by Woodmen Hills. The Division and Woodmen Hills shall have thirty (30) calendar days from the receipt by the Division of the notification of dispute to reach an agreement. If agreement cannot be reached on all issues within this thirty (30) calendar day period, the Division shall confirm or modify its decision within an additional fourteen (14) calendar days, and the confirmed or modified decision shall be deemed effective and subject to appeal in

accordance with the Act and the APA.

NOTICES

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

For the Division:

Eric Mink
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: 303-692-2312
E-mail: eric.mink@state.co.us

For Woodmen Hills:

Woodmen Hills Metropolitan District
Attention: Gene Cozzolino
Director of Water and Wastewater
8046 Eastonville Road
Falcon, CO 80831
Telephone: 719-495-2500
E-mail: gene@whmd.org

OBLIGATIONS UNAFFECTED BY BANKRUPTCY

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

MODIFICATIONS

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

COMPLETION OF REQUIRED ACTIONS

76. Woodmen Hills shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Consent Order. The Division shall either accept or reject Woodmen

Hills' Notice of Completion in writing within thirty (30) calendar days of receipt. If the Division rejects Woodmen Hills' Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. Woodmen Hills shall, within fifteen (15) calendar days of receipt of the Division's rejection, either:

a. Submit a notice of acceptance of the determination; or
b. Submit a notice of dispute.

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

NOTICE OF EFFECTIVE DATE

77. 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 51. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

BINDING EFFECT AND AUTHORIZATION TO SIGN

78. This Consent Order is binding upon Woodmen Hills 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. Woodmen Hills 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 WOODMEN HILLS METROPOLITAN DISTRICT:

Eugene Cozzolino Date: 3/10/15
Gene Cozzolino, Director of Water and Wastewater

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

Date: 12 Mar 15
Patrick J. Pfaltzgraff, Director
WATER QUALITY CONTROL DIVISION

COLORADO
Department of Public Health & Environment