



**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
WATER QUALITY CONTROL DIVISION**

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**COMPLIANCE ORDER ON CONSENT**

**NUMBER: SC-080304-1**

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**IN THE MATTER OF:    LARAMIE ENERGY, LLC  
                          CDPS PERMIT NO. COR-030000  
                          CERTIFICATION NO. COR-038867  
                          GARFIELD COUNTY, COLORADO**

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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 §25-8-605, C.R.S. of the Colorado Water Quality Control Act (“the Act”) §§ 25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Laramie Energy, LLC (“Laramie”). The Division and Laramie 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 to resolve, without litigation, the civil and administrative penalties and Cease and Desist Order requirements associated with the alleged violations identified in the Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070323-1) that the Division issued to Laramie on March 23, 2007.

**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 Laramie and Laramie’s compliance with the Act and its stormwater permit for construction activity.
3. At all times relevant to the alleged violations identified herein, Laramie was a Delaware limited liability company in good standing and registered to conduct business in the State of Colorado.
4. Laramie 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. Laramie was involved in construction activities to build access roads, well pads, and other facilities on property located within a twenty three thousand (23,000) acre area of Garfield County, Colorado, for the drilling and recovery of oil and/or natural gas resources (the "Project").
6. On September 6, 2005, the Division received an application from Laramie for Project coverage under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit").
7. On September 6, 2005, the Division provided Laramie Certification Number COR-038867 authorizing Laramie to discharge stormwater from the construction activities associated with the Project to Garfield Creek under the terms and conditions of the Permit. Certification Number COR-038867 became effective September 6, 2005.
8. Garfield Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (101).
9. Pursuant to 5 CCR 1002-61, §61.8, a permittee must comply with all the terms and conditions of a permit and violators of the terms and conditions specified in a permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.
10. On May 2, 2006, a representative from Kleinfelder, Inc. (the "Inspector") conducted an on-site inspection of the Project on behalf of the Division, pursuant to the Division's authority under §25-8-306, C.R.S., to determine Laramie's compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Project representatives, conducted a review of the Project's stormwater management system records, and performed a physical inspection of a portion of the Project.
11. Pursuant to Part I. B. of the Permit, Laramie was required to prepare a Stormwater Management Plan ("SWMP") that identifies Best Management Practices ("BMPs") that, when implemented, will meet the terms and conditions of the Permit. The SWMP was required to identify potential sources of pollution, which may have been reasonably expected to affect the quality of stormwater discharges associated with construction activity from the Project. In addition, the plan was required to describe and ensure the implementation of BMPs, which would be used to reduce the pollutants in stormwater discharges associated with construction activity.
12. The Division determined that Laramie failed to prepare and maintain a complete and accurate SWMP for the Project as described in paragraphs 12(a-c) below:
  - a. During the May 2, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the SWMP did not clearly describe the relationship between the phases of construction and the implementation of controls and measures.
  - b. During the May 2, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the SWMP did not include procedures for spill clean up. The SWMP referred to the "SPCC" for a description of the procedures, however, the "SPCC" was not available.

- c. During the May 2, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the site map did not include the BMPs that were observed on the site.
13. Laramie's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violation(s) of Part I. B. of the Permit.
  14. Pursuant to Part I. B. 3. a. (1) of the Permit, Laramie was required to minimize erosion and sediment transport from the Project. The Permit specifies that structural site management practices may include, but are not limited to: straw bales, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.
  15. Pursuant to Part I. B. 3. a. (2) of the Permit, Laramie was required to implement interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. The Permit specifies that site plans should ensure existing vegetation is preserved where possible and that disturbed areas are stabilized. The Permit specifies that non-structural practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees and preservation of mature vegetation.
  16. The Division determined that Laramie failed to implement and/or maintain functional BMPs at the Project as described in paragraphs 16(a-d) below:
    - a. During the May 2, 2006 inspection, the Inspector observed a discharge of sediment from the culvert outlet located on the north side of the access road between the Trisch/Lashley 32-4 and Baldy Creek Federal 31-3 pads at the Project. Hay bales were in place at the culvert outlet, however, the hay bales had not been installed until after the discharge of sediment occurred. No BMPs were being utilized to clean up the discharged sediment or to prevent sediment located down gradient of the hay bales from entering a nearby, actively flowing irrigation ditch.
    - b. During the May 2, 2006 inspection, the Inspector observed a discharge of sediment from the disturbed area located on the west side of the Schmueser pad at the Project. A silt fence was in place at the perimeter of the pad, however, the silt fence had not been installed until after the discharge of sediment occurred. No BMPs were being utilized to clean up the discharged sediment or to prevent sediment located down gradient of the silt fence from entering a nearby livestock watering pond.
    - c. During the May 2, 2006 inspection, the Inspector observed a discharge of sediment from the outlet of the sediment pond located on the west side of the Schmueser pad. No BMPs were being utilized to clean up the discharged sediment or to prevent sediment located down gradient of the sediment pond from entering a nearby livestock watering pond.
    - d. During the May 2, 2006 inspection, the Inspector observed a discharge of sediment from the roadside drainage ditch at the bottom of the access road to the Schmueser 5-9 pad at the Project. Straw wattles were in place at the end of the drainage ditch, however, the wattles had either not been installed until after the discharge occurred, or were not acting as functional BMPs, as the area of sediment discharge extended approximately fifteen feet beyond the end of the drainage ditch.

17. Laramie's failure to implement and maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations of Part I. B. 3. a. of the Permit.
18. Pursuant to Part I. C. 5. a. of the Permit, for active sites where construction has not been completed, Laramie was required to make a thorough inspection of the Project's stormwater management system at least every 14 days and after any precipitation or snowmelt event that causes surface erosion.
19. During the May 2, 2006 inspection, the Inspector requested to review the Project's inspection records and identified that Laramie failed to conduct inspections of the Project's stormwater management system.
20. The Division determined that Laramie failed to conduct inspections of the Project's stormwater management system from September 6, 2005 until April 20, 2006.
21. Laramie's failure to conduct inspections of the Project's stormwater management system constitutes violations of Part I. C. 5. a. of the Permit.

### **ORDER AND AGREEMENT**

22. 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 and administrative penalties and Cease and Desist Order requirements associated with the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070323-1), the Division orders Laramie to comply with all provisions of this Consent Order, including all requirements set forth below.
23. Laramie agrees to the terms and conditions of this Consent Order. Laramie 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. Laramie also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Laramie 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.
24. Notwithstanding the above, Laramie does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Laramie pursuant to this Consent Order shall not constitute evidence of fault or liability by Laramie with respect to the conditions of the Project. Specifically, Laramie does not admit that it caused or threatened to cause contamination or degradation of waters of the State, and asserts that all alleged violations were appropriately and promptly addressed.

### **CIVIL PENALTY**

25. Based upon the application of the Division's Stormwater Civil Penalty Policy (January 25, 2007), and consistent with Departmental policies for violations of the Act, Laramie shall pay Fifty Thousand Dollars (\$50,000.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Fifty Thousand Dollar (\$50,000.00) civil penalty for the above violation(s) and Laramie agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his 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:

Michael Harris  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CADM-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

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

26. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement and release of the civil and administrative penalties and Cease and Desist Order requirements associated with the violations alleged herein and in the March 23, 2007 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070323-1). The Division agrees that Laramie has satisfied all of the requirements of the Cease and Desist Order.
27. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy", which includes a thirty-day public comment period. The Division and Laramie 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.
28. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty. Any violation of the provisions of this Consent Order by Laramie, 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.
29. Notwithstanding paragraph 24 above, the violations described in this Consent Order will constitute part of Laramie's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Laramie. Laramie agrees not to challenge the use of the cited violations for any such purpose.

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

30. 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 and administrative penalties or Cease and Desist Order requirements for the specific instances of violations cited herein and in the March 23, 2007 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070323-1). 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.
31. This Consent Order does not grant any release of liability for any violations not specifically cited herein or in the March 23, 2007 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-070323-1).
32. 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.
33. Upon the effective date of this Consent Order, Laramie 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 arising from, or relating to, the violations of the Act specifically addressed herein.

## **NOTICES**

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

For the Division:

Colorado Department of Public Health and Environment  
Water Quality Control Division / WQCD-CADM-B2  
Attention: Michael Harris  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: 303.692.3598  
E-mail: michael.harris@state.co.us

For Laramie Energy, LLC:

Laramie Energy, LLC  
Attention: Bruce Payne, Executive Vice President and Chief Financial Officer  
1512 Larimer Street, Suite 1000  
Denver, CO 80202  
Telephone: 303.339.4403  
E-mail: bpayne@laramie-energy.com

**MODIFICATIONS**

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

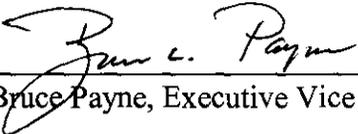
**NOTICE OF EFFECTIVE DATE**

36. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

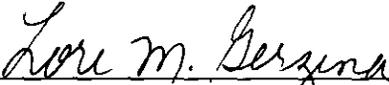
**BINDING EFFECT AND AUTHORIZATION TO SIGN**

37. This Consent Order is binding upon Laramie and its corporate subsidiaries or parents, their officers, directors, employees, 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 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 LARAMIE ENERGY, LLC:**

 Date: February 22, 2008  
Bruce Payne, Executive Vice President and Chief Financial Officer

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

 Date: March 4, 2008  
Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION