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

Colorado Department
of Public Health
and Environment

June 21, 2012

Ryan Mahoney, Vice President
Quality Paving Co.
962 S. Vine St.
Denver, Colorado 80209

Certified Mail Number: 7010 1870 0002 0340 5590

RE: Order for Civil Penalty, Number: SP-120621-1

Dear Mr. Mahoney:

Quality Paving Co. 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-120514-2.

If you have any questions regarding the Penalty Order or the payment method, please do not hesitate to contact Mike 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 QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Tom Butts, Tri-County Health Department
Natasha Davis, EPA Region VIII
Jon Erickson, Engineering Section, CDPHE
Nathan Moore, Permits Section. CDPHE
Dick Parachini, Watershed Program, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Kellly Hargadin, MS4 Program Contact
Mike Harris, Case Lead, CDPHE
Tania Watson, Compliance Assurance Section, CDPHE

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY **NUMBER: SP-120621-1**

IN THE MATTER OF: **QUALITY PAVING CO.**
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03A872
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 Eighty Thousand Six Hundred Seventeen Dollars and Fifty Cents ($80,617.50) against Quality Paving Co. for the violations cited in the May 14, 2012 Compliance Order on Consent (Number: SC-120514-2); however, said civil penalty is subject to the forbearance agreement stipulated in the Compliance Order on Consent. A copy of the Compliance Order on Consent is attached hereto as Exhibit A and is incorporated herein by reference. The civil penalty subject to the forbearance agreement stipulated in the Compliance Order on Consent 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-CAS-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530"

Dated this 21st day of June 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: SC-120514-2**

IN THE MATTER OF: **QUALITY PAVING CO.**
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03A872
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 Quality Paving Co. ("Quality"). The Division and Quality 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 and in the Notice of Violation / Cease and Desist Order / Clean-up Order, Number: SO-080729-3, that the Division issued to Quality on July 29, 2008, including Amendment Number One to the NOV/CDO that the Division issued to Quality on December 6, 2010 (collectively, the "NOV/CDO"), and the Order for Civil Penalty, Number: SP-110125-1 (the "Penalty Order"), that the Division issued to Quality on January 25, 2011.

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 Quality and Quality's compliance with the Act and a permit issued pursuant to the Act.

3. At all times relevant to the alleged violations identified herein, Quality was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.

4. Quality 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).

5. In November 2006, Quality initiated construction activities on 25 acres of property located at or near East 120th Avenue and North Imboden Road, in Adams County, Colorado (the "Project").

6. On October 3, 2006, the Division received an application from Quality for Project coverage under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit").

7. On October 10, 2006, the Division provided Quality Certification Number COR-03A872 authorizing Quality to discharge stormwater from the construction activities associated with the Project to Box Elder Creek and the South Platte River under the terms and conditions of the Permit. Certification Number COR-03A872 became effective October 10, 2006 and remained in effect until it was inactivated on November 4, 2008 at the request of Quality.

8. Box Elder Creek, Lynn Creek and the South Platte River are "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).

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 April 30, 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 Quality'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.

<u>Deficient and/or Incomplete Stormwater Management Plan</u>

11. Pursuant to Part I. B. of the Permit, Quality was required to prepare and maintain a Stormwater Management Plan ("SWMP") that identifies Best Management Practices ("BMPs") that, when implemented, will meet the terms and conditions of the 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 the 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 Permit, the Project's SWMP shall include, at a minimum, the following items:

    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 (2002 Permit) 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 flow (2002 Permit) or allowable sources of non-stormwater discharge at the site, e.g., uncontaminated springs, landscape irrigation return flow, construction dewatering, and concrete washout (2007 Permit).

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. Quality provided the Division with two different plans that it represented as its SWMP for the Project. The first was a plan prepared for the site owner, Adams County, by MNA, Inc. ("Adams Plan"). The second was a plan prepared by Quality ("Quality Plan"). The Division has determined that Quality failed to prepare and maintain a complete and accurate SWMP for the Project as described in paragraphs 13(a-g) below:

    a. The Quality Plan included references to several BMPs that may be utilized on the site, including: concrete washout, secondary containment structures for fuels and concrete cure material, tackifier, curb socks, Gutter Buddy, Beaver Dam, and Silt Saver. However, neither the Quality Plan nor the Adams Plan included installation specifications for these BMPs or a description of how these BMPs would be implemented, as required by the Permit.

    b. Neither the Quality Plan nor Adams Plan located the "temporary staging areas for refueling and maintenance of equipment" that were referenced in the Adams Plan, as required by the Permit.

    c. The materials provided by Quality as its SWMP for the Project included two different and conflicting site maps.

    d. Neither the Quality Plan nor Adams Plan included specific spill response procedures for fuels, petroleum products, concrete cure material, and fertilizers. The Quality Plan stated, "Manufacturer's methods for spill clean-up of a material will be followed as described on the material's MSDS." However, no MSDS sheets were included.

    e. The Quality Plan included road washing in its description of BMPs for the site. However, road washing is strictly prohibited by the Permit and, therefore, is not a functional BMP.

    f. The Quality Plan included a procedure for discharging "trench water." However, the discharge of anything except stormwater is strictly prohibited by the Permit.

    g. The Quality Plan included a statement that, "No non-stormwater discharges are anticipated." However, the Quality Plan contradicts this statement with the inclusion of procedures for road washing and the discharge of "trench water."

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

Exhibit A

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

15. Pursuant to Part I. B. 3. a. (1) of the Permit, Quality was required to minimize erosion and sediment transport from the Project. The Permit specifies 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 Permit, Quality was required to implement interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. The Permit specifies that site plans should ensure existing vegetation is preserved where possible and that disturbed areas are stabilized. The Permit specifies 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 Quality failed to implement and/or maintain functional BMPs at the Project as described in paragraphs 17(a–j) below:

    a. During the April 30, 2007 inspection, the Inspector observed disturbed areas surrounding East 120th Avenue near the intersection with Lynn Creek. No BMPs were observed in place to stabilize the disturbed area located up gradient and adjacent to Lynn Creek. Consequently, severe erosion had occurred and sediment discharge was observed within Lynn Creek.

    b. During the April 30, 2007 inspection, the Inspector observed drainage ditches located on the north and south sides of East 120th Avenue near the intersection with Lynn Creek. No BMPs were in place to prevent erosion and sediment discharge from the ditches. Consequently, sediment discharge was observed down gradient of the ditches.

    c. During the April 30, 2007 inspection, the Inspector observed a disturbed slope on the north side of East 120th Avenue, west of the intersection with Hayesmount Road. No BMPs were in place to stabilize the disturbed slope or to prevent sediment discharges from the area. Consequently, severe erosion and sediment discharge from the area was observed.

    d. During the April 30, 2007 inspection, the Inspector observed drainage ditches located on the north and south sides of East 120th Avenue, east of the intersection with Box Elder Creek. No BMPs were in place to prevent erosion and sediment discharge from the ditches. Consequently, erosion of the ditches and down gradient sediment discharge was observed.

    e. During the April 30, 2007 inspection, the Inspector observed a disturbed area surrounding the culvert outlet crossing Watkins Road. No BMPs were in place to stabilize the disturbed soil or to prevent sediment discharges from the area.

    f. During the April 30, 2007 inspection, the Inspector observed a disturbed area located on the north side of East 120th Avenue, east of the intersection with Watkins Road. No BMPs were in place to stabilize the disturbed slope or ditch line in the area.

g. During the April 30, 2007 inspection, the Inspector observed a disturbed area located on the south side of East 120th Avenue, east of the intersection with Watkins Road. No BMPs were in place to stabilize the disturbed slope or to prevent sediment discharges from the area. Consequently, erosion of the disturbed slope and sediment discharge from the area was observed.

h. During the April 30, 2007 inspection, the Inspector observed a disturbed area surrounding the culvert outlet crossing East 120th Avenue, near the intersection with Watkins Road. No BMPs were in place to stabilize the disturbed soil or to prevent sediment discharges from the area.

i. During the April 30, 2007 inspection, the Inspector observed a disturbed area located on the south side of East 120th Avenue near the intersection with North Imboden Road. No BMPs were in place to stabilize the disturbed slope or ditch line in the area. Additionally, no BMPs were in place to prevent discharges of sediment from the area. Consequently, sediment discharge was observed down gradient of the disturbed area, near the intersection of East 120th Avenue and North Imboden Road.

j. During the April 30, 2007 inspection, the Inspector observed a disturbed area located on the north side of East 120th Avenue near the intersection with North Imboden Road. No BMPs were observed in place to stabilize the disturbed area or to prevent sediment discharges from the area. Consequently, erosion along East 120th Avenue was observed.

18. Quality'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 Permit.

Failure to Perform Inspections of Stormwater Management System

19. Pursuant to Part I. C. 5. a. of the Permit, for active sites where construction has not been completed, Quality was required to make a thorough inspection of the Project's stormwater management system at least every 14 days and after any precipitation or snowmelt event that caused surface erosion.

20. During the April 30, 2007 inspection, the Inspector reviewed the Project's stormwater management system records and identified that Quality failed to perform inspections at the site from November 2006 until April 17, 2007.

21. Quality's failure to conduct inspections of the Project's stormwater management system constitutes violations of Part I. C. 5. a. of the Permit.

ORDER AND AGREEMENT

22. 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 and in the NOV/CDO and Penalty Order, the Division orders Quality to comply with all provisions of this Consent Order, including all requirements set forth below.

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

24. Notwithstanding the above, Quality does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Quality pursuant to this Consent Order shall not constitute evidence of fault and liability by Quality with respect to the conditions of the Project.

CIVIL PENALTY AND FURTHER RESTRICTIONS

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, Quality and the Division agree to settle the civil penalty in this matter for Eighty Thousand Six Hundred Seventeen Dollars and Fifty Cents ($80,617.50). If Quality pays Fifteen Thousand Dollars ($15,000.00) in civil penalties and refrains from filing for voluntary bankruptcy for one hundred twenty (120) calendar days after the Division's receipt of the funds subject to the civil penalty, the Division agrees to forebear from imposing the remaining amount of civil penalty of Sixty Five Thousand Six Hundred Seventeen Dollars and Fifty Cents ($65,617.50). The Division intends to petition the Executive Director, or his designee, to impose the Eighty Thousand Six Hundred Seventeen Dollars and Fifty Cents ($80,617.50) civil penalty for the above violation(s) subject to the forbearance agreement listed above, and Quality agrees to make the payment of Fifteen Thousand Dollar ($15,000.00) within thirty (30) calendar days of the issuance of an Order for Civil Penalty by the Executive Director or his 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-CAS-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530

26. Quality has advised the Division that, except for having to perform warranty work under contracts that have been substantially completed, it is no longer in the road construction business, has no employees except the company president, and is in the process of settling the company's affairs. Therefore, except for performing warranty work under contracts that have been substantially completed, Quality will stop, immediately and permanently, any and all on-going construction activities that it is involved in, and Quality will not engage in any future construction activities in any capacity.

STIPULATED PENALTIES

27. In addition to the Fifteen Thousand Dollar ($15,000.00) civil penalty described in paragraph 25 above, and except for having to perform warranty work under contracts that have been substantially completed, if Quality reconsiders its intentions and remains in business or returns to business after the effective date of this agreement, Quality agrees that it shall pay a stipulated penalty in the amount of Sixty Five Thousand Six Hundred Seventeen Dollars and Fifty Cents ($65,617.50). Quality 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.

SCOPE AND EFFECT OF CONSENT ORDER

28. 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 the NOV/CDO and the Penalty Order.

29. 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 Quality 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.

30. This Consent Order constitutes a final agency order or action upon execution by the Division and Quality. Any violation of the provisions of this Consent Order by Quality, 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 ($10,000.00) per day for each day during which such violation occurs.

31. Notwithstanding paragraph 24 above, the violations described in this Consent Order will constitute part of Quality'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 Quality. Quality agrees not to challenge the use of the cited violations for any such purpose.

32. This Consent Order does not relieve Quality from complying with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and 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.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

33. 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, in the NOV/CDO and the Penalty Order. 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.

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

35. 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.

36. Upon the effective date of this Consent Order, Quality 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.

37. Quality 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 Quality, or those acting for or on behalf of Quality, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Quality shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by Quality 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

38. 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 Quality:

Ryan Mahoney
Quality Paving Co.
962 S. Vine St.
Denver, CO 80209

Exhibit A

OBLIGATIONS UNAFFECTED BY BANKRUPTCY

39. The obligations set forth herein are based on the Division's police and regulatory authority. These obligations require specific performance by Quality of corrective actions carefully designed to prevent on-going or future harm to public health or the environment, or both. Enforcement of these obligations is not stayed by a petition in bankruptcy. Quality agrees that the penalties set forth in this Consent Order are not in compensation of actual pecuniary loss. Further, the obligations imposed by this Consent Order are necessary for Quality to achieve and maintain compliance with State law.

MODIFICATIONS

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

NOTICE OF EFFECTIVE DATE

41. This Consent Order shall be fully effective, enforceable and constitute a final agency action on the date signed by the authorized representative of the last party.

BINDING EFFECT AND AUTHORIZATION TO SIGN

42. This Consent Order is binding upon Quality 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 QUALITY PAVING CO.:

Ryan Mahoney _____ Date: 5/9/12

Ryan Mahoney, Vice President

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

Lori M. Gerzina _____ Date: 5/14/12

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