

February 1, 2018

Dear Marble Water Company Tap Holder:

This letter provides both an update on the 2017 monitoring well test results and on our failure to date to develop a response plan (Plan B) with the Town of Marble in the event that the wells ever test positive for contaminants.

Test Results for the Monitoring Wells

We conducted five tests on water drawn from the monitoring wells – January, July, August, September, and November 2017 – and each test has been negative for nitrates. Since the nitrate levels have remained relatively constant and well within acceptable ranges throughout 2017, the Board of Directors plans to test the monitoring wells twice a year beginning in 2018. We'll conduct the first test late in July or early in August and the second test early in November. If any future test shows an increase in nitrate levels, we will test more frequently as needed to protect our water supply.

Plan B Update

As we've reported in our previous communications to tap holders, the Marble Water Company Board grew alarmed in 2016 by what we considered to be a potential threat to our two source water wells posed by the growth in customers patronizing Slow Groovin' BBQ. We were concerned that the restaurant was consistently exceeding the design capacity of its septic system. The original septic system was designed for a 30-seat restaurant. Our wells are located within several hundred feet of the restaurant's leach field.

Because the Town of Marble, Gunnison County, and the Colorado Department of Public Health and Environment (CDPHE) were mostly unresponsive to our concerns during 2016, the MWC Board of Directors felt compelled to respond to this potential threat by installing three monitoring wells enabling us to test for contaminants before they reach the source wells and permanently contaminate the Town's water supply. Essentially, the monitoring wells serve as an early alert system in the event that the restaurant's septic system fails, allowing nitrates to escape the leach field.

At our request, the Town of Marble agreed to meet with us to develop a response stipulating what actions would be taken, when they would be taken, and by whom in the event that the monitoring wells ever test positive. We have been calling this response Plan B. It should be noted that the Marble Water Company has no power or authority to regulate. That responsibility belongs to the Town of Marble within the town limits and to Gunnison County outside the town limits or, under certain conditions, the CDPHE. Implementing Plan B will be the sole responsibility of the Town, unless the restaurant ever exceeds the daily water usage limit of 2,000 gallons, at which point the CDPHE will assume responsibility for regulating the restaurant's septic system.

On August 1, 2017, Mayor Will Handville and Town Clerk Ron Leach met with John Williams and Tom Williams to discuss the development of Plan B. The Town invited Ryan Vinciguerra from Slow Groovin' BBQ to attend the meeting. At the meeting, Ryan took the position that:

1. Slow Groovin' BBQ has never exceeded the design capacity of its septic system nor would it ever do so in the future.
2. The Marble Water Company should not have commissioned the 2016 Wright Water Engineers report to begin with.
3. The installation of the monitoring wells by the Marble Water Company was unnecessary and a waste of money.
4. If the monitoring wells ever did test positive, it would not be the fault of the restaurant and, without proof that the restaurant was the source of the contamination, no action could or should be taken against the restaurant.
5. If Plan B included any action to close the restaurant, the Town could expect a law suit.

Will introduced a crisis planning form used by the Fire Department for developing Plan B and we agreed to follow that format. This first meeting ended with no resolution of the issues raised by Ryan and with no progress toward the development of Plan B.

The second Plan B meeting occurred on September 30, 2017 and was attended by Will Handville, Ron Leach, and Tom Williams with John Williams on the telephone. It is important to remember nitrates occur naturally in the soil. Nitrate has a primary drinking water standard at a level of 10 milligrams per liter (mg/L). The typical nitrate concentrations in an OWTS (septic) can range from 40 to 60 mg/L or greater. The highest reading for nitrates from all five tests of our monitoring wells during 2017 was 1.05 mg/L. We proposed that if ever a test of the monitoring wells returned a reading for nitrates of 5 mg/L, the Town would immediately implement Plan B. The Town agreed.

The Marble Water Company further proposed that Plan B incorporate the following actions following a positive test for nitrates:

1. The Town of Marble would immediately conduct a second test of the wells at Town expense. The time required for the second test could require as much as two to four weeks to conduct the test and obtain the results. If the results of the second test confirmed an elevated nitrate reading of $5\pm$ mg/L, Plan B would be implemented.
2. The Town could allow Slow Groovin' BBQ to remain open through the remainder of the season, but upon closing on or about November 1, the restaurant would take one of the following actions to mitigate the nitrate problem prior to reopening the following May:
 - Install a new, professionally-designed septic system for a 100-seat restaurant.
 - Install over the existing septic system one of the two nitrogen reduction treatments certified by the Colorado Department of Public Health and Environment – either the ORENCO Advantex System or the Bio-Microbics

MicroFAST technology, both described in the Wright Water Engineers Report to the Marble Water Company dated August 12, 2016.

- Propose an alternative solution developed by another reputable water engineer that is also approved by Wright Water Engineers and the Town of Marble and/or the CDPHE.
3. The Marble Water Company would resume monthly tests of the monitoring wells until those tests were no longer deemed necessary.

The Town's dilemma was that our proposed Plan B components assume unequivocally that the restaurant is the source of the contamination if the nitrate readings rise. The Town remained concerned with the issues raised by Ryan Vinciguerra in the first Plan B meeting on August 1. We agreed to end the meeting with each of our organizations consulting our respective water engineers regarding our ability to determine with certainty the source of contamination if the wells ever test positive. The Town also wanted to consult with its attorney regarding any limits to its authority to force the restaurant to comply with Plan B requirements before allowing it to reopen in the spring. The Marble Water Company fulfilled its obligation the next week to contact Wright Water Engineers to discuss the question of responsibility for contamination if the monitoring wells ever test positive.

We've repeatedly attempted to schedule a third Plan B meeting with the Town with no success. Recent developments at the Town Council meeting on January 4, 2018 raised serious concerns about the Town's commitment to develop and enforce a responsible Plan B. Those developments prompted this update.

January 4, 2018 Town Council Meeting

It is our understanding that Will Handville resigned as mayor and that Ryan Vinciguerra announced his intention to run for mayor at the Town election on April 3. Apparently, Ron Leach as Town Clerk gave an update of the Plan B meetings to date. During the open discussion, Ryan objected to assigning blame for the possible contamination of the test wells solely to the restaurant and to the Marble Water Company's position that the Town should not allow the restaurant to reopen until it has taken one of the acceptable mitigation actions listed above. Ryan advocated for a more deliberate step-by-step response that might include a warning, followed by more tests, more discussion of mitigation ideas, and a go-slow approach. Apparently, Ron agreed that a shut-down was too radical and that a more deliberate Plan B approach was better. We believe that if ever our monitoring wells test positive for nitrates, the Town must take immediate action – and not waste time wondering who is to blame and discussing options.

For many reasons, we continue to doubt that the restaurant is in full compliance with the CDPHE letter from David Kurz, the Lead Wastewater Engineer, dated December 29, 2016. This letter listed the following six requirements that needed to be met by May 31, 2017 before Slow Groovin' opened for business for the season. The Town of Marble was responsible for ensuring the restaurant's compliance. To our knowledge, no documentation has been provided to the

CDPHE regarding this list, other than oral assurances from the town clerk that the restaurant has complied.

1. Slow Groovin shall develop and actively implement a business operating plan to limit the activities, customers, or other wastewater generating loads to less than or equal to 2,000 gallons in a day based on the average daily flow at maximum occupancy. Sewerage facilities must include a reliable, accurate flow meter prior to any treatment units, including equalization basin(s); the flow meter shall measure flow with +/- 10% of actual flow.
2. Data logger to be installed and shall continuously monitor influent flow to the OWTS (prior to equalization basin(s), if any).
3. Daily recording of actual use in units deemed appropriate to determine loading to the OWTS (e.g. number of persons present, number of meals served, or other appropriate units).
4. Quarterly reporting of matched daily population and flow data sent to Town of Marble for seasons when the businesses are open. Reporting information also sent to the Water Quality Control Division for at least the first year of operation after the flow meter is installed.
5. If the system exceeds an influent hydraulic load of 2,000 gallons in a day based on the average daily flow at maximum occupancy, the local permit terminates, the OWTS becomes subject to the Act, and Slow Groovin must construct a domestic wastewater treatment works following the applicable State of Colorado statutes, regulations, and policies including, but not limited to, site location approval, design approval, discharge permit, compliance monitoring, and reporting.
6. Wastewater derived from the restaurant and/or catering business must not be diverted to the small apartment OWTS that serves the one-bedroom apartment located above the restaurant, such as through sewer drain connections or use of the apartment restroom by employees or customers not residing in the apartment.

We know for certain that the data logger listed in item 2 above that is intended to continuously monitor influent flow to the OWTS is installed within one foot of the new water meter – and not on the sewer line. Both devices are measuring the inflow of water to the building. Number 2 above states clearly that the data logger should be installed on the outgoing sewer pipe to measure influent to the septic, not on the incoming water line measuring incoming water to the building. That is the purpose of the water meter. To comply with the CDPHE letter, the data logger should be relocated to the sewer line where it leaves the building.

We have not seen any of the reports required in the Kurz letter – a business operating plan to limit wastewater generating loads to 2,000 gallons in a day based on average daily flow at maximum occupancy, daily records showing actual use in units (e.g. number of persons present, number of meals served, etc.), and quarterly reports of matched daily population and flow data sent to both the Town of Marble and the Quality Control Division for at least the first year.

We have good reason to believe that the restaurant is using its private well and private septic to operate the restaurant and catering business in violation of item 6 in the Kurz letter. We learned

that the restaurant had to pump the private septic during business hours last summer and the effluent was full of restaurant debris. Ryan has refused the Marble Water Company's request to install a meter on his private well.

Until it is proven otherwise, we believe it is entirely possible that the restaurant is managing its "metered" water use in order to remain below the 2,000 gallon daily limit required by the CDPHE by using its unmetered water source to supplement business operations. We believe only an independent, certified, licensed inspector should be used to determine definitively if the restaurant is using both its metered and unmetered water sources to operate the business.

We hope the monitoring wells never test positive, but if they do, the Town of Marble is solely responsible for taking the steps necessary to protect the Town's water wells. As you can see, these recent developments do not bode well for the development of an effective Plan B. We will provide updates if and when new information becomes available. Thank you.

Sincerely,

Tom Williams-President
John Williams-Executive Director

