



**COLORADO**  
Department of Public  
Health & Environment

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

February 18, 2016

Aaron Abeyta, Mayor  
Town of Antonito  
P.O. Box 86  
Antonito, CO 81120

Certified Mail Number: 7012 1010 0002 1774 4856

**RE: Amendment Number One Compliance Order on Consent, Number: MC-150612-1**

Dear Mayor Abeyta:

Enclosed for the Town of Antonito's records, you will find the Town's copy, with original signatures, of the recently executed Amendment Number One to the Compliance Order on Consent (the "COC"). This amendment is now fully effective, enforceable, and constitutes a final agency action. The scope and effect of the amendment to the COC is expressly limited to the matters specifically identified in the amendment. All other terms, conditions or requirements of the COC shall remain unchanged and in effect.

If you have any questions, please don't hesitate to contact me at (303) 692-3163 or by electronic mail at [alysia.moores@state.co.us](mailto:alysia.moores@state.co.us)

Sincerely,

Aly Moors, Enforcement Specialist  
Clean Water Enforcement Unit  
WATER QUALITY CONTROL DIVISION

*Enclosure(s)*

cc: Enforcement File

ec: Peter Nichols, Berg Hill Greenleaf Ruscitti LLP  
Michael Boeglin, EPA Region VIII  
Conejos County Health Department  
Aimee Konowal, Watershed Section, CDPHE  
Michael Beck, Grants and Loans Unit, CDPHE  
Erick Worker, Grants and Loans Unit, CDPHE



Bret Icenogle, Engineering Section, CDPHE  
Doug Camrud, Engineering Section, CDPHE  
Heather Drissel, Field Services Section, CDPHE  
Dave Knope, Field Services Section, CDPHE  
Erin Scott, Permits Section, CDPHE  
Mike Harris, Clean Water Enforcement Unit, CDPHE  
Margaret Talbott, Drinking Water, CDPHE  
Emily Clark, Drinking Water Case Person, CDPHE  
Barry Cress, DOLA





# COLORADO

## Department of Public Health & Environment

### WATER QUALITY CONTROL DIVISION

AMENDMENT NUMBER ONE  
COMPLIANCE ORDER ON CONSENT

NUMBER: MC-150612-1

IN THE MATTER OF:      THE TOWN OF ANTONITO  
CDPS PERMIT NO. C00040975  
CONEJOS COUNTY, COLORADO

The Colorado Department of Public Health and Environment (the "Department"), through the Water Quality Control Division (the "Division"), issues this Amendment Number One to the June 12, 2015, Compliance Order on Consent, Number: MC-150612-1, (*See attached copy marked as "Exhibit A" for reference.*) which was executed between the Division and the Town of Antonito (the "Town"). This amendment is issued pursuant to the Division's authority under the Colorado Water Quality Control Act, sections 25-8-101 to 703, C.R.S. (the "Act"), and with the express consent of the Town. The Division and the Town may be referred to collectively as "the Parties."

#### STATEMENT OF PURPOSE

The mutual objective of the Parties in amending Compliance Order on Consent, Number: MC-150612-1 (the "COC") is:

1. To establish alternative implementation dates for the wastewater compliance requirements found in paragraphs 68 through 70 and paragraphs 72 through 73 of the COC.

#### GENERAL FINDINGS

2. In accordance with paragraph 74 of the COC, the Town sent a letter to the Division dated December 16, 2015, requesting an extension to the deadline found in paragraph 67 of the COC, which subsequently affected all milestone dates following in paragraphs 68 through 70 and paragraphs 72 through 73. After reviewing the extension request in the Town's letter, the Division agrees an alternate implementation schedule is appropriate for the Town.
3. The Parties have determined that the following amendments to paragraphs 67 through 70 and paragraphs 72 through 73 of the COC are appropriate.

#### AMENDMENT NUMBER ONE

4. The COC is hereby amended to supersede and replace paragraphs 67 through 73 with the following new paragraphs:

67. By March 1, 2016, the Town shall install and have fully operational and calibrated, an influent flow meter and recorder at entry point 300I as designated by the Permit. The Town shall collect continuous influent flow samples as directed by the Permit and shall provide monthly data reports to the Division. These data reports are in addition to the monthly DMRs and should be submitted separately. The reports shall include daily flow readings and any additional monitoring requested by the Division. The first report shall be due to the Division on April 1, 2016.
68. Project Needs Assessment and Engineering Submittals:
- a. By April 1, 2016, the Town shall submit to the Division a project needs assessment ("PNA") for treatment upgrades/improvements, to include expansion of the Facility if deemed necessary. The PNA shall be prepared and submitted in accordance with the State Revolving Fund ("SRF") application requirements.
  - b. By June 30, 2016, the Town shall submit to the Division a site location application for treatment upgrades/improvements to the Facility that will ensure the Facility will reliably and consistently meet the effluent limitations and other terms and conditions of the Permit. The site location application shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.
  - c. By November 30, 2016, the Town shall submit to the Division a process design report ("PDR") for treatment upgrades/improvements, to include expansion of the Facility if deemed necessary. The PDR shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.
69. Financial applications:
- a. By June 30, 2016, the Town shall submit to the Division an application for a Design Grant through the Water Pollution Control Revolving Fund; to be used for the wastewater project.
  - b. By April 1, 2017, the Town shall submit an application for the DOLA Tier II Energy/Mineral Impact Assistance Fund; to be used for the wastewater project.
  - c. By June 15, 2017, the Town shall submit an application for the State Revolving Fund; to be used for the wastewater project.
70. By May 1, 2017, the Town shall submit to the Division final plans and specifications for treatment upgrades/improvements, to include expansion of the Facility if deemed necessary. The final plans and specifications shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.
71. The Town shall respond to any Division site location or PDR review comments or requests for information within twenty one (21) calendar days of the date of the request(s).
72. By December 12, 2017, the Town shall start construction of the Division-approved design for treatment upgrades/improvements to the Facility.

73. By May 11, 2018, the Town shall complete construction of the Division-approved design for treatment upgrades/improvement to the Facility.

**NOTICE OF EFFECTIVE DATE**

5. This amendment shall be fully effective, enforceable, and constitute a final agency action on the date signed by the authorized representative of the last party.

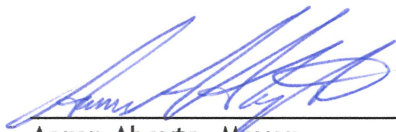
**SCOPE AND EFFECT**

6. The scope and effect of this amendment to the COC is expressly limited to the matters specifically identified herein. All other terms, conditions or requirements of the COC shall remain unchanged and in effect.

**AUTHORIZATION TO SIGN**

7. The undersigned warrant that they are authorized to legally bind their respective principals to this amendment to the COC. This amendment to the COC may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same amendment. In the event that a party does not sign this amendment to the COC within twenty (20) calendar days of the other party's signature, this amendment becomes null and void.

**FOR THE TOWN OF ANTONITO:**



Aaron Abeyta, Mayor  
TOWN OF ANTONITO

Date:

2-5-16

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



Patrick J. Pfaltzgraff, Director  
WATER QUALITY CONTROL DIVISION

Date:

18 Feb 16

## **Attachment D**

### **Alternative Implementation Schedule**

<b>Compliance Order on Consent: Wastewater Compliance Requirements Alternative Implementation Schedule</b>		
<b>Event</b>	<b>Activity</b>	<b>Milestone Date</b>
<b><u>Part I.B.5.c. of the 2013 Permit:</u> Status / Progress Report</b>	Submit a progress report summarizing the efforts to install the lagoon liner.	<b>December 31, 2015</b>
<b><u>Part I.B.5.b. of the 2013 Permit:</u> Complete Required Work or On-Site Construction</b>	Complete construction of facilities or other appropriate actions, which will allow the permittee to meet the final <i>E. coli</i> limitations.	<b>June 30, 2016</b>
<b><u>Paragraph 67:</u> Influent Flow Meter</b>	The Town shall install and have fully operational and calibrated, an influent flow meter and recorder at entry point 300I as designated by the Permit. The Town shall collect continuous influent flow samples as directed by the Permit and shall provide monthly data reports to the Division. These data reports are in addition to the monthly DMRs and should be submitted separately. The reports shall include daily flow readings and any additional monitoring requested by the Division. The first report shall be due to the Division on <b>April 1, 2016</b>	<b>March 1, 2016</b>
<b><u>Paragraph 68:</u> Project Needs Assessment and Engineering submittals</b>	a. The Town shall submit to the Division a project needs assessment ("PNA") for treatment upgrades/improvements, to include expansion of the Facility if deemed necessary. The PNA shall be prepared and submitted in accordance with the State Revolving Fund ("SRF") application requirements.	<b>April 1, 2016</b>
	b. The Town shall submit to the Division a site location application for treatment upgrades/improvements to the Facility that will ensure the Facility will reliably and consistently meet the effluent limitations and other terms and conditions of the Permit. The site location application shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.	<b>June 30, 2016</b>
	c. The Town shall submit to the Division a process design report ("PDR") for treatment upgrades/improvements, to include expansion of the Facility, if deemed necessary. The PDR and final plans and specifications shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.	<b>November 30, 2016</b>

## Attachment D

### Alternative Implementation Schedule

<b><u>Part I.B.5.c. of the 2013 Permit: Status / Progress Report</u></b>	Submit a progress report summarizing the efforts to install the lagoon liner.	<b>December 31, 2016</b>
<b><u>Paragraph 69: Financial Applications</u></b>	a. The Town shall submit to the Division an application for a Design Grant through the Water Pollution Control Revolving Fund; to be used for the wastewater project.	<b>June 30, 2016</b>
	b. The Town shall submit an application for the DOLA Tier II Energy/Mineral Impact Assistance Fund; to be used for the wastewater project.	<b>April 1, 2017</b>
	c. The Town shall submit an application for the State Revolving Fund; to be used for the wastewater project.	<b>June 15, 2017</b>
<b><u>Paragraph 70: Final Plans &amp; Specifications</u></b>	The Town shall submit to the Division final plans and specifications for treatment upgrades/improvements, to include expansion of the Facility, if deemed necessary. The final plans and specifications shall be prepared and submitted in accordance with the Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, 5 CCR 1002-22.	<b>May 1, 2017</b>
<b><u>Part I.B.5.c. of the 2013 Permit: Status / Progress Report</u></b>	Submit a progress report summarizing the efforts to install the lagoon liner.	<b>September 30, 2017</b>
<b><u>Paragraph 72: Commence Construction</u></b>	The Town shall start construction of the Division-approved design for treatment upgrades/improvements to the Facility.	<b>December 12, 2017</b>
<b><u>Part I.B.5.c. of the 2013 Permit: Corrective Action Completed</u></b>	The permittee must submit a report completed by a professional engineer registered in the state of Colorado indicating that the liner of the lagoon has been replaced. The report must certify that the liner material meets the allowable seepage rate of $10^{-6}$ centimeters per second or less, and that the placement was accomplished according to the manufacturer's requirements (i.e., all welds were tested and the liner was checked for holes prior to backfilling).	<b>March 31, 2018</b>
<b><u>Paragraph 73: Complete Construction</u></b>	The Town shall complete construction of the Division-approved design for treatment upgrades/improvement to the Facility.	<b>May 11, 2018</b>

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

<b>ID</b>	<b>Task Name</b>	<b>Duration (Calendar Days)</b>	<b>Start</b>	<b>Finish</b>
1.	DOLA Planning Grant	0	1/29/16	1/29/16
2.	ENGINEER - PNA	60	2/1/16	4/1/16
3.	Install Flow meter and recorder	14	2/1/16	3/1/16
4.	ENGINEER - Site Application	90	4/1/16	6/30/16
5.	CDPHE - REVIEW / APPROVE SITE APP	60	7/1/16	8/31/16
6.	CDPHE REVIEW / APPROVE PNA	60	4/1/16	5/31/16
7.	REVIEW COC DATES RELATIVE TO PNA	0	5/31/16	5/31/16
8.	WPCRF - GRANT PLANNING / DESIGN	30	5/31/16	6/30/2016
9.	Collect Influent Flow Data	228	2/15/16	9/30/16
10.	PARA: 67: ENGINEER - PDR	60	10/1/16	11/30/16
11.	CDPHE - REVIEW / APPROVAL PDR	90	11/30/16	2/28/17
12.	PARA 68: ENG. - FINAL PLANS & SPEC	60	2/28/17	5/1/17
13.	PARA 69: DOLA - EIAF	0	4/1/17	4/1/17
14.	CDPHE - REVIEW / APPROVAL FINAL PLANS & SPEC	60	5/1/17	6/30/17
15.	DOLA AWARD / EXECUTION FUNDING	120	4/1/17	8/1/17
16.	PARA 70: SRF APPLICATION	0	6/15/17	6/15/17
17.	SRF AWARD / EXECUTION OF FUNDING	120	6/15/17	10/13/17
18.	PARA 72: ESTIMATED BID PROCESS	60	10/13/17	12/12/17
19.	PARA 73: PROJECT CONSTRUCTION	150	12/12/17	5/11/18



# **EXHIBIT A**



## **COLORADO**

### **Department of Public Health & Environment**

#### **WATER QUALITY CONTROL DIVISION**

---

**COMPLIANCE ORDER ON CONSENT**

**NUMBER: MC-150612-1**

---

**IN THE MATTER OF:      TOWN OF ANTONITO  
CDPS PERMIT NO. CO0040975  
PWSID NO. CO0111100  
CONEJOS 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, and pursuant to the Department's authority under §25-1.5-201 to -209, C.R.S. and its implementing regulations, and §25-1-114.1, C.R.S., with the express consent of the Town of Antonito (the "Town"). The Division and The Town may be referred to collectively as "the Parties."

#### **STATEMENT OF PURPOSE**

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

# **EXHIBIT A**

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

### **Domestic Wastewater Treatment Facility Findings of Fact**

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and -605 C.R.S., the Division has made the following determinations regarding the Town, the Facility and the Town's compliance with the Act and the Permit.
3. At all times relevant to the violations cited herein, the Town was a municipality as defined by §31-1-101(6), C.R.S.
4. The Town is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
5. The Facility consists of an aerated lagoon system. The Facility has a hydraulic capacity of 0.205 MGD and the organic capacity of 355 lbs BOD<sub>5</sub>/day.
6. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO0040975 (the "Permit"). The previous permit became effective on December 1, 2007 (the "2007 Permit") and was set to expire November 30, 2012. The current permit became effective December 1, 2013 (the "2013 Permit") and is set to expire on November 30, 2018.
7. The Permit authorizes the Town to discharge treated wastewater from the Facility through Outfall 001A, into Rio San Antonio. Outfall 001A is the only discharge outfall authorized by the Permit. The discharge is subject to the specific effluent limitations and other conditions of the Permit.
8. Outfall 001A is a "point source" as defined by §25-8-103(14), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (75).
9. The Rio San Antonio is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
10. Pursuant to 5 CCR 1002-61, §61.8, the Town must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

### **Failure to Comply with Permit Effluent Limitations**

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

# EXHIBIT A

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

# EXHIBIT A

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

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

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

# EXHIBIT A

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

# EXHIBIT A

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

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

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

## Failure to Properly Monitor and Report

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

# EXHIBIT A

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



# EXHIBIT A

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



# EXHIBIT A

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

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

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

# EXHIBIT A

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

# EXHIBIT A

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

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

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

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

## Failure to Comply with Planning/Expansion Requirements

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

# EXHIBIT A

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

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

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

## Failure to Adhere to Permit Compliance Schedule

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

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

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

# EXHIBIT A

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

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

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

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

# EXHIBIT A

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

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

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

# **EXHIBIT A**

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

## **Drinking Water System Findings of Fact**

43. Upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with § 25-1.5-203, C.R.S., the Division has made the following determinations regarding the Town's compliance with the *Colorado Primary Drinking Water Regulations*, 5-CCR 1002-11, "Regulation 11":
44. The Town owns and/or operates a drinking water system located in the vicinity of 12874 Country Road G, Town of Antonito, Conejos County, Colorado (the "System").
45. The Town is a "person" as defined by 5 CCR 1002-11, §11.3(51).
46. The Town is a "supplier of water" within the meaning of § 25-1.5-201(2), C.R.S. and its implementing regulation, 5 CCR 1002-11, §11.3(74). Hereafter, in reference to Regulation 11, the Town will be referred to as "the Supplier."
47. The System is a "public water system" as defined by §25-1.5-201(1), C.R.S. and its implementing regulation, 5 CCR 1002-11, §11.3(57).
48. The Public Water System Identification Number ("PWSID") assigned to the System by the Division is PWSID #: C0-0111100.
49. Pursuant to 5 CCR 1002-11, § 11.1(5), the System is subject to Regulation 11, the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.
50. Pursuant to 5 CCR 1002-11, §11.3(10), if a system provides at least fifteen (15) service connections used by year-round residents of the area served by the system and/or regularly serves at least twenty-five (25) year-round residents it is classified as a "community water system." Division records establish that the System serves 781 residents and is therefore classified as a community water system.
51. The System's source of water is "groundwater under the direct influence of surface water" as defined by 5 CCR 1002-11, § 11.3(36).
52. Per the Division's letter dated January 29, 2014, the source Infiltration Gallery No. 1 (WL004) was reclassified as ground water under the direct influence of surface water as defined by 5 CCR 1002-11, § 11.3(36). Pursuant to 5 CCR 1002-11, § 11.3(75). Groundwater found to be under the direct influence of surface water will be classified as surface water.
53. On February 26, 2014, the Division conducted a compliance inspection of the System, pursuant to the Division's authority under § 25-1.5-204, C.R.S. and 5 CCR 1002-11, § 11.1(6)(b), to determine the System's compliance with the Regulations.



# **EXHIBIT A**

## **Drinking Water System Violations and Significant Deficiencies**

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



# **EXHIBIT A**

## **ORDER AND AGREEMENT**

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

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

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

# **EXHIBIT A**

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

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

# **EXHIBIT A**

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

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

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

# **EXHIBIT A**

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

## **Progress Reports**

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

## **CIVIL AND ADMINISTRATIVE PENALTIES**

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

# **EXHIBIT A**

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

## **SCOPE AND EFFECT OF CONSENT ORDER**

88. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the violations cited herein and in the NOV/CDO and EO.
89. This Consent Order is subject to the Division's "Public Notification on Administrative Enforcement Actions Policy," which includes a thirty day public comment period. The Division and the Town each reserve the right to withdraw consent to this Consent Order if comments received during the thirty day period result in any proposed modification to the Consent Order.
90. This Consent Order constitutes a final agency order or action upon a determination by the Division following the public comment period. Any violation of the provisions of the Domestic Wastewater Treatment Facility Compliance Requirements portion of the Consent Order by the Town, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.
91. Any violation of the provisions of the Drinking Water System Compliance Requirements portion of this Consent Order by the Town, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of § 25-1-114.1(2.5)(a), C.R.S. Any person who violates the Colorado Primary Drinking Water Regulations or any final Enforcement Order issued by the Department, shall be subject to an administrative penalty as follows:
- a) For systems that serve a population of more than ten thousand people, an amount not to exceed one thousand dollars per violation per day; or
  - b) For systems that serve a population of ten thousand people or less, an amount not to exceed one thousand dollars per violation per day, but only in an amount, as determined by the Department, that is necessary to ensure compliance.
92. The Parties' obligations under this Consent Order are limited to the matters expressly stated herein or in approved submissions required hereunder. All submissions made pursuant to this Consent Order are incorporated into this Consent Order and become enforceable under the terms of this Consent Order as of the date of approval by the Division.
93. The Division's approval of any submission, standard, or action under this Consent Order shall not constitute a defense to, or an excuse for, any prior violation of the Act or of Regulation 11.
94. Notwithstanding paragraph 60 above, the violations described in this Consent Order will constitute part of the Town's compliance history.

# **EXHIBIT A**

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

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

96. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to the specific instances of violations cited herein and in the NOV/CDO and EO. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.
97. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
98. The Town reserves its rights and defenses regarding the Facility and System other than proceedings to enforce this Consent Order.
99. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment. Any such additional requirements that affect any requirements of this Consent Order shall require the mutual consent of the Town and the Division.
100. The Town releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims or for any injuries or damages to persons or property resulting from acts or omissions of the Town, or those acting for or on behalf of the Town, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. The Town shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by the Town in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

## **OFFSITE ACCESS**

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



# **EXHIBIT A**

## **SITE ACCESS AND SAMPLING**

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

## **FORCE MAJEURE**

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

# **EXHIBIT A**

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

## **DISPUTE RESOLUTION**

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

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

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

110. If the Division disapproves or approves with modifications any original or revised plan submitted by the Town pursuant to this Consent Order, the Division shall provide a written explanation of the disapproval or approval with modifications. Within fifteen (15) calendar days of receipt of the Division's approval with modifications or disapproval of the plan, the Town shall:

- a. In the case of an approval with modifications only, submit a notice of acceptance of the plan as modified and begin to implement the modified plan;
- b. In the case of a disapproval only, submit a revised plan for Division review and approval. the Town may not select this option if the Division has included in its disapproval an alternate plan that shall be implemented by the Town; or
- c. Submit a notice of dispute of the disapproval or approval with modifications.

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

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



# EXHIBIT A

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

## NOTICES

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

For the Division:

Alysia Moores  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CWE-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: 303-692-3163  
E-mail: [alysia.moores@state.co.us](mailto:alysia.moores@state.co.us)

AND

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

For The Town:

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

# **EXHIBIT A**

With A Copy To:

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

## **OBLIGATIONS UNAFFECTED BY BANKRUPTCY**

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

## **MODIFICATIONS**

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

## **COMPLETION OF REQUIRED ACTIONS**

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

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

## **NOTICE OF EFFECTIVE DATE**


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

# EXHIBIT A


## BINDING EFFECT AND AUTHORIZATION TO SIGN

118. This Consent Order is binding upon the Town and its elected officials, employees, agents, representatives, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. The Town agrees to provide a copy of this Consent Order to any contractors and other agents performing work pursuant to this Consent Order and require such agents to comply with the requirements of this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

### FOR THE TOWN OF ANTONITO:

 Date: 6.8.19  
Aaron Abeyta, Mayor

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

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

# STATE OF COLORADO

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

4300 Cherry Creek Dr. S.  
Denver, Colorado 80246-1530  
Phone (303) 692-2000  
TDD Line (303) 691-7700  
Located in Glendale, Colorado

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

## MODIFICATION FORM

Please print or type all information. All items must be filled out completely and correctly. If the form is not complete, it will be returned. All modification dates are established by the Division. This form is for modifying an established permit or certification. Terminations, Change of Contacts, Transfer of Permit, and Withdrawal of Permit Application and/or modification requests must be submitted on the appropriate form:

**MAIL ORIGINAL FORM WITH INK SIGNATURES TO THE FOLLOWING ADDRESS:**

Colorado Dept of Public Health and Environment  
Water Quality Control Division  
4300 Cherry Creek Dr South WQCD-P-B2  
Denver, CO 80246-1530

**FAXED or EMAILED FORMS WILL NOT BE ACCEPTED.**

- **PART A. IDENTIFICATION OF PERMIT** Please write the permit number to be modified

**PERMIT NUMBER** (Prefix + 6 digits - not ending in 0000) \_\_\_\_\_

- **PART B. PERMITEE INFORMATION**

Company Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zipcode \_\_\_\_\_

Legal Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
Number \_\_\_\_\_

Title \_\_\_\_\_ Email \_\_\_\_\_

- **PART C. FACILITY/PROJECT INFORMATION**

Facility/Project Name \_\_\_\_\_

Location (address) \_\_\_\_\_

City \_\_\_\_\_ County \_\_\_\_\_

Local Contact Name \_\_\_\_\_ Phone \_\_\_\_\_  
Number \_\_\_\_\_

Title \_\_\_\_\_ Email \_\_\_\_\_

• **PART D. DESCRIPTION OF MODIFICATION REQUESTED:**

• **PART E. CERTIFICATION Required Signatures**

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

"I understand that submittal of this application is for coverage under the State of Colorado Discharge Permit System until such time as the application is amended or the certification is transferred, inactivated, or expired."

Signature of **Legally Responsible Party**

Date Signed

Name (printed)

Title

Signatory requirements: This withdraw of permit application request shall be signed, dated, and certified for accuracy by the permittee in accord with the following criteria:

1. In the case of a corporation, by a principal executive officer of at least the level of vice-president, or his or her duly authorized representative, if such representative is responsible for the overall operation of the operation from which the discharge described herein originates;
2. In the case of a partnership, by a general partner;
3. In the case of a sole proprietorship, by the proprietor;
4. In the case of a municipal, state, or other public operation, by wither a principal executive officer, ranking elected official, or other duly authorized employee.