



COLORADO
Department of Public
Health & Environment

April 23, 2025

Certified Mail Number: 7022 3330 0001 8504 7180
Via Electronic Mail: Jeff.Arthur@lafayetteco.gov

Jeff Arthur, Public Works Director
City of Lafayette
1290 S Public Road
Lafayette, CO 80026

RE: Compliance Order on Consent, Number: MC-250423-1
CDPS Permit Number: CO0023124

To Whom It May Concern:

Enclosed for your records is the City of Lafayette's recently executed Compliance Order on Consent (Order). Please remember that this Order is subject to a 30-day public comment period (Order, Paragraph 21). The Division will contact your office to discuss any comments received during this period. Please be advised that the header on the first page of the Order was revised to reflect the assigned Order Number: MC-250423-1.

If you have questions regarding the Compliance Order on Consent, please do not hesitate to contact me at (303) 692-2840 or jocelyn.brink@state.co.us.

Sincerely,

Jocelyn Brink, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

ec: Enforcement File
Stephanie Meyers, EPA Region 8
Joe Malinowski, Boulder County Public Health
Aimee Konowal, Watershed Section, CDPHE
Kelly Morgan, Compliance & Enforcement Section, CDPHE
Alex Hawley, Grants and Loans Unit, CDPHE
Doug Camrud, Engineering Section, CDPHE
Clayton Moores, Field Services Section, CDPHE
Michelle DeLaria, Permits Section, CDPHE
Eric Mink, Clean Water Enforcement Unit, CDPHE
Veronica Kenkel, Data Management Workgroup, CDPHE
Desiree Santerre, DOLA





COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT

NUMBER: MC-250423-1

IN THE MATTER OF: CITY OF LAFAYETTE
 CDPS PERMIT NO. CO0023124
 BOULDER 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 (“Act”) §§25-8-101 to 803, C.R.S., and its implementing regulations, with the express consent of the City of Lafayette (“Lafayette”). The Division and Lafayette may be referred to collectively as the “Parties.”

STATEMENT OF PURPOSE

1. The mutual objective of the Parties in entering into this Consent Order is to resolve, without litigation, the alleged violations cited herein by the Division and the associated civil penalties.

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 Lafayette and Lafayette’s compliance with the Act’s implementing permit regulations and Lafayette’s Colorado Discharge Permit System (“CDPS”) permit.
3. At all times relevant to the alleged violations cited herein, Lafayette was a municipality as defined by §31-1-101(6), C.R.S.
4. Lafayette is a “person” as defined by §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
5. Lafayette owns and/or operates the City of Lafayette Wastewater Treatment Facility¹, located at approximately 40.0022, -105.0585, near the City of Lafayette, Boulder County, Colorado (“Facility”).

¹ Although not reflected in the current version of the Permit, the Facility is currently known as the Lafayette Water Reclamation Facility.

6. The Facility consists of grit removal, screening, complete mix activated sludge, activated bio-filter, activated sludge with single-sludge biological nutrient removal, clarification, ultraviolet (“UV”) disinfection, and anaerobic sludge digestion for wastewater treatment. The hydraulic capacity of the Facility is 4.4 million gallons per day (“MGD”) and the organic capacity is 9,600 pounds (“lbs.”) of biochemical oxygen demand (“BOD”) per day, as specified in Site Approval 4547.
7. The Facility is the subject of the Colorado Discharge Permit System, Permit Number CO0023124 (“Permit”). The current version of the Permit became effective on October 1, 2011 and is currently administratively continued.
8. The Permit authorizes Lafayette to discharge treated wastewater from the Facility through Outfall 001B into Coal Creek. Outfall 001B is physically located at approximately 40.0028, -105.1021 and is the only outfall permitted to Lafayette.
9. Pursuant to 5 CCR 1002-61, §61.8, Lafayette must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may make Lafayette subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.

Failure to Properly Operate and Maintain the Facility

10. Pursuant to 5 CCR 1002-61, §61.8(3)(g), Part I.B.4. of the Permit, and Part II.A.9. of the Permit, Lafayette shall at all times properly operate and maintain all facilities and systems of treatment and control to achieve compliance with the conditions of the Permit. Lafayette shall operate, at a minimum, one complete set of each main line unit treatment process, whether or not this process is needed, to achieve Permit effluent compliance. The phrase “one complete set of each main line unit treatment process” includes screening and grit removal, primary clarification, aeration basin, secondary clarifier, and UV disinfection.
11. On January 4, 2025, Lafayette orally notified the Division that the programmable logic controller (“PLC”) for the Facility’s UV disinfection system malfunctioned between 11:00am and 4:30pm on January 4, 2025, resulting in a discharge of approximately 308,333 gallons of partially treated, non-disinfected effluent to Coal Creek (“Incident 2025-010”).
12. On January 8, 2025, Lafayette submitted its written five-day report of Incident 2025-010 to the Division. In the report, Lafayette identified that the PLC faulted and lost its memory, which resulted in no automatic call-out for assistance.
13. As demonstrated in Paragraphs 11 and 12, Lafayette failed to properly operate and maintain the Facility, resulting in an effluent discharge of approximately 308,333 gallons of partially treated, non-disinfected wastewater into Coal Creek.
14. Lafayette’s failure to properly operate and maintain the Facility constitutes violations of 5 CCR 1002-61, §61.8(3)(g), Part I.B.4. of the Permit, and Part II.A.9. of the Permit.
15. The Division acknowledges that Lafayette timely and satisfactorily completed corrective actions to address Incident 2025-010 and prevent recurrence.

ORDER AND AGREEMENT

16. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein, the Division orders Lafayette to comply with all provisions of this Consent Order, including all requirements set forth below.
17. Lafayette agrees to the terms and conditions of this Consent Order. Lafayette 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. Lafayette also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Lafayette 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.
18. Notwithstanding the above, Lafayette does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Lafayette pursuant to this Consent Order shall not constitute evidence of fault and liability by Lafayette with respect to the conditions of the Facility. Lafayette expressly reserves its rights to deny any of the Division's factual or legal determinations or defend itself in any other third party proceeding relating to the information identified in this Consent Order.

CIVIL PENALTY

19. Based upon the factors set forth in §25-8-608(1), C.R.S., and consistent with Departmental policies for violations of the Act, Lafayette shall pay \$8,312.00 in civil penalties. The Division intends to petition the Executive Director, or her designee, to impose the \$8,312.00 civil penalty for the above violation(s) and Lafayette agrees to make the payment within 30 calendar days of the issuance of an Order for Civil Penalty by the Executive Director or her designee. 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:

Jocelyn Brink
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

SCOPE AND EFFECT OF CONSENT ORDER

20. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the violations cited herein.
21. This Consent Order is subject to the Division's "Public Notification on Administrative Enforcement Actions Policy," which includes a 30-day public comment period. The Division and Lafayette each

reserve the right to withdraw consent to this Consent Order if comments received during the 30-day period result in any proposed modification to the Consent Order.

22. 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 this Consent Order by Lafayette, 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 \$65,544 per day for each violation.
23. Notwithstanding Paragraph 18 above, the violations described in this Consent Order will constitute part of Lafayette's compliance history.
24. Lafayette 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

25. 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. 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.
26. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
27. Lafayette reserves its rights and defenses regarding the Facility, other than proceedings to enforce this Consent Order.
28. 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.
29. Lafayette 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 Lafayette, or those acting for or on behalf of Lafayette, including its officers, employees, agents, successors, representatives, contractors, consultants, or attorneys 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.

NOTICES

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

For the Division:

Jocelyn Brink
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: 303-692-2840
E-mail: jocelyn.brink@state.co.us

For Lafayette:

Jeff Arthur, Public Works Director
City of Lafayette
1290 S Public Road
Lafayette, CO 80026
Telephone: 303-661-1282
E-mail: jeff.arthur@lafayetteco.gov

MODIFICATIONS

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

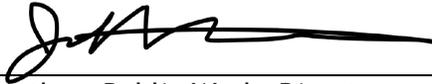
NOTICE OF EFFECTIVE DATE

32. 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 21.

BINDING EFFECT AND AUTHORIZATION TO SIGN

33. This Consent Order is binding upon Lafayette 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. In the event that a party does not sign this Consent Order within 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. The Parties agree that this Consent Order may be electronically signed. The Parties agree that the electronic signatures appearing on this Consent Order are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

FOR THE CITY OF LAFAYETTE:



Jeff Arthur, Public Works Director

Date: April 22, 2025

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

Kelly Morgan
Clean Water Compliance & Enforcement Section Manager
WATER QUALITY CONTROL DIVISION

Date: _____