

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

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

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Denver, Colorado 80246-1530      8100 Lowry Blvd.  
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<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

July 20, 2009

Robert L. Beisenherz, Registered Agent  
The Bridges at Black Canyon, Inc.  
349 Adams Street  
Denver, CO 80206

Certified Mail Number: 7005 1820 0000 3208 0862

**RE: Order for Civil Penalty, Number: SP-090720-2**

Dear Mr. Beisenherz:

The Bridges at Black Canyon, Inc. is hereby served with the enclosed Order for Civil Penalty ("Penalty Order"). This Penalty Order is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §25-8-608(2) of the *Colorado Revised Statutes*. Payment of the imposed civil penalty should be made in accordance with the methods referenced in the Penalty Order.

If you have any questions regarding the Penalty Order or the payment method, please do not hesitate to contact me at (303) 692-3598 or by electronic mail at [michael.harris@state.co.us](mailto:michael.harris@state.co.us).

Sincerely,

Michael Harris  
Enforcement Unit  
WATER QUALITY CONTROL DIVISION

cc: Montrose County Environmental Health

cc: Aaron Urdiales, EPA Region VIII  
Jocelyn Mullen, Engineering Section, CDPHE  
Gary Beers, Permits Section, CDPHE  
Nathan Moore, Permits Section, CDPHE  
Dick Parachini, Watershed Program, CDPHE  
Carolyn Schachterle, OPA, CDPHE

Enclosure(s)



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

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**ORDER FOR CIVIL PENALTY**

**NUMBER: SP-090720-2**

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**IN THE MATTER OF:     THE BRIDGES AT BLACK CANYON, INC.**  
**CDPS PERMIT NO. COR-030000**  
**CERTIFICATION NO. COR-034978**  
**MONTROSE COUNTY, COLORADO**

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Pursuant to the authority vested in the Colorado Department of Public Health & Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division (the "Division"), the Division hereby makes the following findings and issues the following Order for Civil Penalty in accordance with §25-8-608, C.R.S. and 5 CCR 1002-21, §21.12. The Department's Executive Director has delegated the authority to determine civil penalties in this matter to the Director of the Water Quality Control Division.

**GENERAL FINDINGS**

1. Pursuant to §25-8-608(1), C.R.S., any person who violates the Colorado Water Quality Control Act (the "Act"), or any permit issued under the Act, shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs.
2. On December 27, 2006, the Division issued The Bridges at Black Canyon, Inc. ("BBC") a Notice of Violation/Cease and Desist Order (the "NOV/CDO") which included findings that BBC violated the Colorado Discharge Permit System General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity. A copy of the NOV/CDO is attached hereto as Exhibit A and is incorporated herein by reference.

**ORDER FOR CIVIL PENALTY**

3. Based upon the facts described in the NOV/CDO, the Division has determined that a civil penalty is appropriate and warranted in this matter. Therefore, the Division hereby imposes a civil penalty in the amount of One Hundred Sixty Four Thousand Nine Hundred Fifty One Dollars (\$164,951.00) against BBC for the violations cited in the NOV/CDO. The civil penalty was determined in accordance with the procedures outlined in the Division's Stormwater Civil Penalty Policy (January 25, 2007). A copy of the civil penalty calculation is attached hereto as Exhibit B and is incorporated herein by reference. The civil

penalty shall be paid within thirty (30) calendar days of the date of this Order for Civil Penalty. 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

**REQUEST FOR APPEAL**

4. You may appeal this Order for Civil Penalty pursuant to 5 CCR 1002, §21.12.

Issued at Denver, Colorado, this 20<sup>th</sup> day of July 2009.



Steven H. Gunderson, Director  
Water Quality Control Division  
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

EXHIBIT A



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

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NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-061227-2

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**IN THE MATTER OF: THE BRIDGES AT BLACK CANYON, INC.  
CDPS PERMIT NO. COR-030000  
CERTIFICATION NO. COR-034978  
MONTROSE COUNTY, COLORADO**

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority has been delegated to the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. At all times relevant to the alleged violations identified herein, The Bridges at Black Canyon, Inc. ("BBC") was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.
2. BBC 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).
3. BBC is performing construction activities to build a golf course and residential development on property located at or near Pavilion Drive and Melody Rose Lane, in or near the Town of Montrose, Montrose County, Colorado (the "Project").
4. The Project is covered under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit"). The Division issued the Project Certification Number COR-034978, which authorizes BBC to discharge stormwater from the construction activities associated with the Project to Montrose Arroyo and Cedar Creek under the terms and conditions of the Permit. Certification Number COR-034978 became effective March 11, 2003 and remains in effect until June 30, 2007 or until BBC inactivates Permit coverage.
5. Montrose Arroyo and Cedar Creek are "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (101).

## EXHIBIT A

6. 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.
7. On March 28, 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 BBC'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 the Project.

### **Deficient and/or Incomplete Stormwater Management Plan**

8. Pursuant to Part I. B. of the Permit, BBC is 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 is required to identify potential sources of pollution, which may be reasonably expected to affect the quality of stormwater discharges associated with construction activity from the Project. In addition, the plan is required to describe and ensure the implementation of BMPs, which will be used to reduce the pollutants in stormwater discharges associated with construction activity.
9. Pursuant to Part I. B. of the Permit, the Project's SWMP shall include, at a minimum, the following items:
  - a. Site Description - Each plan shall provide a description of the following:
    - i. A description of the construction activity.
    - ii. The proposed sequence for major activities.
    - iii. Estimates of the total area of the site, and the area of the site that is expected to undergo clearing, excavation or grading.
    - iv. An estimate of the runoff coefficient of the site before and after construction activities are completed and any existing data describing the soil, soil erosion potential or the quality of any discharge from the site.
    - v. A description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.
    - vi. The location and description of any other potential pollution sources, such as vehicle fueling, storage of fertilizers or chemicals, etc.
    - vii. The location and description of any anticipated non-stormwater components of the discharge, such as springs and landscape irrigation return flow.
    - viii. The name of the receiving water(s) and the size, type and location of any outfall or, if the discharge is to a municipal separate storm sewer, the name of that system, the location of the storm sewer discharge, and the ultimate receiving water(s).
  - b. Site Map - Each plan shall provide a generalized site map or maps which indicate:
    - i. Construction site boundaries.
    - ii. All areas of soil disturbance.
    - iii. Areas of cut and fill.

## EXHIBIT A

- iv. Areas used for storage of building materials, soils or wastes.
  - v. Location of any dedicated asphalt or concrete batch plants.
  - vi. Location of major erosion control facilities or structures.
  - vii. Springs, streams, wetlands and other surface waters.
  - viii. Boundaries of 100-year flood plains, if determined.
- c. BMPs for Stormwater Pollution Prevention - The plan shall include a narrative description of appropriate controls and measures that will be implemented before and during construction activities at the facility.
- i. Erosion and Sediment Controls - A description of structural site management controls (Structural Practices) which will minimize erosion and sediment transport and a description of interim and permanent stabilization practices (Non-Structural Practices), including the site-specific scheduling of the implementation of the practices.
  - ii. Material Handling and Spill Prevention - The SWMP shall identify any procedures or significant materials handled at the site that could contribute pollutants to runoff.
- d. Final Stabilization and Long-Term Stormwater Management - Description of the measures used to achieve final stabilization and measures to control pollutants in stormwater discharges that will occur after construction operations have been completed.
- e. Other Controls - Description of other measures to control pollutants in stormwater discharges, including plans for waste disposal and limiting off-site soil tracking.
- f. Inspection and Maintenance - Description of procedures to inspect and maintain in good and effective operating condition the vegetation, erosion and sediment control measures and other protective measures identified in the SWMP.
10. The Division has determined that BBC failed to prepare and maintain complete and accurate SWMP for the Project as described in paragraphs 10(a-h) below:
- a. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the SWMP did not contain a description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.
  - b. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the SWMP did not identify the locations of all potential pollutant sources at the Project, including areas used for storage of fuel, fertilizer, pesticides, and chemicals.
  - c. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the SWMP did identify the location and description of all non-stormwater components of the discharge from the Project, including landscape irrigation return flow.
  - d. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the map provided by BBC was a flyer for the golf course and residential development. Therefore, the Division has determined that the SWMP did not contain a site map.

## EXHIBIT A

- e. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the SWMP did not include a description of the erosion and sediment controls that were implemented onsite.
  - f. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the SWMP did not include a description of the detention ponds that were being utilized at the Project.
  - g. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the SWMP did not include a section on final stabilization and long-term stormwater management.
  - h. During the March 28, 2006 inspection, the Inspector reviewed the Project's SWMP and noted that the SWMP did not include a description of measures for waste disposal and limiting offsite tracking of sediment.
11. BBC's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violation(s) of Part I. B. of the Permit.

### **Failure to Implement and/or Maintain Best Management Practices to Protect Stormwater Runoff**

12. Pursuant to Part I. B. 3. a. (1) of the Permit, BBC is 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.
13. Pursuant to Part I. B. 3. a. (2) of the Permit, BBC is 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.
14. The Division has determined that BBC failed to implement and/or maintain functional BMPs at the Project as described in paragraphs 14(a-f) below:
- a. During the March 28, 2006 inspection, the Inspector observed a disturbed area located adjacent to Montrose Arroyo along the southeast portion of the Project. A silt fence was observed in place but was falling over and, thus, was not acting as a functional BMP to control sediment. No other BMPs were observed in place to stabilize the disturbed soils or prevent sediment from discharging toward Montrose Arroyo.

## EXHIBIT A

- b. During the March 28, 2006 inspection, the Inspector observed a disturbed area located southwest of Lot 910 at the Project. No BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging to Montrose Arroyo during a storm event.
  - c. During the March 28, 2006 inspection, the Inspector observed a disturbed area located near the East Oak Grove Road culvert at the Project. No BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging to Montrose Arroyo during a storm event.
  - d. During the March 28, 2006 inspection, the Inspector observed disturbed slopes adjacent to Montrose Arroyo, located southwest of East Oak Grove Road at the Project. No BMPs were observed in place to stabilize the disturbed slopes or to prevent sediment from discharging to Montrose Arroyo during a storm event.
  - e. During the March 28, 2006 inspection, the Inspector observed a storm drain inlet located near Lots 1214 and 1216 at the Project. No BMPs were observed in place to prevent sediment from discharging to the storm drain inlet during a storm event.
  - f. During the March 28, 2006 inspection, the Inspector observed disturbed soils located near the truck wash and maintenance facility at the Project. No BMPs were observed in place to stabilize the disturbed soils or prevent sediment from discharging away from the area during a storm event.
15. BBC'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.

### **Failure to Conduct Inspections of Stormwater Management System**

16. Pursuant to Part I. C. 5. a. of the Permit, for active sites where construction has not been completed, BBC is 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.
17. During the March 28, 2006 inspection, the Inspector requested to review the Project's stormwater management system inspection records. However, no inspection records were available for review and BBC's site representative was unaware of the Permit's inspection requirements.
18. BBC's failure to conduct inspections of the Project's stormwater management system constitutes violations of Part I. C. 5. a. of the Permit.

### **NOTICE OF VIOLATION**

Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined BBC has violated the following sections of the Permit.

**Part I. B. of the Permit**, which states in part, "The SWMP shall be prepared in accordance with good engineering, hydrologic and pollution control practices. The main objective of the plan shall be to identify Best Management Practices (BMPs) which when implemented will meet the terms and conditions of this

## EXHIBIT A

permit. The plan shall identify potential sources of pollution (including sediment) which may be reasonably expected to affect the quality of stormwater discharges associated with construction activity from the facility. In addition, the plan shall describe and ensure the implementation of BMPs which will be used to reduce the pollutants in stormwater discharges associated with construction activity. Construction operations must implement the provisions of the SWMP required under this part as a condition of this permit.”

**Part I. B. 3. a. of the Permit**, which outlines in part, that BMPs for Stormwater Pollution Prevention shall address erosion and sediment controls, including, “structural site management practices which will minimize erosion and sediment transport,” and “interim and permanent stabilization practices, including site specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where possible and that disturbed areas are stabilized.”

**Part I. C. 5. a. of the Permit**, which states in part, “For active sites where construction has not been completed, the permittee shall make a thorough inspection of their stormwater management system at least every 14 days and after any precipitation or snowmelt event that causes surface erosion.”

### **CEASE AND DESIST ORDER**

Based upon the foregoing factual and legal determinations and pursuant to §25-8-605, C.R.S., BBC is hereby ordered to:

19. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-703, C.R.S., permit regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders BBC to comply with the following specific terms and conditions of this Order:

20. BBC shall immediately implement measures to ensure that adequate BMPs are in place to control stormwater discharges from the Project. BBC shall ensure that all BMPs meet the design requirements specified in the Project’s most up-to-date SWMP. Within thirty (30) calendar days of receipt of this Order, BBC shall submit photographs to the Division documenting the current conditions at the Project and the associated BMPs implemented at the site. Additionally, BBC shall submit a written certification to the Division stating that a complete, accurate and up-to-date SWMP, including all BMPs necessary to protect stormwater quality during construction activities, is fully implemented at the Project.
21. BBC shall immediately begin conducting inspections of the Project’s stormwater management system in accordance with the provisions outlined in Part I. C. 5. of the Permit. Within thirty (30) calendar days of receipt of this Order, BBC shall submit a written certification to the Division stating that all such inspections are being conducted, pursuant to the terms and conditions of the Permit.
22. Within thirty (30) calendar days of receipt of this Order, BBC shall submit a detailed written statement to the Division outlining the standard procedures BBC will undertake to ensure that adequate stormwater management systems are fully implemented at its Colorado construction sites.

## EXHIBIT A

### **NOTICES AND SUBMITTALS**

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, BBC shall submit an original and one copy to the Division at the following address:

Colorado Department of Public Health and Environment  
Water Quality Control Division / WQCD-B2  
Compliance Assurance and Data Management Section  
Attention: Michael Harris  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

### **OBLIGATION TO ANSWER AND REQUEST FOR HEARING**

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11(A) you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding.

Both the answer and the request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

## EXHIBIT A

### **FALSIFICATION AND TAMPERING**

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

### **POTENTIAL CIVIL AND CRIMINAL PENALTIES**

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 703, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

### **RELEASE OR DISCHARGE NOTIFICATION**

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

### **EFFECT OF ORDER**

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

EXHIBIT A

Issued at Denver, Colorado, this 27<sup>th</sup> day of December 2006.

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

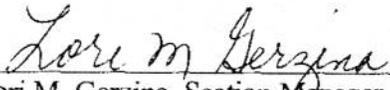
  
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Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION



Exhibit B

**STORMWATER PENALTY COMPUTATION WORKSHEET**

<b>System Name:</b> Bridges at Black Canyon, Inc.	<b>Permit Number:</b> COR-034978
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<b>Beneficial Use Classification:</b> Uncompahgre River Segment 12 – <i>Aq Life Warm 2</i> , Recreation 2, Agriculture	<b>Date of NOV/CDO:</b> 12/27/06 <b>Number:</b> SO-061227-2
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<b>Type of Facility:</b> Construction	<b>Size of Operation or Activity:</b> 316 Acres
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**Part I – Base Penalty Calculation**

**A. Potential Damage Component**

	<b>Violation Type</b>	<b>Adjustment</b>	<b>Amount in Dollars</b>
Line 1	<b>Conducting Covered Activity Without A Stormwater Permit</b>		\$0.00
	<i>Adjustment Justification:</i>		
Line 2	<b>Failure to Prepare Stormwater Management Plan (SWMP)</b>		\$0.00
	<i>Adjustment Justification:</i>		
Line 3	<b>Deficient Stormwater Management Plan (SWMP)</b>	Moderate = +25% of \$500	\$625.00
	<i>Adjustment Justification:</i> The Division reviewed the SWMP and identified deficiencies in the development of the plan, including failures to identify potential pollution sources and describe BMPs for those sources. The Division believes the SWMP deficiencies directly contributed to the BMP and inspection deficiencies. State waters are located on and pass directly through the project. The main pollutant on the site (sediment), as determined by EPA in their 2000 National Water Quality Inventory Report, is one of the leading causes of water quality impairment. Additionally, the number of counts of violation was relatively many. However, the Division conservatively assigns a moderate potential harm to health/environment.		
Line 4	<b>Failure to Install, Maintain or Properly Select Best Management Practices</b>	Moderate = +25% of \$3000	\$3750.00
	<i>Adjustment Justification:</i> The Division conducted an inspection of the site and noted deficiencies in the implementation and maintenance of BMPs at the Project, including a systematic lack of stabilization practices and failures to implement and maintain structural controls to prevent sediment discharges to Montrose Arroyo, which passed directly through the project. The main pollutant on the site (sediment), as determined by EPA in their 2000 National Water Quality Inventory Report, is one of the leading causes of water quality impairment. However, the Division conservatively assigns a moderate potential harm to health/environment.		
Line 5	<b>Failure to Perform Inspections of Stormwater Management System</b>		\$0.00
	<i>Adjustment Justification:</i>		

Exhibit B

	Violation Type	Adjustment	Amount in Dollars
Line 6	<b>Failure to Submit Required/Requested Reports (Annual Reports, Permit Compliance Schedule Items, ...Etc.)</b>		\$0.00
	<i>Adjustment Justification:</i>		
Line 7	<b>Failure to Maintain Required Records</b>	Moderate = +25% of \$3000	\$3750.00
	<i>Adjustment Justification:</i> The inspector determined that BBC failed to conduct inspections of the project's stormwater management system. In response to the NOV/CDO, BBC maintained that it was conducting inspections every 14 days and after storm events, however had failed to keep detailed reports on those inspections. Therefore, the Division has conservatively chosen to only calculate a penalty for a failure to maintain required records. State waters are located on and pass directly through the project. The main pollutant on the site (sediment), as determined by EPA in their 2000 National Water Quality Inventory Report, is one of the leading causes of water quality impairment. However, the Division conservatively assigns a moderate potential harm to health/environment.		
Line 8	<b>Pollution, Contamination or Degradation of State Waters</b>		\$0.00
	<i>Adjustment Justification:</i>		
Line 9	<b>Other Administrative Violations</b>		\$0.00
	<i>Adjustment Justification:</i>		
<b>Line 10</b>	<b>Potential Damage Total (Sum of Lines 1 through 9)</b>	<i>(Not to exceed \$6000/day)</i>	(\$8,125.00) <b>\$6,000.00</b>

**B. Fault Component**

		Amount in Dollars
Line 11	<b>Fault: Category 2</b>	<i>(Not to exceed \$3000/day)</i>
	<i>Justification:</i> BBC accepted coverage under the stormwater permit and, thus, should have been aware its obligations under the permit and of the circumstances that led to the violations. Therefore, the Division has assigned a category-2 fault. The Division has chosen the midpoint of the category two range, as the Division has no additional information to support adjustments from this value.	
		<b>\$1,800.00</b>

**C. History Component**

		Amount in Dollars
Line 12	<b>History: None</b>	<i>(Not to exceed \$1000/day)</i>
	<i>Justification:</i> BBC has no prior violation history with the Division.	
		<b>\$0.00</b>

Exhibit B

**Part II – Determination of Days of Violation**

		Days of Violation
<b>Line 13</b>	<b>Total Days of Violation</b>	<b>365</b>
<p><i>Justification:</i></p> <p><b>Deficient Stormwater Management Plan:</b> BBC's permit became effective on March 11, 2003. The Division reviewed the project's SWMP on March 28, 2006 and identified that BBC's SWMP did not contain many of the core elements required by the permit. The Division has determined the SWMP was deficient from March 11, 2003 until at least March 28, 2006. Therefore, 1,113-Days of violation occurred. However, the Division has conservatively chosen to limit the days of violation to one year from the date of the Division's inspection. Therefore, the Division is conservatively utilizing 365 days of violation.</p> <p><b>Failure to Install, Maintain or Properly Select Best Management Practices:</b> The Division conducted an inspection of the project on March 28, 2006 and identified several BMP deficiencies. The Division believes the BMP deficiencies had persisted for quite some time, likely the life of the project. However, the Division has chosen to conservatively utilize 1 day of violation.</p> <p><b>Failure to Maintain Required Records:</b> The Division identified that, at the very least, BBC failed to maintain a record of site inspections. Violations in this category are generally not subject to multi-day calculations. Therefore, 1-Day of violation occurred. <i>(Penalties for this violation were recorded on Attachment A on day 182 for bookkeeping purposes.)</i></p> <p><i>{Note: The BMP violations and records violations coincided with the SWMP violations. Therefore, 365-Days of violation will be utilized for this penalty calculation.}</i></p>		

**Part III – Determination of Multi-Day Penalty Amount**

		Amount in Dollars
Line 14	Multi-Day Penalty Amount	\$187,585.00
<p><i>Calculations:</i></p> <p><b>See Attachment A</b></p>		

**Part IV – Base Penalty Total**

		Amount in Dollars
<b>Line 15</b>	<b>Base Penalty = Potential Damage + Fault + History (Sum of Line 11 + Line 12 + Line 10 or Line14)</b>	<b>\$187,585.00</b>

Exhibit B

**Part V – Application of Aggravating or Mitigating Factors**

	<b>Aggravating / Mitigating Factors</b>	<b>% Base Penalty Increase or Decrease</b>	<b>Amount in Dollars</b>
Line 16	Factor A: Voluntary and Complete Disclosure of Violations	0%	\$0.00
	<i>Justification:</i> The Division identified the violations through a regulatory inspection. BBC did not disclose the violations. Therefore, no penalty mitigation was applied.		
Line 17	Factor B: Full and Prompt Cooperation	-25%	-\$46,896.00
	<i>Justification:</i> BBC responded to the Division’s NOV/CDO in an acceptable amount of time and demonstrated a substantial commitment of time and resources to achieving compliance with the permit. Therefore, the Division has reduced the base penalty by 25% for BBC’s full and prompt cooperation.		
Line 18	Factor C: Environmental Compliance Program	0%	\$0.00
	<i>Justification:</i> BBC did not implement a regularized and comprehensive environmental compliance/audit program. Therefore, no penalty mitigation was applied.		
Line 19	Factor D: Other Aggravating or Mitigating Circumstances	0%	\$0.00
	<i>Justification:</i> None identified.		
Line 20	Sum of Lines 16 through Line 19	-25%	-\$46,896.00
Line 21	<b>Adjusted Base Penalty (Sum of Line 15 + Line 20)</b>		<b>\$140,689.00</b>

**Part VI– Economic Benefit Consideration**

		<b>Amount in Dollars</b>
Line 22	<b>Economic Benefit</b>	<b>\$24,262.00</b>
	<i>Justification:</i>	
	<p><b>Deficient Stormwater Management Plan:</b> BBC delayed the cost of evaluating and revising its SWMP, to ensure it was complete and accurate, over a period of 1,113 days. The Division estimates the cost of periodically evaluating and updating a SWMP, including consulting and reprinting fees, to be \$2000. The Division estimates that a SWMP for construction will need to be evaluated and updated at least every 6 months. Therefore, the Division has determined BBC realized an economic benefit of <b>\$10,000.00</b> from the avoided costs of not further evaluating, developing and updating the Project’s SWMP for 3 years. (<i>A per day amount is recorded on Attachment A on each day of violation.</i>)</p>	

## Exhibit B

	<p><b>Failure to Install, Maintain or Properly Select Best Management Practices:</b> BBC avoided the cost of implementing and/or maintaining BMPs at the Project. The Division estimates the cost of implementing a typical BMP to be \$1000 and the cost of maintaining a typical BMP, throughout its use, to be \$500. As documented in the NOV/CDO, BBC failed to implement at least 4 BMPs and failed to maintain at least 2 others. Therefore, the Division has determined BBC realized an economic benefit of \$5,000.00 from the avoided costs of not implementing and/or maintaining BMPs at the Project. However, <b>\$4,387.00</b> was assigned for this penalty calculation in order to avoid exceeding statutory maximum per day penalty.</p> <p><b>Failure to Maintain Required Records:</b> BBC failed to maintain a record of site inspections. BBC should have recorded the results of at least 79 permit-required 14-day inspections. The Division estimates the cost of the record keeping, including management review of the inspection reports and implementation of corrective actions, to be \$125 for each event (\$125 X 79 inspections = \$9,875). Therefore, the Division has determined that BBC realized an economic benefit of <b>\$9,875.00</b> from the avoided costs of not maintaining a record of inspections. <i>(A per day amount is recorded on Attachment A at each 14-day interval.)</i></p> <p><i>{Note: Time value of money for time periods in question was predicted to be insignificant and thus BEN runs were not performed}</i></p>
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### Part VII – Violation Penalty Total

		Amount in Dollars
<b>Line 23</b>	<b>Civil Penalty: (Sum Line 21 + Line 22)</b>	<b>\$164,951.00</b>

### Part VIII – Ability to Pay Adjustment

		Amount in Dollars
Line 24	Ability to Pay Reduction:	<i>\$0.00</i>
Justification: BBC submitted financial information in response to the Division's offer to consider BBC's ability to pay a penalty. However, all the documents received were related to a separate legal entity, "Black Canyon Golf, LLC." No financial records for BBC were submitted. Therefore, the Division was unable to perform an ability to pay assessment.		

### Part IX – Final Adjusted Penalty

		Amount in Dollars
<b>Line 25</b>	<b>Total Civil Penalty: (Sum Line 23 + Line 24)</b>	<b>\$164,951.00</b>

**Attachment A**

Draft Multi-Day Calculations  
(7/1/2009)

Date	Day of Violation	Potential Damage			History - (Not to Exceed \$1000)	Potential Damage, Fault, & Rectify Sum	Economic Benefit
		Deficient Stormwater Management Plan (SWMP)	Failure to Install, Maintain or Properly Select Best Management Practices	Failure to Maintain Required Records			
	1	\$625.00	\$1,800.00	\$625.00	\$0.00	\$2,425.00	\$27.47
	2	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	3	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	4	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	5	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	6	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	7	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	8	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	9	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	10	\$312.50	\$900.00	\$312.50	\$0.00	\$1,212.50	\$27.47
	11	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	12	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	13	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	14	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$407.30
	15	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	16	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	17	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	18	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	19	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	20	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	21	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	22	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	23	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	24	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	25	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	26	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	27	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	28	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	29	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	30	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$407.30
	31	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	32	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	33	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	34	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	35	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	36	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	37	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	38	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	39	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	40	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	41	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	42	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$407.30
	43	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	44	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	45	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	46	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	47	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	48	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	49	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	50	\$250.00	\$750.00	\$250.00	\$0.00	\$970.00	\$27.47
	51	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	52	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	53	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	54	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	55	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	56	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$407.30
	57	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	58	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	59	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	60	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	61	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	62	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	63	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	64	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	65	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	66	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	67	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	68	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	69	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$27.47
	70	\$187.50	\$540.00	\$187.50	\$0.00	\$727.50	\$407.30

**Attachment A**  
Draft Multi-Day Calculations  
(7/1/2009)

Date	Day of Violation	Potential Damage			Fault - (Net to Exceed \$3000)	History - (Not to Exceed \$1000)	Potential Damage, Fault, & History Sum	Economic Benefit
		Deficient Stormwater Management Plan (SWMP)	Failure to Install, Maintain or Properly Select Best Management Practices	Failure to Maintain Required Records				
	71	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	72	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	73	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	74	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	75	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	76	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	77	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	78	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	79	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	80	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	81	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	82	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	83	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	84	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	85	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	86	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	87	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	88	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	89	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	90	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	91	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	92	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	93	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	94	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	95	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	96	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	97	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	98	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	99	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	100	\$187.50			\$540.00	\$0.00	\$727.50	\$27.47
	101	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	102	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	103	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	104	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	105	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	106	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	107	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	108	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	109	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	110	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	111	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	112	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	113	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	114	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	115	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	116	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	117	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	118	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	119	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	120	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	121	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	122	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	123	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	124	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	125	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	126	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	127	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	128	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	129	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	130	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	131	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	132	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	133	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	134	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	135	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	136	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	137	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	138	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	139	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47
	140	\$125.00			\$360.00	\$0.00	\$485.00	\$27.47



**Attachment A**  
Draft Multi-Day Calculations  
(7/1/2009)

Date	Day of Violation	Potential Damage				Fault - (Not to Exceed \$3000)	History - (Not to Exceed \$1000)	Potential Damage, Fault, & History Sum	Economic Benefit
		Deficient Stormwater Management Plan (SWMP)	Failure to Install, Maintain or Properly Select Best Management Practices	Failure to Maintain Required Records	Potential Damage Sum - (Not to Exceed \$6000)				
	211	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	212	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	213	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	214	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	215	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	216	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	217	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	218	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	219	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	220	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	221	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	222	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	223	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	224	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$407.30
	225	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	226	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	227	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	228	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	229	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	230	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	231	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	232	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	233	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	234	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	235	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	236	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	237	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	238	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	239	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	240	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$407.30
	241	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	242	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	243	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	244	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	245	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	246	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	247	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	248	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	249	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	250	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	251	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$407.30
	252	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	253	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	254	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	255	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	256	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	257	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	258	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	259	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	260	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	261	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	262	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	263	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	264	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	265	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	266	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$407.30
	267	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	268	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	269	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	270	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	271	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	272	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	273	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	274	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	275	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	276	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	277	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	278	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	279	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	280	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$407.30

**Attachment A**

Draft Multi-Day Calculations  
(7/12/2009)

Date	Day of Violation	Potential Damage		Fault - (Not to Exceed \$3000)	History - (Not to Exceed \$1000)	Potential Damage, Fault, & History Sum	Economic Benefit
		Deficient Stormwater Management Plan (SWMP)	Failure to Install, Maintain or Properly Select Best Management Practices				
	281	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	282	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	283	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	284	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	285	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	286	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	287	\$62.50		\$180.00	\$0.00	\$242.50	\$27.48
	288	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	289	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	290	\$62.50		\$180.00	\$0.00	\$242.50	\$27.48
	291	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	292	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	293	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	294	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	295	\$62.50		\$180.00	\$0.00	\$242.50	\$407.30
	296	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	297	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	298	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	299	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	300	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	301	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	302	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	303	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	304	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	305	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	306	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	307	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	308	\$62.50		\$180.00	\$0.00	\$242.50	\$407.30
	309	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	310	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	311	\$62.50		\$180.00	\$0.00	\$242.50	\$27.46
	312	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	313	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	314	\$62.50		\$180.00	\$0.00	\$242.50	\$27.46
	315	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	316	\$62.50		\$180.00	\$0.00	\$242.50	\$27.48
	317	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	318	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	319	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	320	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	321	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	322	\$62.50		\$180.00	\$0.00	\$242.50	\$407.30
	323	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	324	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	325	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	326	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	327	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	328	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	329	\$62.50		\$180.00	\$0.00	\$242.50	\$27.48
	330	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	331	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	332	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	333	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	334	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	335	\$62.50		\$180.00	\$0.00	\$242.50	\$407.30
	336	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	337	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	338	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	339	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	340	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	341	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	342	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	343	\$62.50		\$180.00	\$0.00	\$242.50	\$27.48
	344	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	345	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	346	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	347	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	348	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	349	\$62.50		\$180.00	\$0.00	\$242.50	\$27.47
	350	\$62.50		\$180.00	\$0.00	\$242.50	\$407.30

**Attachment A**  
Draft Month-Day Calculations  
(7/1/2009)

Date	Day of Violation	Potential Damage					History - (Not to Exceed \$1000)	Potential Damage, Fault, & History Sum	Economic Benefit
		Deficient Stormwater Management Plan (SWMP)	Failure to Install, Maintain or Properly Select Best Management Practices	Failure to Maintain Required Records	Potential Damage Sum - (Not to Exceed \$6000)	Fault - (Not to Exceed \$3000)			
	351	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	352	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	353	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	354	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	355	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.48
	356	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	357	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	358	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	359	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	360	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	361	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	362	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	363	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$27.47
	364	\$62.50			\$62.50	\$180.00	\$0.00	\$242.50	\$407.30
	365	\$62.50	\$3,750.00		\$3,812.50	\$1,800.00	\$0.00	\$5,612.50	\$4,357.00
Column Sums:		\$45,625.00	\$3,750.00	\$3,750.00	\$53,125.00	\$134,460.00	\$0.00	\$187,595.00	\$24,282.00

**Total Penalty Amount: \$211,847.00**

