

# 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

June 8, 2011

Mr. William Lawrence Scott  
Shingles 4 Recycling  
5101 Columbine St.  
Denver, Colorado 80216

Certified Mail Number: 7006 2760 0003 4263 9342

**RE: Service of Notice of Violation/Cease and Desist Order, Number: SN-110608-1**

Dear Mr. Scott:

Shingles 4 Recycling 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 Shingles 4 Recycling has violated the Act, and/or Permit regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

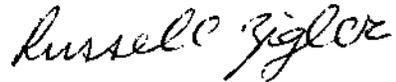
Pursuant to §25-8-603, C.R.S., Shingles 4 Recycling is required, within thirty (30) calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

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 Shingles 4 Recycling 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 Joe Campbell of this office by phone at (303) 692-2356 or by electronic mail at [joseph.campbell@state.co.us](mailto:joseph.campbell@state.co.us).

Sincerely,



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

*Enclosure(s)*

cc: Denver Environmental Health

ec: Natasha Davis, EPA Region VIII  
Kelley Jacques, Engineering Section, CDPHE  
Dick Parachini, Watershed Program, CDPHE  
Gary Beers, Permits Unit, CDPHE  
Michael Beck, OPA  
Nathan Moore, Permits Section, CDPHE  
Joe Campbell, Case Person  
Tania Watson, Compliance Assurance, CDPHE



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

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**NOTICE OF VIOLATION / CEASE AND DESIST ORDER**

**NUMBER: SN-110608-1**

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**IN THE MATTER OF:      SHINGLES 4 RECYCLING  
                                 CDPS PERMIT NO. COR-060000  
                                 CERTIFICATION NO. COR-060197 & COR-060198  
                                 DENVER COUNTY, COLORADO**

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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, Shingles 4 Recycling ("S4R") was a Colorado limited liability company in good standing.
2. S4R 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. At all times relevant to the alleged violations identified herein, S4R owned and/or operated two asphalt shingle recycling facilities as described in subparagraphs (a) and (b) below. For each recycling facility listed below, S4R applied for and obtained coverage under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-060000, for Stormwater Discharges Associated with the Recycling Industry (the "Permit"). The two facilities are classified within the Standard Industrial Classification (SIC) code 5093 – Scrap and Waste Materials.
  - a. On approximately February 5, 2010, S4R initiated asphalt shingle recycling activities at 5101 Columbine Street in the City and County of Denver, Colorado ("Facility #1").
    - i. On May 24, 2010, S4R applied for coverage for facility #1 under the Permit.

- ii. On May 25, 2010, the Division issued S4R Certification Number COR-060197 authorizing S4R to discharge stormwater from the industrial activities associated with Facility #1 to the South Platte River, under the terms and conditions of the Permit.
    - iii. Certification Number COR-060197 became effective May 25, 2010 and remains in effect until December 31, 2011, or until S4R inactivates Permit coverage.
  - b. During July 2010, S4R initiated asphalt shingle recycling activities at 5050 York Street in the City and County of Denver, Colorado ("Facility #2").
    - i. On July 26, 2010, S4R applied for coverage for Facility #2 under the Permit.
    - ii. On August 30, 2010, the Division issued S4R Certification Number COR-060198 authorizing S4R to discharge stormwater from the industrial activities associated with Facility #2 to the South Platte River, under the terms and conditions of the Permit.
    - iii. Certification Number COR-060198 became effective August 30, 2010 and remains in effect until December 31, 2011.
    - iv. On June 7, 2011, S4R submitted an application to the Division for the transfer of Permit Certification Number COR-060198 to Green Roof Recycling, LLC.
- 4. Pursuant to 5 CCR 1002-61, §61.8, S4R 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
- 5. The South Platte River is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
- 6. Pursuant to the Division's authority under §25-8-306, C.R.S. a representative from the Division (the "Inspector") conducted an onsite inspection of each facility described in paragraphs 3(a – b) above to determine S4R's compliance with the Water Quality Control Act and the Permit. During the inspections, the Inspector spoke with S4R representatives, reviewed each facilities stormwater management records, and conducted a physical inspection of each facility. The Inspector conducted the onsite inspections on May 11, 2011.

**Deficient and/or Incomplete Stormwater Management Plan**

- 7. Pursuant to Part I. B. of the Permit, S4R 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 industrial 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 industrial activity.
- 8. Pursuant to Part I. B. 2. of the Permit, the SWMP for Scrap and Waste Recycling Facilities shall include, at a minimum, the following items:

- a. **Industrial Activity Description** – The plan shall include a narrative description of the industrial activity taking place at the site.
- b. **Site Map** – The plan shall include a site map indicating an outline of the drainage area of each stormwater outfall, each existing structural control measure to reduce pollutants in stormwater runoff, surface water bodies, and the location of outdoor processing activities, storage areas, monitoring points and maintenance areas.
- c. **Stormwater Management Controls** – The plan shall include a description of stormwater management controls and shall address the following minimum components:
  - i. **SWMP Administrator** – The SWMP shall identify a specific individual(s) who is responsible for developing the SWMP and assisting the plant manager in its implementation, maintenance and revision.
  - ii. **Identification of Potential Pollutant Sources and Best Management Practices** – The SWMP shall identify potential sources of pollutants and describe BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges.
  - iii. **Mandatory BMPs** – The SWMP shall include a supplier notification program, a discussion of measures and controls specific to the handling, storage and disposition of scrap lead-acid batteries, a recyclable material inspection program, a quarterly inspection for leaks on vehicles and equipment stored outdoors, and other BMPs appropriate for the control of any identified potential pollutant sources.
  - iv. **Sampling Information** – The plan shall include a summary of any existing discharge sampling data describing pollutants in stormwater discharges and a description of each proposed sampling point.
  - v. **Preventive Maintenance** – The plan shall include a preventive maintenance program that involves inspection and maintenance of stormwater management devices, as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.
  - vi. **Good Housekeeping** – The plan shall address cleaning and maintenance schedules, trash disposal and collection practices, grounds maintenance, etc.
  - vii. **Spill Prevention and Response Procedures** – The plan shall identify areas where potential spills can occur, with their accompanying drainage points. Procedures for cleaning up spills shall be identified.
  - viii. **Implementation of BMPs** – The plan shall include an implementation schedule for any BMPs that involve major renovation to the site.
  - ix. **Employee Training** – The plan shall include procedures for conducting employee training that addresses topics such as spill response, good housekeeping, material management

practices, and plant operation and design features. Each plan shall identify periodic dates for such training.

x. **Identification of Discharges other than Stormwater** – The plan shall include a description of the results of an evaluation for the presence of discharges other than stormwater, including the method used, the date of evaluation, and the onsite drainage points that were observed.

d. **Comprehensive Inspections** – The SWMP shall identify qualified personnel that will inspect designated equipment and plant areas. The SWMP shall specify the procedures and intervals of the comprehensive inspections.

e. **Consistency with Other Plans** – SWMPs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the Clean Water Act, or BMP Programs otherwise required by a CDPS permit.

9. The Division has determined that S4R failed to prepare and maintain a complete and accurate SWMP for Facility #1 and Facility #2 (the “Facilities”) as described in paragraphs 9(a – b) below.

a. During the May 11, 2011 inspection of Facility #1, the Inspector reviewed the SWMP for Facility #1 and found the SWMP to be deficient as follows:

- i. Facility #1’s SWMP site map did not indicate the locations of the following items: outdoor processing activities (e.g., shingle grinding etc.); existing and new structural control measures to reduce pollutants in stormwater runoff (i.e., rock sock and fencing BMPs); the locations of all potential pollutant sources (e.g., shingle storage etc.); or the location(s) of each sampling point.
- ii. Facility #1’s SWMP did not identify a SWMP Administrator.
- iii. Facility #1’s SWMP did not identify all potential sources of pollutants at the site, and assess the potential of these sources to contribute pollutants to stormwater discharges associated with industrial activity. Specifically, shingle-grinding activities were not identified as a potential pollutant source. The SWMP must also describe appropriate Best Management Practices (BMPs) to reduce the potential of these sources to contribute pollutants to stormwater discharges.
- iv. Facility #1’s SWMP did not summarize any existing discharge sampling data describing pollutants in stormwater discharges, or describe existing or proposed sampling points.
- v. Facility #1’s SWMP did not address a preventative maintenance program for the stormwater management devices implemented at the facility.
- vi. Facility #1’s SWMP did not identify areas where potential spills of oil, waste oil, lubricants, etc can occur, their accompanying drainage points and associated clean up procedures.
- vii. Facility #1’s SWMP did not adequately describe an employee training program for the facility that informs personnel at all levels of responsibility (who are involved in industrial activities that may impact stormwater runoff) of the components and goals of the SWMP.
- viii. Facility #1’s SWMP did not address the evaluation of the stormwater conveyance system for the presence of discharges other than stormwater.

- ix. Facility #1's SWMP did not address Comprehensive Inspections.
- b. During January 2011, the Division reviewed the SWMP submitted with the application for Facility #2, found it inadequate, and required that the permittee correct all identified SWMP deficiencies in correspondence dated January 19, 2011. During the review, the Division identified the following deficiencies with S4R's Facility #2 SWMP:
  - i. Facility #2's SWMP site map did not indicate the locations of the following items: outdoor processing activities (e.g., shingle grinding etc.); existing and new structural control measures to reduce pollutants in stormwater runoff (i.e., rock sock and fencing BMPs); the locations of all potential pollutant sources (e.g., shingle storage etc.); or the location(s) of each sampling point.
  - ii. Facility #2's SWMP did not identify a SWMP Administrator.
  - iii. Facility #2's SWMP did not identify all potential sources of pollutants at the site, and assess the potential of these sources to contribute pollutants to stormwater discharges associated with industrial activity. Specifically, shingle-grinding activities were not identified as a potential pollutant source. The SWMP must also describe appropriate Best Management Practices (BMPs) to reduce the potential of these sources to contribute pollutants to stormwater discharges.
  - iv. Facility #2's SWMP did not summarize any existing discharge sampling data describing pollutants in stormwater discharges, or describe existing or proposed sampling points.
  - v. Facility #2's SWMP did not address a preventative maintenance program for the stormwater management devices implemented at the facility.
  - vi. Facility #2's SWMP did not identify areas where potential spills of oil, waste oil, lubricants, etc can occur, their accompanying drainage points and associated clean up procedures.
  - vii. Facility #2's SWMP did not adequately describe an employee training program for the facility that informs personnel at all levels of responsibility (who are involved in industrial activities that may impact stormwater runoff) of the components and goals of the SWMP.
  - viii. Facility #2's SWMP did not address the evaluation of the stormwater conveyance system for the presence of discharges other than stormwater.
  - ix. Facility #2's SWMP did not address Comprehensive Inspections.
- 10. S4R's failure to prepare and maintain a complete and accurate SWMP for the Facilities constitutes violations of Part I. B. and Part I. B. 2. of the Permit.

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

- 11. Pursuant to Part I. B. 2. c. 2) of the Permit, S4R is required to identify potential sources of pollutants at the Facility and implement BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges. The Permit specifies that where stormwater pollution potential exists, appropriate preventative measures must be taken and documented.

12. Pursuant to Part I. B. 2. c. 3) e) of the Permit, S4R is required to implement BMPs for the control of identified potential pollutant sources. These may include structural BMPs such as berms to control run-on, detention ponds, oil/water separators, etc. For materials that could impact stormwater runoff, all existing and planned BMPs that prevent the contamination of stormwater runoff at the site shall be included and described.
13. The Division has determined that S4R failed to implement and/or maintain functional BMPs at the Facilities as described in paragraphs 13(a – b) below:
  - a. During the May 11, 2011 inspection of Facility #1, the Inspector observed that S4R failed to implement and/or maintain functional BMPs as follows:
    - i. It was noted during the inspection that inadequate BMPs were implemented at Facility #1 to manage stormwater runoff from the shingles pollutant sources at the facility. Rock sock and dirt berm BMPs were implemented as perimeter control BMPs for the asphalt shingles pollutant sources along the north and south property boundaries. However, the rock socks and dirt berm were not installed according to good engineering practices.
    - ii. It was noted during the inspection that no BMPs were implemented to manage stormwater runoff from the shingle pollutant source along the western perimeter of Facility #1. Stormwater run-off from the shingles at this location discharges off-site, and flows to a drop inlet on the adjacent property.
  - b. During the May 11, 2011 inspection of Facility #2, the Inspector observed that S4R failed to implement and/or maintain functional BMPs as follows:
    - i. It was noted during the inspection of Facility #2 that shingle pollutant sources were observed from the eastern perimeter of the property, and no BMPs to control this pollutant source were observed. In addition, shingle pollutant sources were observed from the western perimeter of the property, and no BMPs to control this pollutant source were observed.
14. S4R's failure to implement and maintain functional BMPs to protect stormwater quality from the industrial activities at the Facilities constitutes violations of Part I. B. 2. c. 2) and Part I. B. 2. c. 3) of the Permit.

#### **Failure to Conduct Comprehensive Facility Inspections**

15. Pursuant to Part I. C. 5. of the Permit, S4R is required to make a comprehensive inspection of their stormwater management system, at least once per year. This comprehensive inspection must be documented and summarized in the Annual Report (see Part I.E.1 of the permit). Qualified personnel are those who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality at the facility, and who can also evaluate the effectiveness of BMPs selected.

16. Pursuant to Part I. C. 5. of the Permit, Comprehensive Facility Inspections shall include, at a minimum, the following items:
- Material handling and processing areas, disturbed areas, areas used for material storage that are exposed to precipitation, and other potential sources of pollution identified in the SWMP be inspected for evidence of, or the potential for, pollutants entering the drainage system. Structural stormwater management measures, sediment and control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made to confirm that it is readily available and in proper working order.
  - Any repairs or maintenance needs identified by the inspection shall be completed immediately. Based on the results of the inspection, if revisions to the description of potential pollutant sources and pollution prevention measures identified in the plan are needed, the plan shall be revised as appropriate, and shall provide for implementation of any changes to the plan in a timely manner.
  - A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, significant observations relating to the implementation of the SWMP, and actions taken in accordance with paragraph (2), above, shall be made and retained for at least three years after the date of the inspection. Significant observations include such things as the locations of discharges of pollutants from the site; locations of previously unidentified sources of pollutants; locations of BMPs needing maintenance or repair; locations of failed BMPs that need replacement; and locations where additional BMPs are needed. The report must also document any incidents of noncompliance observed.
17. During the May 11, 2011 inspection of Facility #1, the Division determined that S4R failed to conduct Comprehensive Facility Inspections as required by the stormwater discharge permit. Specifically, the permittee provided the Division inspector with an activities log for the period from 10/7/2010 through 5/11/2011. The log primarily summarizes activities associated with BMP implementation and maintenance; however, it does not meet the requirements for a Comprehensive Facility Inspection.
18. S4R's failure to conduct Comprehensive Facility Inspections at the Facilities constitutes a violation of Part I. C. 5. of the Permit.

**Failure to Monitor Stormwater Discharges**

19. Pursuant to Part I. D. 1. b. of the Permit, S4R is required to sample stormwater discharges from the Facilities at least once per year and analyze that sample for the following parameters:

Effluent Parameter	Frequency	Sample Type
Oil and Grease	Annual	Visual
Chemical Oxygen Demand, mg/l	Annual	Grab
Total Suspended Solids, mg/l	Annual	Grab
Total Aluminum, mg/l	Annual	Grab
Total Copper, mg/l	Annual	Grab
Total Iron, mg/l	Annual	Grab
Total Lead, mg/l	Annual	Grab
Total Zinc, mg/l	Annual	Grab

20. During the May 11, 2011 inspection of the facilities, the Division determined that S4R failed to monitor stormwater discharges from both Facility #1 and #2, as required by the stormwater discharge permit. Specifically, the permittee did not collect an annual stormwater sample for the October 1, 2009 through September 30, 2010 period from either Facility.
21. S4R's failure to monitor stormwater discharges at the Facilities constitutes a violation of Part I. D. 1. b. of the Permit.

### **Failure to Submit Annual Reports**

22. Pursuant to Part I. E. 1. of the Permit, S4R is required to submit an Annual Report, covering October 1 through September 30 of each year, on their overall compliance with the SWMP. The Annual Report must be signed and certified for accuracy by the permittee, including the certification language outlined in Part I.E.3 of the stormwater discharge permit. The Annual Report is due to the Division on or before November 28 of each year. The Annual Report must contain, at a minimum:
  - a. Name of permittee, address, phone number, and permit certification number.
  - b. A report on the facility's overall compliance with the SWMP.
  - c. Changes made in the individual items of the SWMP, and any proposed changes.
  - d. A summary of all inspections made in compliance with this permit, including date, findings, and action taken.
  - e. A Discharge Monitoring Report (DMR), with the results and interpretation of all stormwater monitoring performed. The interpretation shall address any potential water quality impacts.
23. During the May 11, 2011 inspection of the Facilities, the Division determined that S4R failed to submit Annual Reports for both Facility #1 and #2 as required by the stormwater discharge permit.
24. S4R's failure to submit Annual Reports for both Facilities constitutes a violation of Part I. E. 1. of the Permit.

### **NOTICE OF VIOLATION**

25. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that S4R has violated the following sections of the Permit:

**Part I. B. of the Permit**, which states in part, "A SWMP shall be developed for each facility covered by this permit, and submitted to the Division. SWMPs shall be prepared in accordance with good engineering practices. (The plan need not be completed by a registered engineer.) The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in stormwater discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit."

**Part I. B. 2. of the Permit**, which states in part, “The SWMP shall include the following items, at a minimum...”

**Part I. B. 2. c. 2) of the Permit**, which states in part, “The SWMP shall identify potential sources of pollutants at the site, and assess the potential of these sources to contribute pollutants to stormwater discharges associated with industrial activity. The SWMP must also describe appropriate Best Management Practices (BMPs) to reduce the potential of these sources to contribute pollutants to stormwater discharges. In each case where stormwater pollution potential exists, appropriate preventive measures must be taken and documented.”

**Part I. B. 2. c. 3) of the Permit**, which outlines that all Scrap and Waste Recycling facilities must include mandatory BMPs, including: “...structural BMPs such as berms to control run-on, detention ponds, oil/water separators, etc. For materials that could impact stormwater runoff, all existing and planned BMPs that prevent the contamination of stormwater runoff at the site shall be included and described.”

**Part I. C. 5. of the Permit**, which states in part, “In addition to the inspections necessary to comply with the preventative maintenance program requirements in Parts I.B.1.c.5 and I.B.2.c.5, qualified personnel identified by the permittee shall make a comprehensive inspection of their stormwater management system, at least once per year. This comprehensive inspection must be documented and summarized in the Annual Report.”

**Part I. D. 1. of the Permit**, which states in part, “During the period beginning on January 1, 2007 and lasting through December 31, 2011, permittees are subject to the following monitoring requirements at each discharge point (see Representative Discharge Part I.D.2.d) for stormwater discharges associated with industrial activities.”

**Part I. E. 1. of the Permit**, which states in part, “The permittee will be required to submit an Annual Report, covering October 1 through September 30 of each year, on the overall compliance with the SWMP.”

### **REQUIRED CORRECTIVE ACTION**

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., S4R is hereby ordered to:

26. 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 S4R to comply with the following specific terms and conditions of this Order:

27. S4R shall immediately evaluate Facility #1's SWMP and implement necessary measures to ensure that the SWMP contains all of the elements required by the Permit and is effective in managing stormwater and pollutant discharges from Facility #1. Within thirty (30) calendar days of receipt of this Order, S4R shall submit to the Division a written certification stating that a complete, effective and up-to-date SWMP has been fully developed and implemented at Facility #1.
28. S4R shall immediately implement measures to ensure that functional BMPs are in place to control stormwater discharges from Facility #1. Within thirty (30) calendar days of receipt of this Order, S4R shall evaluate and modify all existing BMPs at Facility #1 to ensure the BMPs meet the design requirements specified in Facility #1's complete and up-to-date SWMP. Within forty-five (45) calendar days of receipt of this Order, S4R shall submit photographs to the Division documenting the current conditions and the associated BMPs implemented at Facility #1.
29. S4R shall immediately begin to conduct Comprehensive Facility Inspections of Facility #1. Within thirty (30) calendar days of receipt of this Order, S4R shall submit to the Division a written certification stating that Comprehensive Facility Inspections at Facility #1 have been completed and that business processes have been developed to ensure that future, timely, Comprehensive Facility Inspections are performed.
30. S4R shall, as soon as weather permits, sample the stormwater discharge from Facility #1 in accordance with the permit requirements. Within thirty (30) calendar days of receipt of this Order, S4R shall submit to the Division an explanation for not conducting stormwater sampling for the October 1, 2009 through September 30, 2010 time frame. In addition, within thirty (30) calendar days of receipt of this Order, S4R shall submit to the Division a written certification stating that S4R has developed business processes to ensure that future, timely, stormwater discharge monitoring is performed.
31. Within thirty (30) calendar days of receipt of this Order, S4R shall submit to the Division an Annual Report for each Facility, covering the October 1, 2009 through September 30, 2010 time period, along with an explanation for not submitting this Annual Report to the Division by the November 28, 2010 due date. In addition, within thirty (30) calendar days of receipt of this Order, S4R shall submit to the Division a written certification stating that S4R has developed business processes to ensure that future, timely, annual stormwater reporting is preformed.

## NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, S4R 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: Joe Campbell  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Email: joseph.campbell@state.co.us  
Fax: (303) 782-0390

*(For any facsimile transmittals, please include a cover sheet addressed to Mr. Joe Campbell.)*

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.

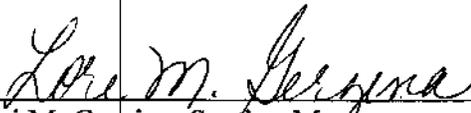
**EFFECT OF ORDER**

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 8<sup>th</sup> day of June, 2011.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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