



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

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EPA
Comms.

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Orch. Mesa File

JAN 26 1994

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Ref: 8WM-MF

Daniel L. Law, PE
Executive Director
Colorado Water Resources and
Power Development Authority
Logan Tower Building--Suite 620
1580 Logan Street
Denver, Colorado 80203

JAN 28 1994

Colorado Water Resources
Power Development Authority

Re: Notice of Noncompliance

Dear Mr. Law:

For State Revolving Fund (SRF) assistance to Orchard Mesa/Valle Vista (Project No. CS080848-01-0) the Colorado Department of Health did not conduct an environmental assessment in accordance with the Operating Agreement for Activities and Functions in Managing the State Pollution Control Revolving Fund Program between the State of Colorado and the United States Environmental Protection Agency, Region VIII (Operating Agreement). The required procedure is described in Amendment No. 1 to Capitalization Grant Assistance ID CS080001-91-0, in which the Colorado Environmental Review Process was incorporated into the Operating Agreement as Attachment 7-P. The requirement for the environmental assessment is described in sections 602(b)(6) and 602(a) of The Clean Water Act as Amended by the Water Quality Act of 1987, Public Law 100-4 (CWA), Appendix D of the Initial Guidance for State Revolving Funds and 40 CFR 35.4140. The need for an assessment conforming to a 40 CFR 6 or an approved State Environmental Review Process is required for all publicly-owned treatment works as defined by Section 212 of the CWA and independent of Section 606(b)(6) "equivalency" requirements.

Therefore, the Colorado Water and Power Development Authority is out of compliance with the terms and conditions of the Capitalization Grants and the attendant Operating Agreement. Pursuant to Section 605 of the CWA the State is hereby notified of the conditions of noncompliance and given 60 (sixty) days to take the necessary corrective actions as described below:

1. Prior to assisting any construction for Orchard Mesa/Valle Vista, the Colorado Department of Health shall complete an environmental assessment in accordance with Attachment 7-P of the Operating Agreement. The activities which must be completed include, but are not necessarily limited to, development of an Environmental Information Document; solicitation of written comments from the US Fish

and Wildlife Service, State Historical Preservation Officer, US Department of Agriculture (Soil Conservation Service), and US Army Corps of Engineers; incorporation of the comments, if any, into the Section 201 Facility Plan; completion of all appropriate checklists for the project file; and compilation of all documents concerning the environmental review for this project into a single file available for EPA review.

2. The State shall fully describe and implement the management actions necessary to ensure future compliance with all terms and conditions of the SRF program relating to environmental assessments. These activities shall be easily discernible in the project records and subject to EPA oversight.

If the necessary corrective actions are not accomplished or an approved compliance schedule is not submitted within 60 days from date of this letter, EPA shall withhold all remaining payments from awards prior to and including FY93 and shall withhold any approval of future capitalization grant award applications.

If you have any questions concerning the conditions of noncompliance and to facilitate review and approval of the necessary corrective actions, please contact Mr. Richard R. Long of my staff at (303) 293-1545.

Sincerely,

Kerian Clough for
Jack W. McGraw
Acting Regional Administrator

cc: D. Schachterle (SRC)
M. Nicodemus (SPM-GAC)
F. MacFadden (SPM-CB)
M. Quigley (WH-547)
D. English (CO Dept of Health)