

# 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

August 5, 2011

Mr. Bruce W. Goldberg, Registered Agent  
Allied Demolition, Inc.  
P.O. Box 566  
Commerce City, Colorado 80037-0566

Certified Mail Number: 7007 0220 0001 0159 6086

**RE: Expedited Settlement Agreement, Number: ES-110805-1  
CDPS Permit No: COR-341624**

Dear Mr. Goldberg:

Enclosed for your records you will find Allied Demolition, Inc.'s (d/b/a Allied Recycled Aggregates) 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, Allied Demolition, Inc. must, within fifteen (15) calendar days of receiving the ESA, 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 me at (303) 692-3546 or by electronic mail at [russell.zigler@state.co.us](mailto:russell.zigler@state.co.us).

Sincerely,

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

cc: Tri-County Health Department  
Mr. Wayne Forman, Esq., Brownstein Hyatt Farber Schreck, LLP, 410 Seventeenth Street,  
Suite 2200, Denver, Colorado 80202-4432

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



Colorado Department of Public Health & Environment  
Water Quality Control Division

## EXPEDITED SETTLEMENT AGREEMENT

Number: ES-110805-1

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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 Allied Demolition, Inc. (d/b/a Allied Recycled Aggregates) (“Allied Demolition”). The Division and Allied Demolition may be referred to collectively as “the Parties.”

1. Allied Demolition 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. Allied Demolition is conducting Industrial Activity, concrete and asphalt recycling, at its facility located at 7901 U.S. Highway 85, Commerce City, Adams County, Colorado (the “Facility”).
3. Allied Demolition failed to obtain coverage for the Facility under the applicable Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Sand and Gravel Mining and Processing, in violation of §25-8-501(1), C.R.S., and its implementing permit regulation, 5 CCR 1002-61, §§61.3(1)(a), 61.3(2) and 61.4(3), as generally described in Attachment A (Initial Site Evaluation).
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 Attachment A for a penalty of \$18,500.00.
5. By accepting this ESA, Allied Demolition neither admits nor denies the violations or deficiencies specified herein and in Attachment A.
6. Allied Demolition agrees to the terms and conditions of this ESA. Allied Demolition 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, Allied Demolition waives: (1) the right to contest the finding(s) specified herein and in Attachment A; and (2) the opportunity for a public hearing pursuant to §25-8-603, C.R.S.
7. 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 Allied Demolition 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.
8. This ESA constitutes a final agency order or action upon the date when the Executive Director or his designee signs the ESA and effectively imposes the civil penalty.

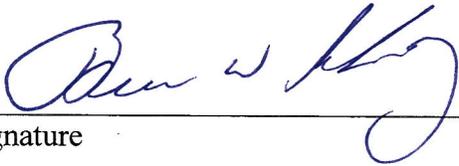
9. Allied Demolition agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Allied Demolition shall submit a certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," for the amount specified in paragraph 4 above, to:

Mr. Russell Zigler  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CAS-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

10. Notwithstanding paragraph 5 above, the violations described in this ESA will constitute part of Allied Demolition'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 Allied Demolition. Allied Demolition agrees not to challenge the use of the cited violations for any such purpose.

11. This ESA, when final, is binding upon Allied Demolition 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 ESA.

**ACCEPTED BY ALLIED DEMOLITION, INC.:**



6/3/11

Signature

Date

BRUCE W GOLOBERG

PRESIDENT

Name (printed)

Title

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



Date: August 5, 2011

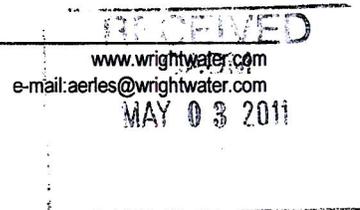
Lori M. Gerzina, Section Manager  
Compliance Assurance Section  
WATER QUALITY CONTROL DIVISION

## Attachment A



### Wright Water Engineers, Inc.

2490 West 26th Ave., Suite 100A  
Denver, Colorado 80211  
(303) 480-1700 TEL  
(303) 480-1020 FAX



May 2, 2011

Via E-Mail: [wforman@bhfs.com](mailto:wforman@bhfs.com)

Wayne Forman, Esq.  
Brownstein, Hyatt Farber Schreck LLP  
410 17<sup>th</sup> St., 22<sup>nd</sup> Floor  
Denver, CO 80202

Re: Initial Site Evaluation—Allied Recycling Facility, 7901 U.S. Highway 85,  
Adams County, Colorado

Dear Mr. Forman:

Wright Water Engineers, Inc. (WWE) has prepared this letter to provide you with our initial findings related to stormwater runoff potential and industrial stormwater discharge permitting for the Allied Recycling (Allied) concrete and asphalt recycling operations at 7901 U.S. Highway 85 in unincorporated Adams County, Colorado. Allied contacted WWE in April 2011 to assess industrial stormwater permitting needs for the site, and WWE has since interviewed Allied's owner and staff and performed two site visits, both after rainfall events, to observe drainage patterns on the site. Based on our observations and analysis to date, it appears that the hydrologically isolated nature of Allied's site has prevented discharge of runoff containing pollutants associated with industrial activities to receiving waters.

### LOCATION AND BACKGROUND

Allied is located at 7901 U.S. Highway 85 in unincorporated Adams County, Colorado. Figures 1 and 2 show the Allied property, adjacent properties operated by Aggregate Industries and PCL, and other relevant features. The site is bordered on the east by the State Highway 85 Frontage Road, which acts as a barrier to runoff to the east. On the north and west sides, the property is bordered by the Burlington Ditch, and an access road running between the Allied property line and the top of the ditch bank provides a topographic ridge that effectively prevents runoff from the site from reaching the Burlington Ditch. On the south side of the property, Allied has approximately 170 feet of frontage along East 78<sup>th</sup> Avenue. The remainder of the southern border of the Allied property abuts the Aggregate Industries site, which has its own Colorado Discharge Permit System (CDPS) Industrial Stormwater Certification, and the PCL property, which was formerly used for storage and is now vacant. The nearest surface water feature (aside from gravel pits) is the South Platte River, which is located approximately 0.8 mile to the west; however, as discussed below, surface topography does not provide a route for surface discharges from the site to reach this receiving water.

According to the owner of the property, the existing use of the site as a concrete and asphalt recycling facility dates to approximately 1992. Around that time, Allied had communication with their environmental consultant at the time regarding stormwater permitting. In this

GLENWOOD SPRINGS  
(970) 945-7755 TEL (970) 945-9210 FAX

DURANGO  
(970) 259-7411 TEL (970) 259-8758 FAX

## Attachment A

Wayne Forman, Esq.  
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communication, the consultant advised Allied to wait on preparing a stormwater management plan (SWMP) until the consultant determined whether coverage for the site would be via an Individual or General Industrial Stormwater Permit. This was the last documented correspondence between Allied and their consultant regarding stormwater permitting. Based on discussions with attorneys in April 2011, Allied realized that they potentially needed coverage under a CDPS stormwater permit and retained WWE to assess the potential for runoff from their site and to assist with permitting needs.

### **DRAINAGE ASSESSMENT**

Given the location of the site between the State Highway 85 Frontage Road and the Burlington Ditch coupled with the topography of the site and surrounding areas, essentially all of the runoff produced by the site is retained on site and infiltrates or evaporates. Based on site observations, the access road between the Allied property and the Burlington Ditch prevents runoff from the site from reaching the Burlington Ditch. Along the north side of the site, it appears that there is an old berm and vegetated buffer along the fence line, which further separates the site from the Burlington Ditch. No signs of erosion that would indicate runoff crossing the access road to the Burlington Ditch were observed following rainfall events on April 14 and 20, and the owner of the site has stated that, in the history of his ownership of the site (more than 20 years), there have been no complaints from the Burlington Ditch related to runoff from the site nor has he observed site runoff going into the ditch. On the west side of the site, the access road between the Allied property and the Burlington Ditch is several feet higher than the Allied property to the east, creating a physical barrier to flow from the site to the Burlington Ditch.

On the south side of the site, a portion of Allied's site drains to the ditch along East 78<sup>th</sup> Avenue. Based on analysis of available topographic information and observations on the site following rainfall events, it does not appear that the ditch along East 78<sup>th</sup> Avenue has positive drainage. Water that runs off the site to the ditch along East 78<sup>th</sup> Avenue appears to infiltrate rather than discharge to a surface receiving water.

On the east side of the site, the Frontage Road and State Highway create a physical barrier (dam) to flow to the east. Approximately eight years ago, two inlets draining a parking area for the office building and a storage area (not active recycling) were installed along with a storm sewer running from the inlets to the roadside ditch between the Allied property and the Frontage Road. Runoff collected in these two inlets plus sheet flow runoff from the access drive constitute the majority of runoff leaving the Allied property. WWE evaluated available topographic mapping and made post-rainfall observations in the field to determine the route runoff in the Frontage Road ditch would follow after leaving Allied's site and concluded that the ditch does not have positive drainage; the water that flows from the Allied site to the Frontage Road ditch collects in the ditch and infiltrates, in the absence of an outfall to the Burlington Ditch or a surface waterway.

## Attachment A

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### STORMWATER MANAGEMENT PLAN

Although a large majority of the site drains internally and infiltrates with only a small amount of runoff discharging from the site to the roadside ditches along East 78<sup>th</sup> Avenue and the Frontage Road, where runoff currently has no functional flow path to reach a receiving water, Allied has directed WWE to prepare a SWMP and paperwork to obtain coverage under the CDPS General Permit for Stormwater Discharges Associated with Sand and Gravel Mining and Processing (General Permit). Creating the SWMP (currently in progress) will involve documentation of drainage patterns and existing best management practices (BMPs) on the site. WWE will integrate Allied's existing plans for materials handling and storage and spill prevention and response. We anticipate that the SWMP will be completed in approximately two to three weeks, at which point Allied will submit signed permit application forms to the Colorado Department of Public Health and Environment.

### CONCLUSION

Although Allied has not had a certification of coverage for their concrete and asphalt recycling operation under the General Permit from approximately 1992 to the present, the hydrologically isolated nature of the site has prevented discharge to receiving waters of runoff containing pollutants associated with industrial activities. The limited discharges that have left the property over the years would have been conveyed to the roadside ditches along East 78<sup>th</sup> Avenue and the Frontage Road. Based on topography and observations following precipitation events, these roadside ditches do not have positive drainage, and runoff entering these ditches from the Allied site infiltrates rather than discharging to a surface water. WWE is currently assisting Allied with developing a SWMP to obtain coverage under the General Permit.

Sincerely,

WRIGHT WATER ENGINEERS, INC.

By   
T. Andrew Earles, Ph.D., P.E., D.WRE  
Vice President

Attachment

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Figure 1. Allied Recycling Location Map



Figure 2. Allied Recycling and Surrounding Properties

Not to Scale  
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