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

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

October 21, 2011

Mr. Steve Graves, Registered Agent
SEMA Construction, Inc.
7353 S. Eagle St.
Centennial, Colorado 80112

Certified Mail Number: 7010 2780 0002 8752 3499

RE: Order for Civil Penalty, Number: SP-111021-1

Dear Mr. Graves:

SEMA Construction, Inc. 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-110614-2.

If you have any questions regarding the Penalty Order or the payment method, please do not hesitate to contact Joe Campbell of this office at (303) 692-2356 or by electronic mail at joseph.campbell@state.co.us.

Sincerely,

Russell Zigler

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

Enclosure(s)

cc: Clear Creek County Environmental Health Department
SEMA Construction, Inc., Attention: Thomas C. Clark, 7353 S. Eagle St., Centennial, CO 80112

ec: Natasha Davis, EPA Region VIII
Doug Camrud, Engineering Section, CDPHE
Nathan Moore, Permits Section. CDPHE
Dick Parachini, Watershed Program, CDPHE
Michael Beck, GLU, CDPHE
Joe Campbell, Compliance Assurance, CPDHE

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

ORDER FOR CIVIL PENALTY **NUMBER: SP-111021-1**

IN THE MATTER OF: SEMA CONSTRUCTION, INC.
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03E438
CLEAR CREEK 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 Eight Hundred Forty-Nine Dollars ($26,849.00) against SEMA Construction, Inc. for the violations cited in the June 14, 2011 Compliance Order on Consent (Number: SC-110614-2). 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, and as set forth in the Compliance Order on Consent.

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

Joe Campbell
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 October 2011.

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

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
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Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

Colorado Department
of Public Health
and Environment

June 16, 2011

Mr. Steve Graves, Registered Agent
SEMA Construction, Inc.
7353 S. Eagle St.
Centennial, Colorado 80112

RE: Compliance Order on Consent, Number: SC-110614-2

Dear Mr. Graves:

Enclosed for SEMA Construction, Inc.'s records you will find your copy, with original signatures, of the recently executed Compliance Order on Consent. Please remember that this agreement is subject to a thirty-day public comment period (paragraph 39). Upon initiation, if the Division receives any comments during this period we will contact your office to discuss. Also, please be advised that the first page of the Order was changed in order to place the assigned Order Number on the final document.

If you have any questions, please don't hesitate to contact Joe Campbell at (303) 692-2356 or by electronic mail at joseph.campbell@state.co.us.

Sincerely,

Russell Zigler

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

Enclosure(s)

cc: Clear Creek County Environmental Health Department
SEMA Construction, Inc., Attention: Thomas C. Clark, 7353 S. Eagle St., Centennial, CO 80112

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

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT **NUMBER: SC-110614-2**

IN THE MATTER OF: **SEMA CONSTRUCTION, INC.**
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03E438
CLEAR CREEK 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 SEMA Construction, Inc. ("SEMA"). The Division and SEMA 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 alleged violations cited herein by the Division, and identified in the Division's August 30, 2010 Compliance Advisory, including, without limitation, the administrative and civil penalties associated with said alleged violations.

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 SEMA and SEMA's compliance with the Act and its implementing permit and permit regulations.

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

4. SEMA 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. On or before July 2008, SEMA initiated construction planning activities associated with the proposed reconstruction of Alvarado Road in or near the Town of Georgetown, Clear Creek County, Colorado (the "Project").

6. On October 14, 2008, the Division received an application from SEMA 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 21, 2008, the Division effected SEMA Certification Number COR-03E438 authorizing SEMA to discharge stormwater from the construction activities associated with the Project to Clear Creek and the South Platte River under the terms and conditions of the Permit. Certification Number COR-03E438 became effective October 21, 2008 and remains in effect until June 30, 2012 or until SEMA inactivates permit coverage.

8. On October 21, 2008, SEMA initiated land disturbing construction activities that resulted in the disturbance of five (5) acres of land at the Project.

9. Clear 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).

10. 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.

11. On August 4, 2010, a representative from the Division (the "Inspector") conducted an on-site inspection of the Project pursuant to the Division's authority under §25-8-306, C.R.S., to determine SEMA'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

12. Pursuant to Part I. B. of the Permit, SEMA is required to prepare and maintain a Stormwater Management Plan ("SWMP") in accordance with good engineering, hydrologic, and pollution control practices. The SWMP is required to identify all potential sources of pollution, which may be reasonably expected to affect the quality of stormwater discharges associated with construction activity from the Project. In addition, the plan is required to describe and ensure the implementation of Best Management Practices ("BMPs") at the Project, which will be used to reduce the pollutants in stormwater discharges associated with construction activity.

13. Pursuant to Part I. C. of the Permit, the Project's SWMP shall include, at a minimum, the following items:

    a. Site Description – The SWMP shall clearly describe the construction activity, including:

        i. The nature of the construction activity.
        ii. The proposed sequence for major activities.
        iii. Estimates of the total area of the site and the area of the site that is expected to

undergo clearing, excavation or grading.

iv. A summary of any existing data used in the development of the construction plans or SWMP that describe the soil or existing potential for soil erosion.

v. A description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.

vi. The location and description of all potential pollution sources, including ground surface disturbance, vehicle fueling, storage of fertilizers or chemicals, etc.

vii. The location and description of any allowable sources of non-stormwater discharge, such as springs, landscape irrigation return flow, construction dewatering, and concrete washout.

viii. The name of the receiving water(s) and the size, type, and location of any outfall or, if the discharge is to a municipal separate storm sewer, the name of that system, the location of the storm sewer discharge, and the ultimate receiving water(s).

b. Site Map – The SWMP shall include a legible site map(s), showing the entire site, identifying:

i. Construction site boundaries.
ii. All areas of ground surface disturbance.
iii. Areas of cut and fill.
iv. Areas used for storage of building materials, equipment, soil, or waste.
v. Locations of dedicated asphalt or concrete batch plants.
vi. Locations of all structural BMPs
vii. Locations of all non-structural BMPs.
viii. Locations of springs, streams, wetlands and other surface waters.

c. Stormwater Management Controls - The SWMP must include a description of all stormwater management controls that will be implemented as part of the construction activity to control pollutants in stormwater discharges, including:

i. SWMP Administrator – The SWMP shall identify a specific individual(s), position or title that is responsible for developing, implementing, maintaining, and revising the SWMP.

ii. Identification of Potential Pollutant Sources – The SWMP shall identify and describe those sources determined to have the potential to contribute pollutants to stormwater discharges.

iii. Best Management Practices (BMPs) for Stormwater Pollution Prevention – The SWMP shall identify and describe appropriate BMPs that will be implemented at the facility to reduce the potential of pollution sources to contribute pollutants to stormwater discharges. The SWMP shall clearly describe the installation and implementation specifications for each BMP identified in the SWMP.

(1) Structural Practices for Erosion and Sediment Control – The SWMP shall clearly describe and locate all structural practices implemented at the site to minimize erosion and sediment transport. Practices may include, but are not limited to: straw bales, wattles/sediment control logs, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.

(2) Non-Structural Practices for Erosion and Sediment Control – The SWMP shall

clearly describe and locate all non-structural practices implemented at the site to minimize erosion and sediment transport. Description must include interim and permanent stabilization practices, and site-specific scheduling for implementation of the practices. Non-structural practices may include, but are not limited to: temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, protection of trees, and preservation of mature vegetation.

(3) Phased BMP Implementation – The SWMP shall clearly describe the relationship between the phases of construction and the implementation and maintenance of BMPs. The SWMP must identify the stormwater management controls to be implemented during the project phases, which can include, but are not limited to, clearing and grubbing, road construction, utility and infrastructure installation, vertical construction, final grading and final stabilization.

(4) Materials Handling and Spill Prevention – The SWMP shall clearly describe and locate all practices implemented at the site to minimize impacts from procedures or significant materials that could contribute pollutants to runoff.

(5) Dedicated Concrete or Asphalt Batch Plants – The SWMP shall clearly describe and locate BMPs to control stormwater pollution from dedicated concrete batch plants or dedicated asphalt batch plants.

(6) Vehicle Tracking Control – The SWMP shall clearly describe and locate all practices implemented at the site to control potential sediment discharges from vehicle tracking.

(7) Waste Management and Disposal, Including Concrete Washout – The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from all construction site wastes, including concrete washout activities.

(8) Groundwater and Stormwater Dewatering – The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from the dewatering of groundwater or stormwater from excavations, wells, etc.

d. Final Stabilization and Long-Term Stormwater Management – The SWMP shall clearly describe the practices used to achieve final stabilization of all disturbed areas at the site, and any planned practices to control pollutants in stormwater discharges that will occur after construction operations have been completed at the site.

e. Inspection and Maintenance – The SWMP shall clearly describe the inspection and maintenance procedures implemented at the site to maintain all erosion and sediment control practices and other protective practices in good and effective operating condition.

14. During the August 4, 2010 inspection, the Inspector reviewed the Project's SWMP and identified the following deficiencies, as described in paragraphs 13(a-b) below:

a. The SWMP included an inadequate or deficient Stormwater Management Controls section for Phased BMP Implementation at the site, as required by Part I.C.3.c.3. of the permit. The SWMP detailed various stages of road construction but did not describe BMPs implemented to manage stormwater runoff during the road preparation phase that occurs prior to paving.

b. The SWMP did not include a section for Final Stabilization and Longterm Stormwater

Management as required by Part I. C.4.a. of the permit.

15. The Division has determined that SEMA failed to prepare and maintain a complete and accurate SWMP for the Project.

16. SEMA's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violations of Part I. C.3.c.3., and Part I.C.4.a of the Permit.

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

17. Pursuant to Part I. C. 3.c. of the Permit, SEMA is required to implement BMPs to reduce the potential of pollution sources from contributing pollutants to stormwater discharges, including minimizing erosion and sediment transport from the Project. The Permit specifies that structural site management practices may include, but are not limited to: straw bales, wattles/sediment control logs, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins. The Permit specifies that non-structural site management practices may include, but are not limited to: temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, protection of trees and preservation of mature vegetation.

18. Pursuant to Part I. D. 2. of the Permit, SEMA is required to select, design, install, implement and maintain appropriate BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic and pollution control practices.

19. During the August 4, 2010 inspection, the Inspector identified the following deficiencies related to BMP installation and maintenance at the Project, as described in paragraphs 19(a-c) below:

    a. The Inspector observed that inadequate BMPs were implemented to manage stormwater runoff from the disturbed eastbound side of Alvarado Road. The eastbound side of the road was graded in order to prepare for paving which created a berm along the entire length of the road. The berm was an inadequate BMP as it was not designed or installed in accordance with good engineering, hydrologic, and pollution control practices. The berm was composed of loose material that was unable to be compacted, it did not have structural integrity, and was not installed along the drainage contour. As a result, sediment laden stormwater runoff from this area discharged into the roadside swale, through culverts, onto private property adjacent to Alvarado Road and ultimately into a tributary of Clear Creek.

    b. The Inspector observed that inadequate BMPs were implemented to manage stormwater runoff from the disturbed roadside swale. Sections of the roadside swale did not contain BMPs while other portions of the swale contained inadequate BMPs. Rock sock check dams were installed in some portions of the disturbed roadside drainage swale. However, the check dams were not installed in series throughout the length of the swale and were spaced too far apart. In order for the check dams to function properly they must be implemented in series to cover the entire disturbed roadside swale and installed in accordance with good engineering, hydrologic, and pollution control practices. As a result, sediment laden stormwater runoff from this area discharged through the roadside swale, through culverts,

onto private property adjacent to Alvarado Road and ultimately into a tributary of Clear Creek.

c. The Inspector observed that inadequate BMPs were implemented to manage stormwater runoff from the disturbed area located around the culvert outlet on the north side of Alvarado Road near a tributary of Clear Creek. Silt fence was installed around the opening of the culvert outlet in order to provide outlet protection. However, according to good engineering, hydrologic, and pollution control practices, silt fence must not be installed in an area of concentrated flow. As a result, sediment laden stormwater runoff flowing from the culvert outlet breached the silt fence and discharged into a tributary of Clear Creek.

20. SEMA's failure to implement and/or maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations Part I. C. 3. c. and Part I. D. 2. of the Permit.

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 alleged violations cited herein, the Division orders SEMA to comply with all provisions of this Consent Order, including all requirements set forth below.

22. SEMA agrees to the terms and conditions of this Consent Order. SEMA 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. SEMA also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by SEMA 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, SEMA does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by SEMA pursuant to this Consent Order shall not constitute evidence of fault and liability by SEMA with respect to the conditions of the Project.

Compliance Requirements

24. SEMA shall immediately implement measures to maintain compliance with the Colorado Water Quality Control Act and the terms and conditions of the CDPS General Permit for Stormwater Discharges Associated with Construction Activity (Number: COR-030000), and the associated certifications issued to SEMA for its Colorado construction projects or operations.

25. The following compliance requirements shall be in effect for a period of three years after the effective date of this Consent Order and apply to all of SEMA's Colorado construction projects for which SEMA is the permit holder.

26. Within 90 calendar days of the effective date of this Consent Order, SEMA shall develop and implement a stormwater and construction dewatering training program. The program shall include:

    a. A stormwater training course prepared and presented by a qualified third party. The stormwater training shall be attended by all SEMA project managers, superintendants, and construction foreman involved in the design and/or construction of projects. The stormwater training shall include, at a minimum, the following topics: 1) an introduction on the importance of erosion and sediment controls; 2) a review of the storm water regulations and permit; 3) a review of the components of functional SWMPs and how to properly develop and utilize SWMPs; 4) a review of the principles of erosion and sediment control; 5) the proper selection and implementation of erosion controls; 6) the proper selection and implementation of sediment controls; and 7) the proper use of permanent water quality features as construction BMPs.

    b. A construction dewatering training course prepared and presented by a qualified third party. The construction dewatering training shall be attended by all SEMA project managers, superintendants, and construction foreman involved in the design and/or construction of dewatering projects. The construction dewatering training shall include, at a minimum, the following topics: 1) a review of the construction dewatering regulations and permit; 2) the proper selection of BMPs for construction dewatering; 3) the proper monitoring, including sampling methodologies, of effluent parameters; and 4) the function, timing and use of Discharge Monitoring Reports.

    c. A requirement and schedule for an annual refresher course for all SEMA project managers, superintendants, and construction foreman.

27. Within 90 calendar days of the effective date of this Consent Order, SEMA shall submit a written notice to the Division identifying a coordinator, director, manager, or other high level SEMA employee as its Director of Stormwater Compliance who will be responsible for coordinating oversight of stormwater and construction dewatering compliance by SEMA and its subcontractors. The Director of Stormwater Compliance shall 1) have the managerial authority to direct all levels of employees at SEMA, 2) have the authority to impose sanctions, if necessary, on any project manager, other employee or subcontractor for continued or reoccurring noncompliance with a permit, and 3) be able to direct the development and implementation of functional stormwater management systems at SEMA construction projects, which include, but are not limited to, the development of site-specific SWMPs that prescribe functional BMPs for all phases of construction activities and the implementation of functional erosion and sediment control practices that are installed and maintained to form a system of pollutant controls at each construction site. If at any time SEMA wishes to change its Director of Stormwater Compliance, SEMA shall notify the Division in writing, provide an explanation of the change, and provide the Division the identity of the replacement who shall meet the requirements discussed above.

28. For each construction site, prior to the initiation of construction activities, SEMA shall designate a coordinator, manager, director or other high level employee as its Compliance Officer who will be responsible for conducting planning and pre-construction meetings (as described in paragraph 29), weekly meetings (as described in paragraph 31), conducting audits/inspections (as described in paragraphs 30 and 33), and otherwise overseeing compliance with the SWMP and the requirements of any applicable CDPS permit at the site.

29. Prior to the initiation of construction activities at any project, SEMA shall require each Compliance Officer to conduct a pre-construction meeting with the employees at each site. During each meeting, SEMA shall explain the requirements of any and all permits, the site-specific SWMP, and any other environmental requirements for the site. At the conclusion of each meeting, SEMA shall require each attendee to sign a certification that they understand the terms and conditions of the permit(s) and the site's associated SWMP. If a subcontractor begins work at the site after the pre-construction meeting has occurred, SEMA shall require the Compliance Officer to brief that subcontractor on the site's SWMP and the permit requirements before the subcontractor begins work at the site.

30. Prior to the initiation of construction activities at any project, SEMA shall require the Compliance Officer to inspect the project to determine whether the BMPs described in the site-specific SWMP are installed and located correctly.

31. In addition to the pre-construction meeting, SEMA shall require the Compliance Officer to conduct weekly meetings with all persons involved in construction activities at each project to review the requirements of the SWMP and the permit(s), and to address any problems that have arisen in implementing the site-specific SWMP, maintaining BMPs, and/or conducting compliant construction dewatering activities.

32. SEMA shall require each project superintendent to conduct an inspection on each business day in which active construction has occurred at each project. SEMA shall require the project superintendent to inspect the potions of the site which have been disturbed by construction activities and are not finally stabilized in accordance with the terms of the permit to determine whether construction is being conducted in accordance with the project's site-specific SWMP and the permit(s). SEMA shall require the project superintendent to observe, record, and determine the effectiveness of all BMPs. In addition, SEMA shall require the project superintendent to direct the improvement of any BMPs that require maintenance, are no longer acting as functional controls, and/or do not conform to the requirements of the site-specific SWMP and the permit(s).

    a. SEMA shall require the project superintendent to record the results of each daily inspection on an approved inspection form and to maintain the daily inspection report at the job site. SEMA shall require that the project superintendent submit a bi-weekly report to the Compliance Officer stating that all daily inspections have been conducted and identifying any deficiencies identified and any corrective actions undertaken to correct those deficiencies.

    b. SEMA shall require its employees to complete all necessary repairs or modifications to BMPs as soon as possible, but no later than 48 hours after each inspection.

33. At least once per month, the Compliance Officer shall perform an audit at each project to ensure that the project is implementing the requirements of the site-specific SWMP, that the SWMP and associated BMPs are effective in controlling pollutants, and that the project is in overall compliance with the permit(s). During the audit, the Compliance Officer shall review the daily inspection reports and ensure that necessary corrective actions are implemented in a timely, appropriate, and consistent manner. If a project is found to be in violation of a permit or the requirements of the site-specific SWMP, the Compliance Officer shall direct changes necessary to bring the site into compliance and shall initiate a review of any findings for possible sanctions against employees

and/or subcontractors (as described in paragraph 36). Monthly audits are not required at sites when snow cover exisits over the entire site and melting conditions do not pose a risk of surface erosion.

34. SEMA's Compliance Officers shall submit a report on the findings of each monthly audit to the Director of Stormwater Compliance within five (5) days of completing each monthly audit. The Director of Stormwater Compliance shall review the submitted inspection reports and shall prepare and submit to the Division a quarterly report summarizing the findings of the audits and inspections as a whole, including any strengths and weaknesses that were identified in SEMA's stormwater management program through the performance of the audits/inspections and an explanation of how those strengths and/or weaknesses will affect SEMA's stormwater management techniques on its construction projects. Additionally, the report shall contain a list and description of the sanctions imposed on any SEMA employees or subcontractors for noncompliance with a SWMP or Permit (as described in paragraph 36).

35. Prior to submitting an inactivation notice for any Permit Certification, SEMA's Compliance Officer shall perform an inspection of the project to ensure that the site meets the conditions of final stabilization, as defined by the Permit, and that all necessary measures have been taken to close out Permit coverage.

36. Within 90 calendar days of the effective date of this Order, SEMA shall submit to the Division for review and approval, detailed procedures and guidelines that SEMA will utilize to impose sanctions against its employees and subcontractors for continued and/or significant noncompliance with SWMPs and/or the Permit. The procedures and guidelines shall include a description of who will be responsible for imposing the sanctions and how that process will be accomplished. Upon approval by the Division, the submitted procedures and guidelines shall become a condition of this Consent Order.

CIVIL PENALTY

37. 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, SEMA shall pay Twenty-Six Thousand Eight Hundred Forty-Nine Dollars ($26,849.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Twenty-Six Thousand Eight Hundred Forty-Nine Dollar ($26,849.00) civil penalty for the above violation(s) and SEMA agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order 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:

Joe Campbell
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

SCOPE AND EFFECT OF CONSENT ORDER

38. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the violations identified during the Division's August 4, 2010 inspection and cited herein.

39. 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 SEMA 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.

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

41. The Parties' obligations under this Consent Order are limited to the matters expressly stated herein or in approved submissions required hereunder. All submissions made pursuant to this Consent Order are incorporated into this Consent Order and become enforceable under the terms of this Consent Order as of the date of approval by the Division.

42. The Division's approval of any submission, standard, or action under this Consent Order shall not constitute a defense to, or an excuse for, any prior violation of the Act, or any subsequent violation of any requirement of this Consent Order or the Act.

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

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

45. 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 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.

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

47. 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.

48. Upon the effective date of this Consent Order, SEMA 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.

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

50. 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: Joe Campbell
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.2356
E-mail: joseph.campbell@state.co.us

For SEMA Construction, Inc.:

SEMA Construction, Inc.
Attention: Thomas C. Clark
7353 South Eagle Street
Centennial, Colorado 80112
Telephone: 303.627.2300
E-mail: tclark@semaconstruction.com

OBLIGATIONS UNAFFECTED BY BANKRUPTCY

51. The obligations set forth herein are based on the Division's police and regulatory authority. These obligations require specific performance by SEMA 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. SEMA 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 SEMA to achieve and maintain compliance with State law.

MODIFICATIONS

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

NOTICE OF EFFECTIVE DATE

53. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty following closure of the public comment period referenced in paragraph 39. 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

54. This Consent Order is binding upon SEMA 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. SEMA agrees to provide a copy of this Consent Order to any contractors and other agents performing work pursuant to this Consent Order and require such agents to comply with the requirements of 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 SEMA CONSTRUCTION, INC.:

_____ Date: June 6, 2011

Thomas C. Clark, Senior Vice President

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

_____ Date: June 14, 2011

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