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.
Denver, Colorado 80246-1530
Phone (303) 692-2000
Located in Glendale, Colorado

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

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Colorado Department
of Public Health
and Environment

April 9, 2012

Christine R. Hoth, Registered Agent
GSL/Brush LLC
1801 California Street, Suite 4300
Denver, Colorado 80202

Certified Mail Number: 7010 2780 0002 8752 3796

RE: Order for Civil Penalty, Number: IP-120409-1

Dear Ms. Hoth:

GSL/Brush LLC is hereby served with the enclosed Order for Civil Penalty ("Penalty Order"). This Penalty Order is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §25-8-608(2) of the *Colorado Revised Statutes*. Payment of the imposed civil penalty should be made in accordance with the methods referenced in the Penalty Order and Compliance Order on Consent, Number: IC-120203-1.

If you have any questions regarding the Penalty Order or the payment method, please do not hesitate to contact Michael Harris of this office at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,

Russell Zigler

Russell Zigler, Legal Assistant
Compliance Assurance Section
Water Pollution Control Compliance & Enforcement
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Tri-County Health Department
Natasha Davis, EPA Region VIII
Jon Erickson, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Michael Harris, Case Lead

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY **NUMBER: IP-120409-1**

IN THE MATTER OF: **GSL/BRUSH LLC**
CDPS PERMIT NO. COG-500000
CERTIFICATION NO. COG-501530
ADAMS COUNTY, COLORADO

This matter having come to my attention as the Designee of the Executive Director of the Colorado Department of Public Health and Environment, upon petition for imposition of a civil penalty by the Water Quality Control Division's Compliance Assurance Section, and pursuant to §25-8-608 C.R.S, I hereby impose a civil penalty in the amount of Twelve Thousand Two Hundred Fifty Eight Dollars ($12,258.00) against GSL/Brush LLC for the violations cited in the February 3, 2012 Compliance Order on Consent (Number: IC-120203-1). A copy of the Compliance Order on Consent is attached hereto as Exhibit A and is incorporated herein by reference. The civil penalty shall be paid through three installment payments, the first due within thirty (30) calendar days of the date of this Order for Civil Penalty, and as set forth in the Compliance Order on Consent.

"Method of payment shall be by certified or cashier's check drawn to the order of the 'Colorado Department of Public Health and Environment,' and delivered to:

Michael Harris
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CAS-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530"

Dated this 9th day of April 2012

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

Exhibit A

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT **NUMBER: IC-120203-1**

IN THE MATTER OF: **GSL/BRUSH LLC**
CDPS PERMIT NO. COG-500000
CERTIFICATION NO. COG-501530
ADAMS COUNTY, COLORADO

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Compliance Order on Consent ("Consent Order"), pursuant to the Division's authority under §§25-8-602 and 605, C.R.S. of the Colorado Water Quality Control Act ("the Act") §§25-8-101 to 803, C.R.S., and its implementing regulations, with the express consent of GSL/Brush LLC ("GSL"). The Division and GSL may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, the civil penalties associated with alleged violations cited herein.

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding GSL and GSL's compliance with the Act and its implementing permit regulations.

3. At all times relevant to the violations cited herein, GSL was an Illinois limited liability company in good standing and registered to conduct business in the State of Colorado.

4. GSL is a "person" as defined by §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

5. On June 22, 2009, GSL assumed ownership and operational control of the 120th Pit, a sand and gravel mining, crushing, and washing operation located at or near 10701 E. 120th Avenue, in or near the Town of Henderson, Adams County, Colorado (the "Facility"). Prior to this time, the Facility

was under separate ownership and control and was covered under a Colorado Discharge Permit System ("CDPS") permit, Certification Number COG-5015000.

Discharge without a Permit

6. Pursuant to §25-8-501(1), C.R.S. and its implementing permit regulation, 5CCR 1002-61, §61.3(1)(a), no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article.

7. Pursuant to 5 CCR 1002-65, §65.2(1), no person shall discharge any pollutant from a point source that flows into a storm sewer pipe or inlet to such pipe without first having obtained a permit for such discharge from the Division.

8. On February 22, 2011, a representative from Metro Wastewater Reclamation District observed the discharge of extremely turbid, sediment-laden water to the South Platte River just south of the 124th Avenue bridge in or near the Town of Henderson. The discharge originated from GSL's Facility via a hose that was inserted into a City of Brighton water augmentation pipeline, which then flowed to the South Platte River.

9. On the morning of March 1, 2011, a representative from Metro Wastewater Reclamation District observed the discharge of extremely turbid, sediment-laden water to the South Platte River just south of the 124th Avenue bridge in or near the Town of Henderson. The discharge originated from GSL's Facility via a hose that was inserted into a City of Brighton water augmentation pipeline, which then flowed to the South Platte River.

10. On the afternoon of March 1, 2011, representatives from the Division visited the Facility and observed the ongoing discharge of extremely turbid, sediment-laden water to the South Platte River, as well as the discharge of extremely turbid, sediment-laden water to Ski Lake via a hose from the Facility. The combined discharge rate was approximately 1,100 gallons/minute. Division representatives took a sample of the discharge at the South Platte River and delivered it to the Department's Laboratory Services Division for analysis.

11. Laboratory analysis conducted by the Department's Laboratory Services Division determined that the March 1, 2011 discharge from the Facility contained a Total Suspended Solids concentration of 11,000 mg/l.

12. On May 2, 2011, a representative from the Division observed the discharge of extremely turbid, sediment-laden water to Ski Lake via a hose from the Facility. Additionally, the discharge had caused, and was causing, significant erosion and sediment discharge from the southern bank of Ski Lake.

13. Sediment is a "pollutant" as defined by §25-8-103(15), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(76).

14. The City of Brighton's water augmentation pipeline and the hoses from the Facility are "point sources" as defined by §25-8-103(14), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(75).

15. The South Platte River and Ski Lake 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).

16. GSL's discharge of sediment from the Facility into the South Platte River and Ski Lake constitutes a "discharge of pollutants" as defined by §25-8-103(3), C.R.S.

17. The Division records establish that GSL did not have any permits authorizing the discharge of pollutants described above.

18. GSL's discharges of sediment from the Facility to the South Platte River and Ski Lake without a permit constitute unauthorized discharges of pollutants from a point source into state waters in violation of §25-8-501(1) C.R.S., 5 CCR 1002-61, §61.3(1)(a) and 5 CCR 1002-65, §65.2(1).

Operating without a Stormwater Permit

19. Pursuant to 5 CCR 1002-61, §61.3(2)(e), stormwater discharges associated with industrial activity are point sources requiring CDPS permit coverage.

20. Pursuant to 5 CCR 1002-61, §61.3(2)(e)(iii)(C), mining operations are considered to be engaging in "industrial activity."

21. Pursuant to 5 CCR 1002-61, §61.4(3)(a)(i), facilities proposing a discharge of stormwater associated with industrial activity shall submit a permit application 180 days before that facility commences industrial activity which may result in a discharge of stormwater associated with that industrial activity.

22. On August 11, 2011, the Division received an application from GSL for Facility coverage under the CDPS General Permit, Number COG-500000, for Sand and Gravel Mining and Processing (the "Permit").

23. On August 12, 2011, the Division issued GSL Certification Number COG-501530 authorizing GSL to discharge stormwater and process generated wastewater from the Facility under the terms and conditions of the Permit. Certification Number COG-501530 became effective August 12, 2011 and remains in effect until June 30, 2013 or until GSL inactivates Permit coverage.

24. Division records establish that GSL did not have any permits authorizing discharges of stormwater from the Facility during the period from June 2010 until August 12, 2011.

25. GSL's failure to obtain CDPS permit coverage authorizing stormwater discharges from the Facility prior to August 12, 2011 constitutes violations of §25-8-501(1) C.R.S., 5 CCR 1002-61, §61.3(1)(a), 5 CCR 1002-61, §61.3(2), and 5 CCR 1002-61, §61.4(3)(a)(i).

ORDER AND AGREEMENT

26. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein, the Division orders GSL to comply with all provisions of this Consent Order, including all requirements set forth below.

27. GSL agrees to the terms and conditions of this Consent Order. GSL agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. GSL also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by GSL against the Division:

    a. The issuance of this Consent Order;
    b. The factual and legal determinations made by the Division herein; and
    c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.

28. Notwithstanding the above, GSL does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by GSL pursuant to this Consent Order shall not constitute evidence of fault and liability by GSL.

CIVIL PENALTY

29. Based upon the application of the Division's penalty policies, and consistent with Departmental policies for violations of the Act, GSL shall pay Twelve Thousand Two Hundred Fifty Eight Dollars ($12,258.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Twelve Thousand Two Hundred Fifty Eight Dollar ($12,258.00) civil penalty for the above violation(s) and GSL agrees to make the payment through three installment payments as described in the table below:

Payment	Amount	Due Date
1	$2,258.00	Within thirty (30) calendar days of issuance of an Order for Civil Penalty by the Executive Director or his designee
2	$5,000.00	September 1, 2012
3	$5,000.00	March 1, 2013

Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

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

30. Failure to submit full payment of any installment by the due date described in paragraph 29 above shall be deemed a violation of this Consent Order.

31. In the event that GSL fails to comply with any of the terms or provisions of this Consent Order relating to payment of the civil penalty, GSL shall be liable for payment of the outstanding balance of the civil penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to the address specified in paragraph 29 above.

SCOPE AND EFFECT OF CONSENT ORDER

32. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations alleged herein. In no event will GSL be responsible in any way for violations related to permit Certification Number COG-501500.

33. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and GSL each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.

34. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty following the public comment period. Any violation of the provisions of this Consent Order by GSL, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.

35. Notwithstanding paragraph 28 above, the violations described in this Consent Order will constitute part of GSL'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 GSL. GSL agrees not to challenge the use of the cited violations for any such purpose.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

36. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to civil penalties for the specific instances of violations cited herein. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.

37. This Consent Order does not grant any release of liability for any violations not specifically cited herein.

38. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.

39. Upon the effective date of this Consent Order, GSL releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.

40. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

NOTICES

41. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CAS-B2
Attention: Michael Harris
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3598
E-mail: michael.harris@state.co.us

For GSL:

James Newman, Manager GSL of Illinois
4131 S. State Street
Chicago, IL 60609
Telephone: 773.496.5720
E-mail: JimN@loebfinancial.com

MODIFICATIONS

42. This Consent Order may be modified only upon mutual written agreement of the Parties.

NOTICE OF EFFECTIVE DATE

43. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty following closure of the public comment period referenced in paragraph 33. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

BINDING EFFECT AND AUTHORIZATION TO SIGN

44. This Consent Order is binding upon GSL and its corporate subsidiaries or parents, their officers, directors, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

FOR GSL/BRUSH LLC:

_____ Date: 1/31/2012

James Newman, Manager

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

_____ Date: 2/3/12

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