

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

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Colorado Department
of Public Health
and Environment

March 16, 2011

The Corporation Company, Registered Agent
Williams Production RMT Company LLC
1675 Broadway Ste 1200
Denver, Colorado 80202

Certified Mail Number: 7005 1820 0000 3213 7337

RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-110316-1

Dear The Corporation Company:

Williams Production RMT 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 Williams Production RMT 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., Williams Production RMT 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 Williams Production RMT 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: Garfield County Public Health Service

cc: Natasha Davis, EPA Region VIII
Mark Kadnuck, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Gary Beers, Permits Unit, CDPHE
Michael Beck, OPA
Nathan Moore, Permits Section. CDPHE
David Neslin, COGCC
Michael Harris, Case Person, CDPHE
Tania Watson, Compliance Assurance, CDPHE
Tom Fiore, Williams Production RMT Company LLC



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

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-110316-1

IN THE MATTER OF: WILLIAMS PRODUCTION RMT COMPANY LLC
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03B586
GARFIELD 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, Williams Production RMT Company LLC ("Williams") was a Delaware limited liability company in good standing and registered to conduct business in the State of Colorado.
2. Williams 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 June 28, 2008, Williams initiated construction activities associated with oil and gas production and/or exploration that included a planned disturbance of 116 acres of land in Garfield County, Colorado (the "Project").
4. On March 12, 2007, Williams submitted an application to the Division 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 March 20, 2007, the Division provided Williams Certification Number COR-03B586 authorizing Williams to discharge stormwater from the construction activities associated with the Project to Parachute Creek and the Colorado River under the terms and conditions of the Permit.

6. Parachute Creek and the Colorado 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, Williams 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 November 1, 2010, 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 Williams’ 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

9. Pursuant to Part I. B. of the Permit, Williams 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.
10. 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.
11. Pursuant to Part I. D. 5. of the Permit, Williams is required to update the SWMP and amend the SWMP when there is a change in design, construction, operation, or maintenance of the site; when the SWMP proves to be ineffective in controlling pollutants in stormwater discharges; or when BMPs are no longer necessary and are removed.
 12. During the November 1, 2010 inspection, the Inspectors reviewed the Project's SWMP and identified the following deficiencies, as described in paragraphs 12(a-d) below:
 - a. The SWMP did not include a description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.
 - b. The site map included with the SWMP identified water bars along the initial descent of the Crawford Trail Pipeline ROW. However, the water bars were not present during the inspection and the SWMP had not been amended to reflect the change in design, construction, operation or maintenance of the site.

- c. The site map included with the SWMP identified a straw wattle barrier in place at the base of the land disturbance associated with Williams' blasting of the high wall cut at the Project. The slope inclination in this area of the Project is 2:1 or greater. According to the installation and implementation specifications included with the SWMP, straw wattles are to be placed at the toe and on the face of slopes and should be placed at a maximum interval of 10 feet. However, the site map only prescribed a single row of straw wattle at the toe of the slope and did not prescribe straw wattles for the slope face. No other BMPs were identified for this area of the Project.
 - d. The SWMP did not include installation and implementation specifications for water bars, sediment traps, or vegetative buffers – all of which were identified as BMPs in the SWMP.
13. In response to the November 1, 2010 inspection, Williams submitted a revised site map for the Project, which was received by the Division on November 15, 2010. The Division reviewed the revised site map for the Project and identified the following deficiencies, as described in paragraphs 13 (a-c) below:
- a. The revised site map identified a straw bale barrier that was installed on November 4, 2010, along the western edge of the ROW from the beginning of the Crawford Trail descent and extending approximately 1,200 feet. Stormwater runoff from this area flows in a north-northeast direction down the ROW to the trailer and storage yard, where it discharges northward down steep slopes to an un-named tributary of Parachute Creek. No BMPs were identified to stabilize the disturbed soils of the ROW or to prevent sediment and soil from discharging in a north-northeastern direction down the ROW and over the steep slopes.
 - b. The revised site map identified a straw wattle barrier in place at the base of the land disturbance associated with Williams' blasting of the high wall cut at the Project. The slope inclination in this area of the Project is 2:1 or greater. According to the installation and implementation specifications included with the SWMP, straw wattles are to be placed at the toe and on the face of slopes and should be placed at a maximum interval of 10 feet. However, the site map only prescribed a single row of straw wattle at the toe of the slope and did not prescribe straw wattles for the slope face.
 - c. The revised site map identified a vegetative buffer surrounding the disturbance associated with Williams' blasting of the high wall cut at the Project. Good engineering, hydrologic, and pollution control practices for vegetative buffers include the utilization of a combination of properly installed sediment control practices (Urban Drainage and Flood Control District, Urban Storm Drainage Criteria Manual, Volume 3), and the use of erosion control blankets for slopes that exceed a 5% grade (U.S. EPA, Menu of BMPs). The grade of the slope at this area of the Project is approximately 50%. However, the site map did not prescribe erosion control blankets for the slope, did not prescribe functional sediment control BMPs to be used in combination with the buffer (as further outlined in paragraph 13. b. above), and the vegetative buffer was not located in an area within Williams' operational control or in an area that could be routinely inspected and maintained.
14. The Division has determined that Williams failed to prepare and maintain a complete and accurate SWMP for the Project.

15. Williams' failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violation(s) of Part I. B., Part I. C., and Part I. D. 5. of the Permit.

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

16. Pursuant to Part I. C. 3. (c) of the Permit, Williams 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.
17. Pursuant to Part I. D. 2. of the Permit, Williams 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.
18. Pursuant to Part I. B. 3. of the Permit, Williams 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.
19. During the November 1, 2010 inspection, the Inspectors identified the following deficiencies related to BMP installation and maintenance at the Project, as described in Paragraphs 19(a-c) below:
- a. The Inspectors observed disturbed areas located from the beginning of the ROW construction for the Crawford Trail descent and extending down gradient to the trailer and storage yard at the Project. The combined disturbance in this area was approximately 50 feet wide and 0.4 miles long with a 3% - 4% grade. No BMPs were observed in place to stabilize the disturbed areas or to prevent sediment and soil from discharging from the disturbed areas, down steep slopes, and into an un-named tributary of Parachute Creek. Consequently, erosion and sediment discharge from the disturbed area was observed.
 - b. The Inspectors observed disturbed areas associated with the ROW construction for the Crawford Trail descent located from the trailer and storage yard at the Project and extending down gradient to an area just past the high wall cut at the Project. The combined disturbance in this area was approximately 50 feet wide and 0.3 miles long with a 6% - 7% grade. No BMPs were observed in place to stabilize the disturbed areas or to prevent sediment and soil from discharging from the disturbed areas to an un-named tributary of Parachute Creek. The SWMP indicated that water bars would be implemented in this area. However, no water bars were in place.

- c. The Inspectors observed a disturbed slope associated with the blasting of the high wall cut at the Project. The disturbance in this area was approximately 35 acres with a 50% grade. As indicated by the SWMP and stated by a Project representative, a straw wattle was in place at the toe of the slope. However, according to the installation and implementation specifications included in the SWMP, straw wattles are to be placed at the toe and on the face of slopes and should be placed at a maximum interval of 10 feet. No straw wattles were observed on the face of the slopes and no additional BMPs were observed in place to stabilize the disturbed slope or to prevent sediment and soil from discharging from the disturbed slope to an un-named tributary of Parachute Creek.
20. The Division has determined that Williams failed to implement and/or maintain functional BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic, and pollution control practices.
 21. Williams' 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.

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

22. Pursuant to Part I. D. 6. (a) of the Permit, for active sites where construction has not been completed, Williams 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.
23. Pursuant to Part I. D. 6. (b) (2) of the Permit, Williams is required to keep a record of inspections that describes, among other things, the location(s) of BMPs that need maintenance, any corrective actions taken, the dates the corrective actions were taken, and any measures taken to prevent future violations. After corrective action has been taken, or where a report does not identify any incidents requiring corrective action, the inspection report shall contain a signed statement indicating the site is in compliance with the Permit.
24. In response to the November 1, 2010 inspection, Williams submitted copies of its inspection reports for the Project covering the period from July 22, 2010 – September 2, 2010. The submitted inspection reports were received by the Division on November 15, 2010. The Division reviewed the inspection reports and identified the following deficiencies related to Williams' inspection performance and documentation, as described in Paragraphs 25(a-d) below:
 - a. Each inspection report identified the need for BMP maintenance at the Project. However, the inspection reports did not identify the location(s) of the BMP(s) requiring maintenance.
 - b. The inspection reports did not include a description of any corrective actions.
 - c. The inspection reports did not include the dates any corrective actions were taken.
 - d. The inspection reports did not include any measures taken to prevent future violations.

- e. The inspection reports did not include any signed statements indicating the site was in compliance with the Permit.
25. Williams' failure to properly document its inspections constitutes violations of Part I. D. 6. (b) (2) of the Permit.

NOTICE OF VIOLATION

26. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined Williams 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. 5. of the Permit, which states in part, "The plan shall be updated as appropriate... The permittee shall amend the SWMP: 1) when there is a change in design, construction, operation, or maintenance of the site, which would require the implementation of new or revised BMPs; or 2) if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity; or 3) when BMPs are no longer necessary and are removed."

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."

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: ... iv) Locations of BMPs that need to be maintained; 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; viii) After adequate corrective action(s) has been taken, or where a report does not identify any incidents requiring corrective action, the report shall contain a signed statement indicating the site is in compliance with the permit to best of the signer’s knowledge and belief.”

REQUIRED CORRECTIVE ACTION

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

27. 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 Williams to comply with the following specific terms and conditions of this Order:

28. Williams shall immediately evaluate the Project’s SWMP and implement necessary measures to ensure the SWMP contains all of the elements required by the Permit, including functional and effective BMPs for all potential pollution sources at the site, and that the SWMP is effective in managing pollutant discharges from the Project. Within thirty (30) calendar days of receipt of this Order, Williams 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.
29. Williams 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, Williams 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, Williams shall submit photographs to the Division documenting the current conditions at the site and the associated BMPs implemented at the Project.
30. Williams 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, Williams 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. Within sixty (60) calendar days of receipt of this Order, Williams shall submit a detailed written plan to the Division outlining the standard procedures Williams 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 Williams 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 Williams' 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, Williams 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 16th day of March, 2011.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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