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

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

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

Colorado Department
of Public Health
and Environment

May 4, 2010

Jean Excell
Rockrimmon Constructors
c/o CH2M Hill, Inc.
9191 S. Jamaica Street
Englewood, CO 80112

Certified Mail Number: 7009 1680 0000 2094 4671

RE: Order for Civil Penalty, Number: SP-100504-1

Dear Ms. Jean Excell:

Rockrimmon Constructors 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: SC-100315-1.

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) 692-3598or by electronic mail at michael.harris@state.co.us.

Sincerely,

Russell Zigler

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

Enclosure(s)

cc: El Paso County Department of Health and Environment

ec: Aaron Urdiales, EPA Region VIII
Kelsey Baertschi, Engineering Section, CDPHE
Dave Knope, Engineering Section, CDPHE
Nathan Moore, Permits Section. CDPHE
Dick Parachini, Watershed Program, CDPHE
Carolyn Schachterle, FSU, CDPHE
Lisa Ross, MS4 Stormwater Program

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY **NUMBER: SP-100504-1**

IN THE MATTER OF: **ROCKRIMMON CONSTRUCTORS, A SEMA/CH2M HILL JOINT VENTURE**
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-038487
EL PASO 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 Twenty Six Thousand Four Hundred Dollars ($26,400.00) against Rockrimmon Constructors, A SEMA/CH2M Hill Joint Venture, for the violations cited in the March 15, 2010 Compliance Order on Consent (Number: SC-100315-1). 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 within thirty (30) calendar days of the date of this Order for Civil Penalty 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-CADM-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530"

Dated this 4th day of May, 2010.

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: SC-100315-1**

IN THE MATTER OF: **ROCKRIMMON CONSTRUCTORS, A SEMA/CH2M HILL JOINT VENTURE**
CDPS PERMIT NO. COR-030000
CERTIFICATION NOS. COR-038487
EL PASO 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 703, C.R.S., and its implementing regulations, with the express consent of Rockrimmon Constructors, A SEMA/CH2M HILL Joint Venture ("Rockrimmon"). The Division and Rockrimmon 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, civil penalties for the 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 Rockrimmon and Rockrimmon's compliance with the Act and its stormwater permit certification for construction activity.

3. Rockrimmon was formed in the year 2004 as a joint venture of SEMA Construction, Inc. and CH2M Hill Constructors, Inc.

4. Rockrimmon 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 or about July 13, 2005, Rockrimmon initiated construction activities of the Colorado Springs Metro Interstate Expansion ("COSMIX") highway development project in the City of Colorado Springs, El Paso County, Colorado (the "Project").

6. On June 27, 2005, the Division received an application from Rockrimmon for Project coverage under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activities (the "Permit"). During the times relevant to the alleged violations identified herein, a version of the Permit was in place that was effective from July 1, 2002 through June 30, 2007 (the "2002 Permit"). The current version of the Permit, which was signed on May 31, 2007, became effective on July 1, 2007 and remains in effect until June 30, 2012 (the "2007 Permit").

7. On June 28, 2005, the Division provided Rockrimmon Certification Number COR-038487 authorizing Rockrimmon to discharge stormwater from the construction activities associated with the Project to Fountain Creek and the Arkansas River under the terms and conditions of the Permit. Certification Number COR-038487 became effective June 28, 2005 and remains in effect until June 30, 2012 or until Rockrimmon inactivates Permit coverage.

8. Fountain Creek and the Arkansas 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).

9. Pursuant to 5 CCR 1002-61, §61.8, a permittee must comply with all the terms and conditions of a permit and violators of the terms and conditions specified in a permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.

10. On June 13, 2007, a representative from PG Environmental, LLC (the "Inspector") conducted an on-site inspection of the Project on behalf of the Division, pursuant to the Division's authority under §25-8-306, C.R.S., to determine Rockrimmon's compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector 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

11. Pursuant to Part I. B. of the 2002 Permit, Rockrimmon was required to prepare and maintain a Stormwater Management Plan ("SWMP") that identified Best Management Practices ("BMPs") that, when implemented, would meet the terms and conditions of the 2002 Permit. The SWMP was required to identify potential sources of pollution, which may be reasonably expected to affect the quality of stormwater discharges associated with construction activity from project. In addition, the plan was required to describe and ensure the implementation of BMPs, which would be used to reduce the pollutants in stormwater discharges associated with construction activity.

12. Pursuant to Part I. B. of the 2002 Permit, the SWMP shall include, at a minimum, the following items:

EXHIBIT A

a. Site Description - Each plan shall provide a description of the following:
   i. A description 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. An estimate of the runoff coefficient of the site before and after construction activities are completed and any existing data describing the soil, soil erosion potential or the quality of any discharge from the site.
   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 any other potential pollution sources, such as vehicle fueling, storage of fertilizers or chemicals, etc.
   vii. The location and description of any anticipated non-stormwater components of the discharge, such as springs and landscape irrigation return.
   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 - Each plan shall provide a generalized site map or maps which indicate:
   i. Construction site boundaries.
   ii. All areas of soil disturbance.
   iii. Areas of cut and fill.
   iv. Areas used for storage of building materials, soils or wastes.
   v. Location of any dedicated asphalt or concrete batch plants.
   vi. Location of major erosion control facilities or structures.
   vii. Springs, streams, wetlands and other surface waters.
   viii. Boundaries of 100-year flood plains, if determined.

c. BMPs for Stormwater Pollution Prevention - The plan shall include a narrative description of appropriate controls and measures that will be implemented before and during construction activities at the facility, including:

   i. Erosion and Sediment Controls – A description of structural site management controls (Structural Practices) which will minimize erosion and sediment transport <u>and</u> a description of interim and permanent stabilization practices (Non-Structural Practices), including the site-specific scheduling of the implementation of the practices.
   ii. Phased BMP Implementation – The SWMP shall clearly describe the relationship between the phases of construction and the implementation and maintenance of BMPs
   iii. Materials Handling and Spill Prevention - The SWMP shall identify any procedures or significant materials handled at the site that could contribute pollutants to runoff.
   iv. 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.

d. Final Stabilization and Long-Term Stormwater Management - Description of the measures used to achieve final stabilization and measures to control pollutants in stormwater discharges that will occur after construction operations have been completed.

e. Other Controls - Description of other measures to control pollutants in stormwater discharges, including plans for waste disposal and limiting off-site soil tracking.

f. Inspection and Maintenance - Description of procedures to inspect and maintain in good and effective operating condition the vegetation, erosion and sediment control measures and other protective measures identified in the SWMP.

13. The Division has determined that Rockrimmon failed to prepare and maintain a complete and accurate SWMP for the Project as described in paragraphs 13(a–c) below:

a. During the June 13, 2007 inspection, the Inspector reviewed the Project's SWMP and identified that the site map did not include the location of all asphalt and concrete batch plants, specifically the concrete batch plant located on Mark Dabling Boulevard at the Project.

b. During the June 13, 2007 inspection, the Inspector reviewed the Project's SWMP and identified that the site map did not include the location of all nearby springs, streams, wetlands, or other surface waters, specifically an unnamed tributary to Monument Creek that was flowing through Box Culvert G in the northern portion of Segment 3 at the Project.

c. During the June 13, 2007 inspection, the Inspector reviewed the Project's SWMP and identified that the SWMP did not fully describe the relationship between the phases of construction and the implementation and maintenance of controls and measures.

14. Rockrimmon's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violations of Part I. B. of the 2002 Permit.

Failure to Implement and/or Maintain
Best Management Practices to Protect Stormwater Runoff

15. Pursuant to Part I. B. 3. a. (1) of the 2002 Permit, Rockrimmon was required to minimize erosion and sediment transport from the Project. The 2002 Permit specified that structural site management practices may include, but are not limited to: straw bales, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.

16. Pursuant to Part I. B. 3. a. (2) of the 2002 Permit, Rockrimmon was required to implement interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. The 2002 Permit specified that site plans should ensure existing vegetation is preserved where possible and that disturbed areas are stabilized. The 2002 Permit specified that non-structural practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees and preservation of mature vegetation.

17. The Division has determined that Rockrimmon failed to implement and/or maintain functional BMPs at the Project as described in paragraphs 17(a–l) below:

a. During the June 13, 2007 inspection, the Inspector observed disturbed slopes located in Segment 3 of the Project, east of I-25 at Box Culvert G. Silt fence was in place but was not installed in accordance with specifications and design criteria meeting best engineering practices, as the silt fence was supported with a series of guy-lines. No other BMPs were observed in place to stabilize the disturbed slopes or to prevent erosion and sediment discharge. Consequently, the Inspector observed erosion of the slopes and slope failure in addition to a discharge of sediment into an unnamed tributary of Monument Creek.

b. During the June 13, 2007 inspection, the Inspector observed a disturbed area located near the intersection of Rockrimmon Boulevard and Mark Dabling Boulevard at the Project. A silt fence was in place at the perimeter of the area, however, the silt fence was not installed and/or maintained to act as a functional BMP, as the silt fence had been undercut during a previous storm event. No other BMPs were observed in place to stabilize the disturbed area or to prevent erosion and sediment discharge. Consequently, sediment deposition was observed on Mark Dabling Boulevard.

c. During the June 13, 2007 inspection, the Inspector observed a disturbed area located in Segment 3 of the Project, southwest of the intersection of Rockrimmon Boulevard and Mark Dabling Boulevard. A silt fence was in place directly adjacent to a tributary of Monument Creek, however, no other BMPs were observed in place to stabilize the disturbed area or to prevent erosion and sediment discharge. Consequently, the silt fence had failed during a previous storm event and sediment deposition beyond the silt fence and down toward the unnamed tributary of Monument Creek was observed.

d. During the June 13, 2007 inspection, the Inspector observed soil stockpiles located at the Nevada truck yard east of Nevada Avenue and at the Colorado Avenue staging area in Segment 1 of the Project. No BMPs were observed in place to prevent sediment discharges from the soil stockpiles.

e. During the June 13, 2007 inspection, the Inspector observed disturbed areas located in Segment 2 of the Project, northwest of I-25 and Garden of the Gods Road. A silt fence was in place, however, no other BMPs were observed in place to stabilize the disturbed area or to prevent erosion and sediment discharge from the area. Additionally, the silt fence was not installed and/or maintained to act as a functional BMP, as the silt fence sections were not joined in accordance with specifications and design criteria meeting best engineering practices. Consequently, sediment deposition beyond the silt fence was observed leading to a flood control structure.

f. During the June 13, 2007 inspection, the Inspector observed disturbed slopes located in Segment 2 of the Project, northwest of I-25 and Garden of the Gods Road. A silt fence was in place in the drainage swale along the toe of the slope, however, the silt fence was not installed and/or maintained to act as a functional BMP, as the silt fence sections were not joined in accordance with specifications and design criteria meeting best engineering practices and the silt fence had been undercut during a previous storm event. No other BMPs were observed in place to stabilize the disturbed slopes or to prevent erosion and sediment discharge from the area. Consequently, the Inspector observed erosion of the slope, gulley formation, and sediment laden stormwater in the inlet located at the southbound off ramp of I-25.

g. During the June 13, 2007 inspection, the Inspector observed a flood control pond located in Segment 2 of the project, northwest of I-25 and Garden of the Gods Road. Sediment deposition from a previous storm event was observed within the flood control pond, including sediment accumulation in the northern and eastern inlet structures, which resulted from a lack of functional upstream BMPs. The flood control pond was directly connected to the storm drain system that discharges to Monument Creek. A silt fence was in place at the outlet of the flood control pond, however, no other BMPs had been implemented to modify the pond and its outlet structure to function as a construction BMP or to otherwise prevent sediment discharges. Consequently, sediment discharge from the pond to the storm sewer system was observed.

h. During the June 13, 2007 inspection, the Inspector observed a dirt surface roadway and temporary bridge crossing over Monument Creek located at the Colorado Avenue staging area in Segment 1 of the Project, northeast of Bijou Street and I-25. No vehicle tracking control BMPs were being utilized. A silt fence was observed in place adjacent to Monument Creek, however, the silt fence had not been installed and/or maintained to act as a function BMP, as sediment deposition beyond the silt fence was observed.

i. During the June 13, 2007 inspection, the Inspector observed disturbed slopes located near the Monument Creek Bridge in Segment 1 of the Project, northeast of Bijou Street and I-25. A silt fence was in place along the toe of the slope, however, no other BMPs were observed in place to stabilize the slope or to prevent erosion and sediment discharge. Additionally, the silt fence had not been installed and/or maintained to act as a functional BMP, as the silt fence was not staked in accordance with specifications and design criteria meeting best engineering practices.

j. During the June 13, 2007 inspection, the Inspector observed disturbed slopes located in Segment 1 of the Project, southwest of the intersection of Walnut Street and Colorado Avenue, adjacent to I-25. Silt fence was observed in place, however, the silt fence had not been installed and/or maintained to act as a functional BMP, as sections of the silt fence were not installed on the contour and in accordance with specifications and design criteria meeting best engineering practices. No other BMPs were observed in place to stabilize the disturbed slopes or to prevent erosion and sediment discharge. Consequently, the Inspector observed erosion and gully formation on the slopes.

k. During the June 13, 2007 inspection, the Inspector observed chemicals that were being stored at the Colorado Avenue staging area in Segment 1 of the Project, southeast of I-25 and Bijou Street. A drum of concrete curing chemical was being stored uncovered and without secondary containment. Additionally, gasoline was being stored without secondary containment or other BMPs.

l. During the June 13, 2007 inspection, the Inspector observed a portable toilet located at the Colorado Avenue Staging area in Segment 1 of the project. No BMPs were implemented to secure the toilet or prevent it from being knocked or blown over.

18. Rockrimmon's failure to implement and maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations of Part I. B. 3. a. of the 2002 Permit.

Rockrimmon's Position on Alleged Violations

19. Rockrimmon disagrees with the Division's determinations in paragraphs 13(a-b) above:

    a. The map is required to show the location of dedicated concrete batch plants. The concrete batch plant located on Mark Dabling Blvd. was permitted separately by its owner, was outside the limits of construction, and was not dedicated for use by the Project. Therefore, Rockrimmon believes the concrete batch plant was correctly omitted from the map.

    b. The map is required to indicate the location of springs, streams, wetlands, or other surface waters. The Division alleges that the site map did not include the location of an unnamed tributary to Monument Creek. The map showed the tributary as a faint line but, because it was unnamed, it was not labeled with the term "unnamed."

20. The Division finds that Rockrimmon's position statement is not consistent with the information gathered in the course of the Division's inspection and investigation of the incidents described herein and the inclusion of Rockrimmon's position statement in this Consent Order should not be construed to constitute any admission or agreement by the Division as to the content of the position statement.

ORDER AND AGREEMENT

21. 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 Rockrimmon to comply with all provisions of this Consent Order, including all requirements set forth below.

22. Rockrimmon agrees to the terms and conditions of this Consent Order. Rockrimmon 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. Rockrimmon also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Rockrimmon 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.

23. Notwithstanding the above, Rockrimmon does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Rockrimmon pursuant to this Consent Order shall not constitute evidence of fault or liability by Rockrimmon with respect to the conditions of the Project. Rockrimmon expressly reserves its rights to deny any of the Division's factual or legal determinations or defend itself in any other third party proceeding relating to the information identified in this Consent Order.

CIVIL PENALTY AND SUPPLEMENTAL ENVIRONMENTAL PROJECTS

24. In addition to all other funds necessary to comply with the requirements of this Consent Order, Rockrimmon shall pay One Hundred Fifty Thousand Dollars ($150,000.00) in the form of civil penalties and expenditures on Supplemental Environmental Projects ("SEPs") in order to achieve settlement of this matter.

25. Based upon the application of the Division's Stormwater Civil Penalty Policy (January 25, 2007), and consistent with Departmental policies for violations of the Act, Rockrimmon shall pay Twenty Six Thousand Four Hundred Dollars ($26,400.00) in civil penalties. The Division intends to petition the Executive Director, or her designee, to impose the Twenty Six Thousand Four Hundred Dollar ($26,400.00) civil penalty for the above violation(s) and Rockrimmon agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or her designee. 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-CADM-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530

26. Rockrimmon shall also perform the SEP identified below. Rockrimmon's total expenditure for the SEP shall be One Hundred Twenty Three Thousand Six Hundred Dollars ($123,600.00).

27. Rockrimmon shall undertake the following SEP, which the Parties agree is intended to secure significant environmental or public health protection and improvements:

28. Rockrimmon shall donate One Hundred Twenty Three Thousand Six Hundred Dollars ($123,600.00) to The City of Colorado Springs Stormwater Enterprise. The funds will be used for a Fountain Creek stream restoration project benefiting El Paso and Pueblo Counties, as further described in Attachment A. Rockrimmon shall make the payment of One Hundred Twenty Three Thousand Six Hundred Dollars ($123,600.00), and shall include with the donation a cover letter identifying the monies for the above-described project within thirty (30) days of the effective date of this Consent Order. Rockrimmon shall provide the Division with a copy of the cover letter and check within thirty (30) calendar days of the effective date of this Consent Order. *(Note: The SEP will be performed by the City of Colorado Springs and its contractors and Rockrimmon will not be responsible for obtaining approvals and/or permits for the SEP.)*

29. Rockrimmon shall not deduct the expenses associated with the implementation of the above-described SEP for any tax purpose or otherwise obtain any favorable tax treatment of such payment or project.

30. Rockrimmon hereby certifies that, as of the date of this Consent Order, it is not under any existing legal obligation to perform or develop the SEP. Rockrimmon further certifies that it has not received, and will not receive, credit in any other enforcement action for the SEP. In the event that Rockrimmon has, or will receive credit under any other legal obligation for the SEP, Rockrimmon shall pay One Hundred Twenty Three Thousand Six Hundred Dollars ($123,600.00) to the Division as a civil penalty within thirty (30) calendar days of receipt of a demand for payment by the Division. Method of payment shall be as specified in paragraph 25 above.

31. The SEP must be completed to the satisfaction of the Division by December 1, 2010. In the event that Rockrimmon fails to comply with any of the terms or provisions of this Consent Order relating to the performance of the SEP, Rockrimmon shall be liable for penalties as follows:

    a. Payment of a penalty in the amount of One Hundred Twenty Three Thousand Six Hundred Dollars ($123,600.00). The Division, in its sole discretion, may elect to reduce this penalty for environmental benefits created by the partial performance of the SEP.

    b. Rockrimmon shall pay this penalty within thirty (30) calendar days of receipt of written demand by the Division. Method of payment shall be as specified in paragraph 25 above.

32. Rockrimmon shall submit a SEP Completion Report to the Division by December 31, 2010. The SEP Completion Report shall contain the following information:

    a. A detailed description of the SEP as implemented;
    b. A description of any operating problems encountered and the solutions thereto;
    c. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
    d. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and
    e. A description of the environmental and public health benefits resulting from implementation of the SEP (with quantification of the benefits and pollutant reductions, if feasible).

33. Failure to submit the SEP Completion Report with the required information, or any periodic report, shall be deemed a violation of this Consent Order.

34. Rockrimmon shall include the following language in any public statement, oral or written, making reference to the SEP: "This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of the Colorado Water Quality Control Act."

SCOPE AND EFFECT OF CONSENT ORDER

35. 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.

36. 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 Rockrimmon 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.

37. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or her designee imposes the civil penalty following the public comment period. Any violation of the provisions of this Consent Order by Rockrimmon, 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.

38. Notwithstanding paragraph 23 above, the violations described in this Consent Order will constitute part of Rockrimmon'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 Rockrimmon. Rockrimmon agrees not to challenge the use of the cited violations for any such purpose.

39. This Consent Order does not relieve Rockrimmon from complying with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and Rockrimmon shall obtain all necessary approvals and/or permits to conduct the activities required by this Consent Order. The Division makes no representation with respect to approvals and/or permits required by Federal, State, or local laws other than those specifically referred to herein.

40. This Consent Order shall terminate when the Division issues a written determination that the SEP has been completed satisfactorily.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

41. 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.

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

43. 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.

44. Upon the effective date of this Consent Order, Rockrimmon 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.

45. Rockrimmon shall not seek to hold the State of Colorado or its employees, agents or representatives liable for any injuries or damages to persons or property resulting from acts or omissions of Rockrimmon, or those acting for or on behalf of Rockrimmon, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Rockrimmon shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by Rockrimmon in carrying out activities pursuant to this Consent Order. 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

46. 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-CADM-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 Rockrimmon:

Jean Excell
Rockrimmon Constructors
c/o CH2M Hill, Inc.
9191 S. Jamaica Street
Englewood, CO 80112

MODIFICATIONS

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

NOTICE OF EFFECTIVE DATE

48. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or her designee imposes the civil penalty. 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

49. This Consent Order is binding upon Rockrimmon and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this 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 ROCKRIMMON CONSTRUCTORS, A SEMA/CH2M HILL JOINT VENTURE:

Date: 12 MAR 10

Brian Stieritz, Vice President

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

Date: 03/15/10

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

EXHIBIT A
Attachment A

Project Name	Fountain Creek Restoration at A-1 Mobile Village
Project Manager	Lisa Ross / Tom Repp City of Colorado Springs 30 South Nevada Ave, Suite 504 Colorado Springs, CO 80903 719.385.5064 / 719.385.5583
CDPHE Contact Person	Michael Harris Water Quality Control Division Colo Dept of Public Health and Environment 4300 Cherry Creek Dr. Denver, CO 80246 michael.harris@state.co.us
Geographical Area to Benefit From Project	This project will benefit the City of Colorado Springs, the City of Pueblo, El Paso and Pueblo Counties, and the Upper Arkansas River Watershed
Type of Project	Environmental Restoration and Protection
Project Description	Project will entail approximately 500 feet stabilization of low flow channel (2.4 Acres of floodplain area) and restoration in the proximity of the A-1 Mobile Village to address sediment accumulation that has occurred since the initial project was constructed in 2004. The scope of this project includes sediment removal, grading to increase slope (currently a very low slope exists), enhanced riparian and aquatic vegetation, in stream boulders to increase sinuosity and enhance habitat, and creation of a low flow channel to improve aquatic habitat and decrease future maintenance requirements. In addition, sustainable, low maintenance vegetation will be placed throughout the entire stretch of channel from the 8th Street Bridge to the ongoing construction limits of Fountain Creek at Gold Hill Mesa. This additional add-on work stretches along the 500' downstream of the current Fountain Creek Restoration at Gold Hill Mesa project that is not currently part of the project defined limits. The two projects lie between two Springs Community Improvements Program (SCIP) projects on Fountain Creek. There are several goals for this unique project: • Reduce flooding, erosion and sedimentation • Improve water quality and address environmental issues • Control pollutants and contaminants • Create wetlands and a stable riparian environment • Minimize impacts to previously constructed storm water improvements • Promote environmental stewardship through community "ownership" of the creek

EXHIBIT A
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About the Fountain Creek Restoration Project-Gold Hill Mesa

In late 2007, the Colorado Department of Transportation and Gold Hill Mesa Partners approached the City of Colorado Springs Stormwater Enterprise with the possibility of partnering to make improvements to Fountain Creek that would be beneficial to all three entities. The Colorado Department of Transportation maintains US 24 that parallels Fountain Creek and considers the future improvements as key in reducing flooding and erosion along the city's primary east/west corridor. Gold Hill Mesa Partners are cleaning up the former ore processing mill through Colorado's Voluntary Clean-Up Program (VCUP). This includes addressing mine tailings that ended up in the creek area. Fountain Creek improvements are a major priority for the Stormwater Enterprise as the majority of the city's runoff eventually ends up in Fountain Creek, before traveling to downstream neighbor communities. The ability to partner with other entities is a good way to leverage the expenditure of Stormwater Enterprise funds.

About the Additional Work on Fountain Creek

In 2004, work on the downstream section near 8th Street at the A-1 Mobile Village was completed to stabilize Fountain Creek. Since then, low grades in this stream segment have caused additional sedimentation to fall out of the creek and rest near the Village Park. In addition, maintenance activities of the improved section have cause public disapproval due to lack of habitat and in the aesthetics of the channel section. By placing low flow channel delineation measures such as willows and boulders, the stream grade can be increased, preventing sediment accumulation in this segment, and the overflow banks (which may include mine tailings) to stay in their current stable location. The willows and boulders also provide for enhanced wildlife and aquatic habitat and are aesthetically pleasing.

The mine tailings that currently exist in the project vicinity are known to be in the areas outside of the low flow channel. By stabilizing the low flow channel and containing the normal flows within, no mine tailings will be carried downstream. The mine tailings that are to remain on site will be stabilized by the additional planting and the boulders along the stream edge. Most of the historic mine tailings were removed in 2004 when the original project was completed. Any tailings that may exist are due to the failure of the previous low flow channel.

This additional downstream work is not currently proposed with the Fountain Creek at Gold Hill Mesa project, and would be a new contract and project in the same vicinity, resulting in additional unrelated restored areas of Fountain Creek. Without the

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	additional funding, the Fountain Creek Restoration project will end at the A-1 Village property line as currently designed.
Expected Environmental and/or Public Health Benefits	The project will remove sediment from upstream sources that has buried the low flow channel of Fountain Creek. The accumulated sediment is unstable and is vulnerable to remobilization and deposition further downstream by high discharge events. The upstream area that contains considerable mill tailings that may have high concentrations of contaminants. It is possible that the accumulated sediment contains mill tailings. Water quality along this stretch has been monitored by USGS for numerous years. USGS has found that there are higher loadings of total manganese and total zinc immediately downstream of this segment as compared to upstream of this segment (near city limits). Concentrations of dissolved and total copper, total manganese, total nickel, and dissolved and total selenium also are higher (3 to 27 times) at the downstream site compared to the upstream site. We are anticipating long term improvements to water quality from the stream stabilization improvements made with the Fountain Creek Restoration Project at Gold Hill Mesa as well as these additional improvements for this downstream segment. This project would protect downstream areas by removing the sediment, and would restore the flood conveyance capacity of the channel, re-establish a low flow channel, improve water quality, re-vegetate the low flow channel banks and the overbank area in a sustainable manner using native species to enhance the natural riparian values of the floodplain.
Project Budget	$150,000
Project Schedule	Anticipated Completion Date December 2010
Reporting	Monthly Status reports will be provided to the department documenting construction progress and incurred costs. A SEP Completion Report will be submitted to the department no later than 1 month after project completion.