

STATE OF COLORADO

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

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

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
TDD Line (303) 691-7700
Located in Glendale, Colorado

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

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



Colorado Department
of Public Health
and Environment

January 18, 2011

The Corporation Company, Registered Agent
Bridle Hill Development Company, LLC
1675 Broadway Ste 1200
Denver, Colorado 80202

Certified Mail Number: 7009 1680 0000 2094 4909

RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-110114-1

Dear Corporation Company:

Bridle Hill Development Company, LLC is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). This NOV/CDO 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 §§25-8-602 and 25-8-605, C.R.S., of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases this NOV/CDO upon findings that Bridle Hill Development Company, LLC has violated the Act, and/or Permit regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Bridle Hill Development Company, LLC is required, within thirty (30) calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S., to impose a penalty of \$10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.

Should you or representatives of Bridle Hill Development Company, LLC desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact Michael Harris of this office by phone at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,



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

Enclosure(s)

cc: Weld County Dept of Public Health & Environment

ec: Aaron Urdiales, EPA Region VIII
Doug Camrud, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Gary Beers, Permits Unit, CDPHE
Michael Beck, OPA
Nathan Moore, Permits Section. CDPHE
Michael Harris, Case Person
Tania Watson, Compliance Assurance, CDPHE



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-110114-1

IN THE MATTER OF: BRIDLE HILL DEVELOPMENT COMPANY, LLC
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03A533
WELD COUNTY, COLORADO

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 is implemented through 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, Bridle Hill Development Company, LLC ("Bridle Hill") was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.
2. Bridle Hill 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. On September 21, 2006, Bridle Hill initiated construction activities of a residential and commercial development with a planned disturbance of 130 acres of land at or near State Highway 14 & Weld County Road 17 in Weld County, Colorado (the "Project").
4. On July 27, 2006, the Division received an application from Bridle Hill for Project coverage under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit").
5. On August 1, 2006, the Division provided Bridle Hill Certification Number COR-03A533 authorizing Bridle Hill to discharge stormwater from the construction activities associated with the Project to the Larimer County Canal and South Platte River under the terms and conditions of the Permit. Certification Number COR-03A533 became effective August 1, 2006, and remains in effect until June 30, 2012, or until Bridle Hill inactivates permit coverage.

6. The Larimer County Canal and South Platte River are “state waters” as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
7. Pursuant to 5 CCR 1002-61, §61.8, Bridle Hill must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.
8. On June 2, 2009, a representative from the Weld County Department of Public Health and Environment (“Weld County Representative”) visited the Project and took photographs documenting the condition of the site.
9. On August 13, 2009, representatives from the Division (the “Inspectors”) conducted an on-site inspection of the Project pursuant to the Division’s authority under §25-8-306, C.R.S., to determine Bridle Hill’s compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspectors interviewed Project representatives, reviewed the Project’s stormwater management system records, and performed a physical inspection of the Project.

Deficient and/or Incomplete Stormwater Management Plan

10. Pursuant to Part I. B. of the Permit, Bridle Hill is required to prepare and maintain a Stormwater Management Plan (“SWMP”) in accordance with good engineering, hydrologic, and pollution control practices. The SWMP is required to identify all 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 Best Management Practices (“BMPs”) at the Project, which will be used to reduce the pollutants in stormwater discharges associated with construction activity.
11. Pursuant to Part I. C. of the Permit, the Project’s SWMP shall include, at a minimum, the following items:
 - a. Site Description – The SWMP shall clearly describe the construction activity, including:
 - i. The nature 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. A summary of any existing data used in the development of the construction plans or SWMP that describe the soil or existing potential for soil erosion.
 - 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 all potential pollution sources, including ground surface disturbance, vehicle fueling, storage of fertilizers or chemicals, etc.
 - vii. The location and description of any allowable sources of non-stormwater discharge, such as springs, landscape irrigation return flow, construction dewatering, and concrete washout.

- 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** – The SWMP shall include a legible site map(s), showing the entire site, identifying:
- i. Construction site boundaries.
 - ii. All areas of ground surface disturbance.
 - iii. Areas of cut and fill.
 - iv. Areas used for storage of building materials, equipment, soil, or waste.
 - v. Locations of dedicated asphalt or concrete batch plants.
 - vi. Locations of all structural BMPs
 - vii. Locations of all non-structural BMPs.
 - viii. Locations of springs, streams, wetlands and other surface waters.
- c. **Stormwater Management Controls** - The SWMP must include a description of all stormwater management controls that will be implemented as part of the construction activity to control pollutants in stormwater discharges, including:
- i. **SWMP Administrator** – The SWMP shall identify a specific individual(s), position or title that is responsible for developing, implementing, maintaining, and revising the SWMP.
 - ii. **Identification of Potential Pollutant Sources** – The SWMP shall identify and describe those sources determined to have the potential to contribute pollutants to stormwater discharges.
 - iii. **Best Management Practices (BMPs) for Stormwater Pollution Prevention** – The SWMP shall identify and describe appropriate BMPs that will be implemented at the facility to reduce the potential of pollution sources to contribute pollutants to stormwater discharges. The SWMP shall clearly describe the installation and implementation specifications for each BMP identified in the SWMP.
 - (1) **Structural Practices for Erosion and Sediment Control** – The SWMP shall clearly describe and locate all structural practices implemented at the site to minimize erosion and sediment transport. Practices may include, but are not limited to: straw bales, wattles/sediment control logs, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.
 - (2) **Non-Structural Practices for Erosion and Sediment Control** – The SWMP shall clearly describe and locate all non-structural practices implemented at the site to minimize erosion and sediment transport. Description must include interim and permanent stabilization practices, and site-specific scheduling for implementation of the practices. Non-structural practices may include, but are not limited to: temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, protection of trees, and preservation of mature vegetation.

- (3) **Phased BMP Implementation** – The SWMP shall clearly describe the relationship between the phases of construction and the implementation and maintenance of BMPs. The SWMP must identify the stormwater management controls to be implemented during the project phases, which can include, but are not limited to, clearing and grubbing, road construction, utility and infrastructure installation, vertical construction, final grading and final stabilization.
- (4) **Materials Handling and Spill Prevention** – The SWMP shall clearly describe and locate all practices implemented at the site to minimize impacts from procedures or significant materials that could contribute pollutants to runoff.
- (5) **Dedicated Concrete or Asphalt Batch Plants** – The SWMP shall clearly describe and locate BMPs to control stormwater pollution from dedicated concrete batch plants or dedicated asphalt batch plants.
- (6) **Vehicle Tracking Control** – The SWMP shall clearly describe and locate all practices implemented at the site to control potential sediment discharges from vehicle tracking.
- (7) **Waste Management and Disposal, Including Concrete Washout** – The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from all construction site wastes, including concrete washout activities.
- (8) **Groundwater and Stormwater Dewatering** – The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from the dewatering of groundwater or stormwater from excavations, wells, etc.

- d. **Final Stabilization and Long-Term Stormwater Management** – The SWMP shall clearly describe the practices used to achieve final stabilization of all disturbed areas at the site, and any planned practices to control pollutants in stormwater discharges that will occur after construction operations have been completed at the site.
- e. **Inspection and Maintenance** – The SWMP shall clearly describe the inspection and maintenance procedures implemented at the site to maintain all erosion and sediment control practices and other protective practices in good and effective operating condition.

12. During the August 13, 2009 inspection, the Inspectors reviewed the Project's SWMP and identified the following deficiencies, as described in paragraphs 12(a-h) below:

- a. The site map included with the SWMP did not identify the construction site boundaries.
- b. The site map included with the SWMP did not identify areas of cut and fill.
- c. The SWMP did not identify a SWMP Administrator.
- d. The SWMP identified gravel sock inlet protections, the use of perimeter BMPs, and a concrete washout as structural controls that would be utilized onsite for erosion and sediment control. However, the SWMP did not include installation and implementation specifications for these structural controls.

- e. The SWMP identified site stabilization and surface roughening as non-structural BMPs that would be utilized onsite. However, the SWMP did not include installation and implementation specifications for these non-structural controls.
 - f. The SWMP identified a sequence (phases) of construction activities for the site, but failed to identify the stormwater management controls to be implemented during those phases.
 - g. The SWMP stated that fuels and chemicals would not be used at the construction site. However, the site map included with the SWMP identified a fuel containment area for the Project.
 - h. The SWMP did not include specific practices that would be used to achieve final stabilization, including seed mix selection and application methods and soil preparation and amendments.
13. The Division has determined that Bridle Hill failed to prepare and maintain a complete and accurate SWMP for the Project.
14. Bridle Hill's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violation(s) of Part I. B. and Part I. C. of the Permit.

Failure to Perform and/or Document Inspections of Stormwater Management System

15. Pursuant to Part I. D. 6. (a) of the Permit, for active sites where construction has not been completed, Bridle Hill is required to make a thorough inspection of the Project's stormwater management system at least every 14 calendar days and within 24 hours of any precipitation or snowmelt event that causes surface erosion.
16. Pursuant to Part I. D. 6. (b) (2) of the Permit, Bridle Hill is required to keep a record of inspections that describes any corrective actions taken, the dates the corrective actions were taken, and any measures taken to prevent future violations, including requisite changes to the SWMP.
17. During the August 13, 2009 inspection, the Inspectors reviewed the Project's stormwater management system inspection records and identified that Bridle Hill failed to perform inspections within the 14 calendar day minimum inspection frequency on 19 occasions. Additionally, the inspection reports did not include a description of the corrective actions taken or measures taken to prevent future violations, including requisite changes to the SWMP.
18. The Division has determined that Bridle Hill failed to properly perform and document inspections of the stormwater management system at the Project.
19. Bridle Hill's failure to properly perform and document its inspections constitutes violations of Part I. D. 6. (a) and Part I. D. 6. (b) (2) of the Permit.

Failure to Install, Maintain, or Properly Select Best Management Practices

20. Pursuant to Part I. C. 3. (c) of the Permit, Bridle Hill is required to implement BMPs to reduce the potential of pollution sources from contributing pollutants to stormwater discharges, including minimizing erosion and sediment transport from the Project. The Permit specifies that structural site management practices may include, but are not limited to: straw bales, wattles/sediment control logs, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins. The Permit specifies that non-structural site management practices may include, but are not limited to: temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, protection of trees and preservation of mature vegetation.
21. Pursuant to Part I. D. 2. of the Permit, Bridle Hill is required to select, design, install, implement and maintain appropriate BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic and pollution control practices.
22. Pursuant to Part I. B. 3. of the Permit, Bridle Hill is required to implement the provisions of the Project's SWMP as written and updated, from commencement of construction activity until final stabilization is complete.
23. During the June 2, 2009 visit to the site, the Weld County Representative identified the following deficiencies related to BMP installation and maintenance at the Project, as described in Paragraphs 23(a-b) below:
 - a. The Weld Inspector observed a disturbed area located at the intersection of Saddler Boulevard and WCR 17 at the Project. A silt fence and storm drain inlet protection were observed in place, however, the silt fence had failed and a section of the fence had fallen down. Consequently, the inlet protection was overwhelmed by significant sediment discharge that was observed in the adjacent street.
 - b. The Weld Inspector observed a disturbed area and storm drain inlet located at the intersection of WCR 17 and WCR 14. A silt fence was observed in place, however, the silt fence had failed and did not extend across the base of the entire disturbed area. A hay bale was observed in place on one side of the storm drain inlet, however, the hay bale was not installed in accordance with good engineering, hydrologic, and pollution control practices, as the hay bale was sitting on concrete, was not entrenched or staked, and was not designed for the application it was being utilized for. Consequently, sediment discharge was observed in the street and in the storm drain inlet that leads to the Larimer County Canal and South Platte River.
24. During the September 21, 2010 inspection, the Inspectors identified the following deficiencies related to BMP installation and maintenance at the Project, as described in Paragraphs 24(a-g) below:
 - a. The Inspectors observed disturbed areas on both sides of the entrance to Tract 1 off of Saddler Boulevard at the Project. A silt fence was observed in place down gradient of the disturbed area. The installation and implementation specifications in the SWMP stated that silt fence must be installed along the drainage contour, not in areas of concentrated flow, and not to exceed a

maximum drainage area of 1/4 acre per 100 feet of silt fence. However, the silt fence in this area was not installed on the drainage contour, was installed in an area of concentrated flow, and was installed in an area exceeding the maximum drainage capacity.

- b. The Inspectors observed a disturbed area at the entrance to Tract 10 on Saddler Boulevard at the Project. A Vehicle Tracking Control (“VTC”) was observed within the disturbed area. The installation and implementation specifications in the SWMP stated that the VTC must be a minimum of 12 feet in width, 70 feet in length, 6 inches in depth, and have a mixture of 3 inch, 2 inch, and ¾ inch coarse aggregate. However, the vehicle tracking control was not at least 12 feet in width, nor 70 feet in length, nor 6 inches in depth, and did not include a mixture of 3 inch, 2 inch, and ¾ inch aggregate. Consequently, sediment tracking and discharge was observed in the street adjacent to the disturbed area, which would drain to a nearby storm drain inlet that discharges directly to the Larimer County Canal and South Platte River.
- c. The Inspectors observed a disturbed area located near the intersection of Saddler Boulevard and WCR 17. Two rows of silt fence were observed in the area. The installation and implementation specifications in the SWMP stated that silt fence must be installed along the drainage contour, not in areas of concentrated flow, and not to exceed a maximum drainage area of 1/4 acre per 100 feet of silt fence. However, neither row of silt fence in this area was installed along the drainage contour, both were installed in areas of concentrated flow, and both were installed in areas exceeding the maximum drainage capacity. Additionally, the down gradient silt fence had numerous stakes that were down, holes in the fence fabric, and sediment accumulation behind the silt fence that exceeded the ½ exposed filter fabric height requirement. Consequently, the silt fences failed and sediment discharge was observed in the street and adjacent storm drain inlet that leads to the Larimer County Canal and South Platte River.
- d. The Inspectors observed a large disturbed area located at the intersection of WCR 14 and WCR 17. Stormwater drainage from the area was being directed at one storm sewer drop inlet. A straw bale inlet protection was observed in place. The installation and implementation specifications in the SWMP stated that straw bale inlet protections must be entrenched 4 inches in the ground, tightly abutted with no gaps, staked, and backfilled around the entire outside perimeter of the inlet. However, the straw bale inlet protection was not entrenched and had gaps in the abutments. Additionally, the straw bale inlet protection was not being maintained, as sediment was nearly burying the bales, thus limiting its effectiveness. No other BMPs were observed in place for the disturbed area. In accordance with good engineering, hydrologic, and pollution control practices, inlet protection devices are designed to be used in conjunction with upstream erosion and sediment controls and are not functional as sole BMPs.
- e. The Inspectors observed a disturbed area located up gradient of WCR 14 and WCR 17, around Pond E. Silt fence was observed in place down gradient from the disturbed area. The installation and implementation specifications in the SWMP stated that silt fence must be installed along the drainage contour, not in areas of concentrated flow, and not to exceed a maximum drainage area of 1/4 acre per 100 feet of silt fence. However, the silt fence in this area was not installed on the drainage contour, was installed in an area of concentrated flow, and was installed in an area exceeding the maximum drainage capacity.

- f. The Inspectors observed a flood control structure identified during the inspection as Pond E. Stormwater from the site flows into Pond E and exits through an outlet structure on the southwest side of the pond, into a roadside drainage ditch, and ultimately into the storm sewer that discharges to the Larimer County Canal and South Platte River. The pond was not designed or modified to function as a stormwater BMP for construction, as the outlet was located at the low point of the pond's capacity and functional up gradient erosion and sediment controls were not implemented. Consequently, sediment from up gradient areas was allowed to discharge to the pond and flow directly out the low flow outlet, as evidenced by heavy sediment accumulation observed at the pond's inlet and outlet structures.
 - g. The Inspectors observed a disturbed area located at the southwest corner of the project near WCR 14 and WCR 17. Silt fence and hay bales were observed down gradient of the disturbed area. The installation and implementation specifications in the SWMP stated that silt fence must be installed along the drainage contour and the silt fence fabric must be anchored into the soil and firmly attached to stakes that are spaced a maximum of 10 feet. For straw bales, the installation and implementation specifications stated that the bales must be entrenched 4 inches into the ground, tightly abutted with no gaps, and staked and backfilled. The silt fence in this area was not installed along the drainage contour, the fence fabric was not anchored into the soil and firmly attached to stakes, and the stakes were spaced more than 10 feet apart in some areas. The straw bales were not entrenched in the ground, had gaps between the bales, and were not properly staked and backfilled in accordance with good engineering, hydrologic, and pollution control practices. Consequently, sediment bypassed the BMPs in this area and was discharged to the street and into the storm drain inlet that leads to the Larimer County Canal and South Platte River.
25. The Division has determined that Bridle Hill failed to implement and/or maintain functional BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic, and pollution control practices.
26. Bridle Hill's failure to implement and/or maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations of Part I. C. 3. (c), Part I. D. 2., and Part I. B. 3., of the Permit.

NOTICE OF VIOLATION

27. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined Bridle Hill 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 SWMP shall: a) Identify all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the facility; b) Describe the practices to be used to reduce the pollutants in stormwater discharges associated with construction activity at the facility; and ensure the practices are selected and described in accordance with good engineering practices, including the installation, implementation and maintenance requirements; and c) Be properly prepared and updated in accordance with Part I.D.5.c., to ensure compliance with the terms and conditions of this permit."

Part I. C. of the Permit, which states in part, “The SWMP shall include the following items, at a minimum.”

Part I. D. 6. (a) of the Permit, which states in part, “The permittee shall, at a minimum, make a thorough inspection, in accordance with the requirements in I.D.6.b below, at least once every 14 calendar days. Also, post-storm event inspections must be conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion.”

Part I. D. 6. (b) (2) of the Permit, which states in part, “The permittee shall keep a record of inspections. Inspection reports must identify any incidents of non-compliance with the terms and conditions of this permit. ... At a minimum, the inspection report must include: ... vii) Description of corrective action for items iii, iv, v, and vi, above, dates corrective action(s) taken, and measures taken to prevent future violations, including requisite changes to the SWMP, as necessary;...”

Part I. C. 3. (c) of the Permit, which outlines in part that BMPs for Stormwater Pollution Prevention shall address erosion and sediment control, including “structural practices implemented at the site to minimize erosion and sediment transport” and “non-structural practices implemented at the site to minimize erosion and sediment transport,” as well as phased BMP implementation, materials handling and spill prevention, dedicated concrete or asphalt batch plants, vehicle tracking control, waste management and disposal, including concrete washout, and groundwater and stormwater dewatering.

Part I. D. 2. of the Permit, which states, “Facilities must select, install, implement, and maintain appropriate BMPs, following good engineering, hydrologic and pollution control practices. BMPs implemented at the site must be adequately designed to provide control for all potential pollutant sources associated with construction activity to prevent pollution or degradation of State waters.”

Part I. B. 3. of the Permit, which states in part, “Facilities must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete, as a condition of this permit.”

REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Bridle Hill is hereby ordered to:

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

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

29. Bridle Hill shall immediately evaluate the Project’s SWMP and implement necessary measures to ensure the SWMP contains all of the elements required by the Permit and is effective in managing pollutant discharges from the Project. Within thirty (30) calendar days of receipt of this Order, Bridle Hill shall

submit a written certification to the Division stating that a complete, effective, and up-to-date SWMP has been fully developed and implemented at the Project.

30. Bridle Hill shall immediately begin conducting and documenting inspections of the Project's stormwater management system pursuant to the provisions outlined in the Permit. Within thirty (30) calendar days of receipt of this Order, Bridle Hill shall submit a written certification to the Division stating that all such inspections are being conducted and documented in accordance with the terms and conditions of the Permit.
31. Bridle Hill shall immediately implement necessary measures to ensure that adequate BMPs are in place to control pollutant discharges from the Project. This includes ensuring that all disturbed areas at the Project are stabilized and/or protected with a system/series of erosion and sediment control practices, and that all BMPs at the site are selected, installed, implemented, and maintained following good engineering, hydrologic, and pollution control practices. Within thirty (30) calendar days of receipt of this Order, Bridle Hill shall evaluate and modify all existing BMPs at the Project to ensure the BMPs meet the design requirements specified in the Project's complete and up-to-date SWMP. Within forty-five (45) calendar days of receipt of this Order, Bridle Hill shall submit photographs to the Division documenting the current conditions at the site and the associated BMPs implemented at the Project.
32. Within sixty (60) calendar days of receipt of this Order, Bridle Hill shall submit a detailed written plan to the Division outlining the standard procedures Bridle Hill will undertake to ensure that functional and effective stormwater management systems are fully implemented at its Colorado construction sites. The plan shall include a detailed description of how Bridle Hill will ensure that each of its stormwater management systems at each of its Colorado construction sites are adequately staffed, trained, implemented, and supervised. The plan shall specifically discuss Bridle Hill's commitment to the resources needed to adequately implement the provisions of the Permit at its construction sites, including a commitment to providing elevated staff and supervisor training in erosion control, BMP implementation, and overall stormwater management.

NOTICES AND SUBMITTALS

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

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-B2-CAS
Compliance Assurance Section
Attention: Michael Harris
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: michael.harris@state.co.us

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 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. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

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. 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.

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.

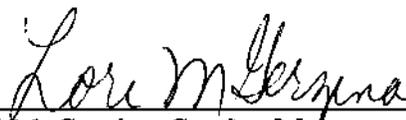
EFFECT OF ORDER

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 such entities or 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.

Issued at Denver, Colorado, this 14th day of January, 2011.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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