

# STATE OF COLORADO

John W. Hickenlooper, Governor  
Christopher E. Urbina, MD, MPH  
Executive Director and Chief Medical Officer

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

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
Located in Glendale, Colorado      (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

March 15, 2011

Edward Leroy Forsman, Registered Agent  
FCI Constructors, Inc.  
PO Box 1767  
Grand Junction, CO 81502

Certified Mail Number: 7007 0220 0001 0162 1443

**RE: Expedited Settlement Agreement, Number: ES-110314-2  
CDPS Permit No: COR-03G372**

Dear Mr. Forsman:

Enclosed for your records you will find FCI Constructors, Inc.'s copy of the recently executed Expedited Settlement Agreement ("ESA"). Please be advised that the first page of the ESA was changed in order to place the correct ESA Number on the final document. The ESA is now fully enforceable and constitutes a final agency action.

As specified in the enclosed ESA, FCI Constructors, Inc. must, within fifteen (15) calendar days, submit a certified or cashier's check for the amount specified in the ESA to the Water Quality Control Division in order for this matter to be resolved.

If you have any questions, please don't hesitate to contact Michael Harris at (303) 692-3598 or by electronic mail at [michael.harris@state.co.us](mailto:michael.harris@state.co.us).

Sincerely,

Russell Zigler, Legal Assistant  
Compliance Assurance Section  
WATER QUALITY CONTROL DIVISION

cc: Alamosa County Public Health Department

ec: Natasha Davis, EPA Region VIII  
Gary Beers, Permits Unit, CDPHE

Enclosure(s)



Colorado Department of Public Health & Environment  
Water Quality Control Division

## EXPEDITED SETTLEMENT AGREEMENT

Number: ES-110314-2

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Expedited Settlement Agreement ("ESA"), pursuant to the Division's authority under §§25-8-602, 25-8-605 and 25-8-608, 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 FCI Constructors, Inc. ("FCI"). The Division and FCI may be referred to collectively as "the Parties."

1. FCI 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).
2. FCI is conducting construction activities located at or near Stadium Drive and El Rio Drive, in the City of Alamosa, Alamosa County, Colorado (the "Project").
3. FCI failed to comply with the provisions of its Colorado Discharge Permit System General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit"), Certification Number COR-03G372.
4. The parties enter into this ESA in order to resolve the matter of civil penalties associated with the violation(s) alleged herein and in the attached inspection report for a penalty of \$8,500.00.
5. By accepting this ESA, FCI neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. FCI certifies that all deficiencies identified in the attached inspection report have been corrected and that the Project is currently in full compliance with the terms and provisions of the Permit.
7. FCI agrees to the terms and conditions of this ESA. FCI agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602, 25-8-605 and 25-8-608, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, FCI waives: (1) the right to contest the finding(s) specified herein and in the attached inspection report; and (2) the opportunity for a public hearing pursuant to §25-8-603, C.R.S.
8. This ESA is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and FCI each reserve the right to withdraw consent to this ESA if comments received during the thirty-day period result in any proposed modification to the ESA.
9. This ESA constitutes a final agency order or action upon the date when the Executive Director or her designee signs the ESA and effectively imposes the civil penalty.



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Bill Ritter, Jr., Governor  
Martha E. Rudolph, Executive Director

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Colorado Department  
of Public Health  
and Environment

October 21, 2010

Richard Tonnessen, PM  
FCI Constructors Inc.  
186 Moose Lane  
Durango, CO 81301

Re: Facility Inspection/Compliance Advisory  
Adams State Auxiliary Housing Phase 2  
CDPS Permit No. COR03G372  
Alamosa County

Dear Mr. Tonnessen,

An inspection of the above-referenced facility was conducted by the Water Quality Control Division on September 21, 2010. The inspection procedure consists of two parts: a review of records, and an on-site facility inspection. Findings associated with the inspection are detailed in the enclosed inspection report. The Water Quality Control Division (the Division) expects you to correct the findings noted in the enclosed inspection report and submit an explanation on how each finding was corrected. Pursuant to Part II.B.2 of the Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (the permit) you must submit the requested materials to the Colorado Department of Public Health and Environment, WQCD-P-B2, 4300 Cherry Creek Drive South, Denver, CO 80246-1530, Attn: Jeremy Torres, by November 25, 2010.

This Compliance Advisory is intended to advise you of possible violations of the Colorado Water Quality Control Act, its implementing regulations and permits, so that you may take appropriate steps to avoid or mitigate formal enforcement action. This Compliance Advisory does not constitute a Notice of Violation or Cease and Desist Order and is not subject to appeal. However, the issuance of this Compliance Advisory does not limit or preclude the Division from pursuing its enforcement options. The Division is currently evaluating the facts and if a formal enforcement action is deemed necessary, you may be issued a Notice of Violation / Cease and Desist Order that may include the assessment of penalties.

If you have any questions, please call me at (303) 692-3537.

Sincerely,

Jeremy Torres

Enclosures

cc: Aaron Urdiales, EPA Region 8  
Local Health Department  
File Copy

### Stormwater Inspection Report

<b>Permittee:</b> FCI Constructors Inc	<b>Cert. No.:</b> COR03G372	<b>Date(s):</b> 9/21/2010
<b>Facility:</b> Adams State College Auxiliary Housing Phase 2	<b>Industrial Type:</b> Construction	<b>Receiving Water:</b> Rio Grande River
<b>Facility Address:</b> Stadium Drive and El Rio Drive, Alamosa, CO 81102 Alamosa County		
<b>Persons present:</b> Shawn Merrill (Superintendent, FCI Constructors Inc)		
<b>Legally Responsible Person(s)/Title(s):</b> Richard Tonnessen (Project Manager, FCI Constructors Inc)	<b>Inspector(s):</b> Jeremy Torres	

#### Inspection Findings

The WQCD inspector held a closing conference at the conclusion of the inspection. During the closing conference, the inspector reviewed the inspection findings with the facility representative and instructed the representative to correct all findings. Pursuant to all provisions of the Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (the Permit), the findings below must be corrected.

#### Records Review

**Note:** The permit certification effective date was 5/18/2010 and the date that ground disturbing activities began was 5/24/2010 as provided by Shawn Merrill (Superintendent, FCI Constructors Inc).

**Note:** In a communication with the permittee prior to the inspection, the Water Quality Control Division (Division) requested that a copy of the Stormwater Management Plan (SWMP) and inspection records be provided to Division personnel at the inspection. A copy of the SWMP and a copy of the inspection records were provided to Division personnel on 9/21/2010.

1. A copy of the stormwater management plan (SWMP) was retained onsite. The SWMP was reviewed and found to be inadequate for the following reasons:
  - a) The SWMP did not contain a Site Map section as required by Part I.C.2. of the permit. The SWMP must be updated to include this information.

#### Facility Inspection

**Note:** All BMPs mentioned in the below findings must be installed according to installation and implementation specifications outlined in the SWMP. These specifications must be developed in accordance with good engineering, hydrologic and pollution control practices.

2. It was noted during the inspection that inadequate BMPs were implemented to manage potential sediment discharges from vehicle tracking. Sediment was tracked onto Stadium Drive (photo 1). The sediment tracking was occurring from the vehicular traffic leaving the disturbed areas adjacent to the Stadium Drive. A traffic pad was installed in this area. The traffic pad was not maintained in good and effective operating condition. Sediment was showing through the traffic pad and tracked out into Stadium Drive. Stormwater runoff from this area discharges to inlets on Stadium Drive and ultimately to the Rio Grande River. All BMPs must be inspected and maintained in good and effective operating condition.
3. It was noted during the inspection that BMPs were not implemented to manage stormwater runoff from the disturbed area located between the constructed field curb and Stadium Drive (photo 2). Stormwater runoff from this disturbed area discharges to the street and into a storm inlets which ultimately discharge to the Rio Grande River. BMPs must be implemented for all potential pollutant sources.
4. It was noted during the inspection that BMPs were not implemented to manage potential pollutant discharges from a storage area at the northeast end of the project. Disturbed soils and a storage yard for equipment, scrap and soil stockpiles were located in this area (Photos 3-5). FCI Constructors was actively utilizing this area to store equipment, scrap materials

and soil stockpiles. Sediment was visible on Stadium Drive north of El Rio Drive (Photo 6). Sediment discharged in the stormwater runoff coming from the storage yard had accumulated in the storm inlets on Stadium Drive (photos 7-8). Stormwater runoff from this area discharges to inlets at the south end of the site on Stadium Drive and ultimately to the Rio Grande River. BMPs must be implemented for all potential pollutant sources.

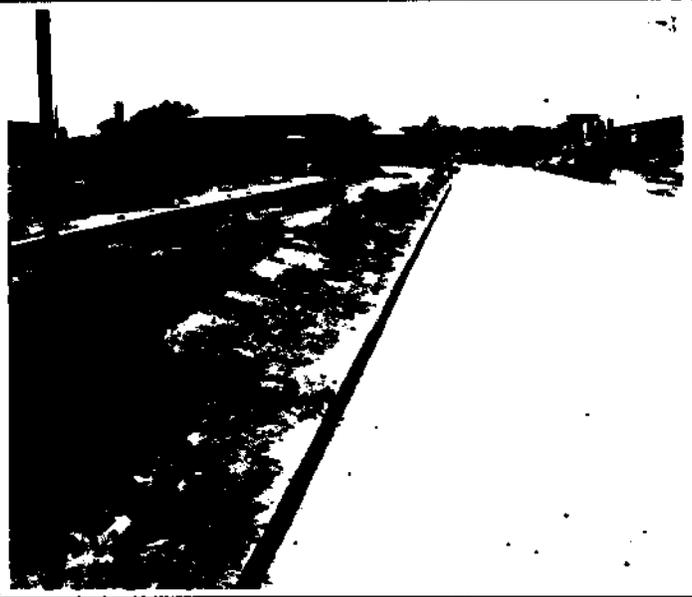
## Site Photographs

Adams State Auxiliary Housing  
Phase 2

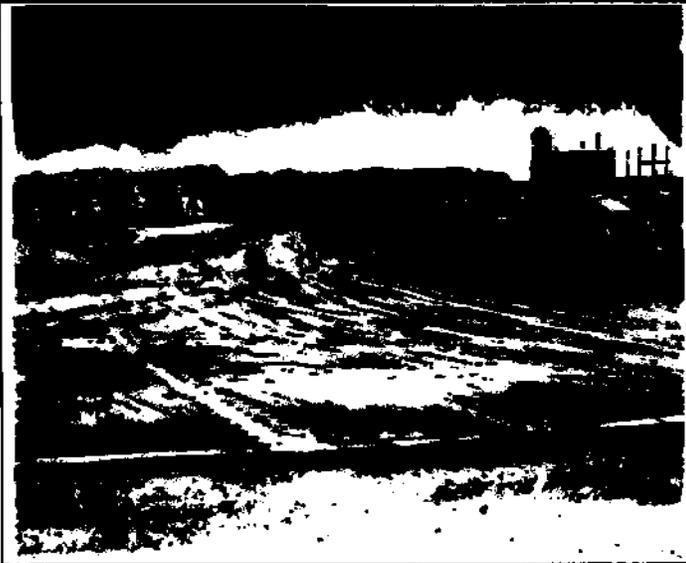
Photograph date 9/21/2010



Photograph 1



Photograph 2



Photograph 3

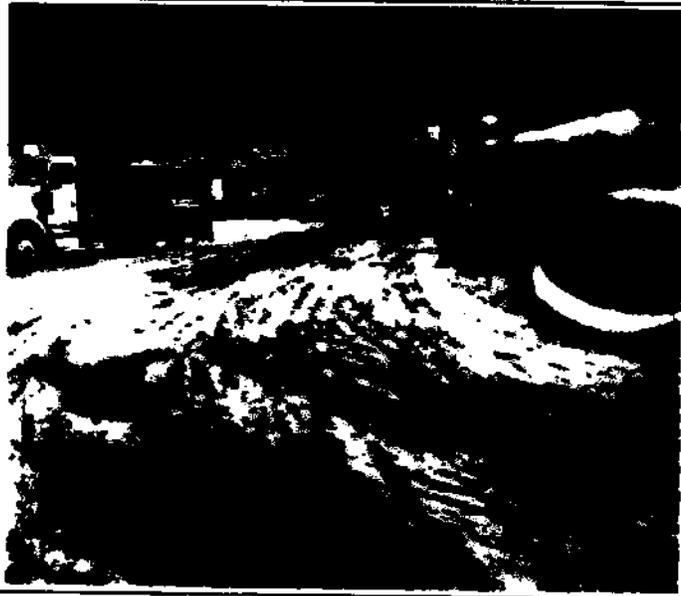


Photograph 4

**Site Photographs**

**Adams State Auxiliary Housing  
Phase 2**

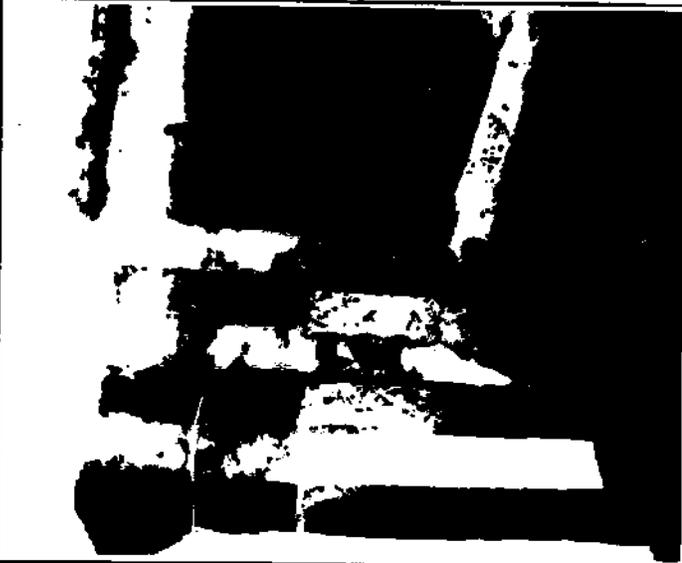
**Photograph date 9/21/2010**



**Photograph 5**



**Photograph 6**



**Photograph 7**



**Photograph 8**