



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

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ORDER FOR CIVIL PENALTY

NUMBER: SP-140903-1

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IN THE MATTER OF: AMES-GRANITE A JOINT VENTURE  
CDPS PERMIT NO. COR-030000  
CERTIFICATION NO. COR-03J245  
BROOMFIELD COUNTY, COLORADO

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This matter having come to my attention as the Designee of the Executive Director of the Colorado Department of Public Health and Environment, pursuant to §25-8-608 C.R.S, I hereby impose a civil penalty in the amount of Ninety-Five Thousand Dollars (\$95,000.00) against Ames-Granite A Joint Venture for the violations cited in the July 9, 2014 Compliance Order on Consent (Number: SC-140709-1). A copy of the Compliance Order on Consent is attached hereto as Exhibit A and is incorporated herein by reference. The civil penalty shall be paid within thirty (30) calendar days of the date of this Order for Civil Penalty as set forth in the Compliance Order on Consent.

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

*Lindsay Ellis  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CWE-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530*

Dated this 3rd day of September 2014.

*Richard Parachini for*

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Ron Falco, P.E., Acting 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**

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**COMPLIANCE ORDER ON CONSENT**

**NUMBER: [SC-140709-1]**

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**IN THE MATTER OF: AMES-GRANITE A JOINT VENTURE  
CDPS PERMIT NO. COR-030000  
CERTIFICATION NO. COR-03J245  
BROOMFIELD COUNTY, COLORADO**

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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 (“Act”) §§25-8-101 to 803, C.R.S., and its implementing regulations, with the express consent of Ames-Granite A Joint Venture (“Ames-Granite”). The Division and Ames-Granite 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 the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order, Number: SO-140103-1 (“NOV/CDO”), that the Division issued to Ames-Granite on January 3, 2014.

### 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 Ames-Granite and Ames-Granite’s compliance with the Act and a permit issued pursuant to the Act.
3. At all times relevant to the violations cited herein, Ames-Granite was a Colorado limited liability partnership in good standing and registered to conduct business in the State of Colorado.
4. Ames-Granite is a “person” as defined by the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

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5. On July 15, 2012, Ames-Granite initiated construction activities for highway and road development with a planned disturbance of 474 acres of land along the US-36 Corridor in Broomfield, County, Colorado (“Project”).
6. On June 19, 2012, the Division received an application from Ames-Granite for coverage under the Colorado Discharge Permit System general permit, number COR-030000, for Stormwater Discharges Associated with Construction Activity (“Permit”).
7. On June 27, 2012, the Division issued Ames-Granite Certification Number COR-03J245 authorizing Ames-Granite to discharge stormwater from the construction activities associated with the Project to Rock, Airport, Big Dry and Walnut Creeks, Farmers Highline Canal, Community Ditch, Allen Ditch 1, 2, 3, and the South Platte River, under the terms and conditions of the Permit. Certification Number COR-03J245 became effective June 26, 2012 and has been administratively continued until a new Permit and associated certification is issued, or until Ames-Granite inactivates permit coverage.
8. Rock, Airport, Big Dry, and Walnut Creeks, Farmers Highline Canal, Community Ditch, Allen Ditch 1, 2, and 3, 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, Ames-Granite must comply with all the terms and conditions of the Permit, and violations of the terms and conditions specified in the Permit may make Ames-Granite subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.
10. On April 11, 2013, a representative from the Division (“Inspector”) conducted an on-site inspection of the Project pursuant to the Division’s authority under §25-8-306, C.R.S., to determine Ames-Granite’s compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Project representatives, reviewed the Project’s stormwater management system records, and performed a physical inspection of the Project.

### Deficient and/or Incomplete Stormwater Management Plan

11. Pursuant to Part I. B. of the Permit, Ames-Granite 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.
12. Pursuant to Part I. B. 3 of the Permit, Ames-Granite must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete.
13. Pursuant to Part I. C. of the Permit, the Project’s SWMP shall include, at a minimum, the following items:

## EXHIBIT A

- 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.

## EXHIBIT A

- (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.

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- 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 April 11, 2013 inspection, the Inspectors reviewed the Project’s SWMP and identified the following deficiencies, as described in paragraphs 14(a-e) below:
- a. The site description section of the SWMP did not identify the multiple discharge outfalls that were referenced in the Project’s construction dewatering permit. Additionally, the SWMP’s site description did not address the construction dewatering activities that were referenced in the Project’s dewatering permit and occurring onsite.
  - b. The inspection and maintenance method statement in the SWMP indicated that there would be weekly erosion and sediment control updates. However, as confirmed by the construction schedule and the erosion control supervisor, they were only being updated every five weeks.
  - c. The site map included with the SWMP did not identify the area of ground surface disturbance on the southwest side of Westminster Boulevard along US-36. Additionally, the site map was lacking a color-coded legend for the color coding that was being utilized on the map. The map also did not have clear references that would correspond to the additional map sheets.
  - d. The potential pollutants section of the SWMP did not identify hydraulic equipment maintenance that was occurring on the Project at the time of the inspection as a potential pollutant source.
  - e. The BMPs for stormwater pollution prevention section of the SWMP did not contain installation and implementation specifications for the jersey barrier/gravel bag sediment control or sand bags being utilized at the Community Canal for sediment control.
15. The Division has determined that Ames-Granite failed to prepare and maintain a complete and accurate SWMP for the Project.
16. Ames-Granite’s failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violation(s) of Part I. B., Part I. B. 3, and Part I. C. of the Permit.

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

17. Pursuant to Part I. C. 3. (c) of the Permit, Ames-Granite 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.

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18. Pursuant to Part I. D. 2. of the Permit, Ames-Granite 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. Pursuant to Part I. B. 3. of the Permit, Ames-Granite is required to implement the provisions of the Project's SWMP as written and updated, from commencement of construction activity until final stabilization is complete.
20. During the April 11, 2013 inspection, the Inspector identified the following deficiencies related to BMP installation and maintenance at the Project, as described in Paragraphs 20(a-o) below:
  - a. The Inspector observed inadequate BMPs southeast of the US-36 and Church Ranch Boulevard intersection at the Project. Single gravel bags were placed at the inlets and outlets of the culverts and at the edge of Big Dry Creek while no erosion or sediment control BMPs were utilized to control runoff from the disturbed upgradient areas. The SWMP did not indicate the use of gravel bags as culvert protection in this area and the sole use of gravel bags in an area of concentrated flow without the use of additional erosion control BMPs within the upgradient disturbed areas does not meet good engineering, hydrologic, and pollution control practices. Additionally, the multiple stacked gravel bag BMPs described in SWMP for inlet pipe protection in this area were not being utilized. Stormwater from this area of the Project flows directly to Big Dry Creek.
  - b. The Inspector observed inadequate BMPs northwest of the US-36 and State Highway 121 intersection at the Project. Sandbag BMPs were present, however no erosion or sediment control BMPs were utilized to control runoff from the disturbed upgradient areas. Additionally, the sandbag BMPs for this area were not installed according to good engineering, hydrologic, and pollution control practices due to not providing the appropriate ponding capacity. Stormwater from this area flows directly to Community Canal.
  - c. The Inspector observed other inadequate BMPs northwest of the US-36 and State Highway 121 intersection at the Project. Gravel bags were placed at the inlet, conveyance, and outlet to the Sill-Terhar wetland while no erosion or sediment control BMPs were utilized to control runoff from the upgradient areas. The sole use of gravel bags in an area of concentrated flow without the use of additional erosion control BMPs within the upgradient disturbed areas does not meet good engineering, hydrologic, and pollution control practices. Stormwater from this area flows directly to the Sill-Terhar wetland.
  - d. The Inspector observed inadequate BMPs on the western side of US-36 along the bridge approach to the Burlington Northern Railroad bridge at the Project. Installation and implementation specifications were included in the SWMP for erosion and sediment control BMPs in this area, specifically, silt fence and slope tracking. However, the BMPs were not being implemented. Stormwater from this areas flows to Lower Church Lake.
  - e. The Inspector observed approximately 10-acres of disturbed area near the crusher yard (STA-2165+00) at the Project. A silt fence was observed in place downgradient of the disturbed area. The installation and implementation specifications state a maximum drainage area of 1/4 acre per 100 feet of silt fence. However, the silt fence was only

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installed along the perimeter of the 10-acre area which would exceed the maximum drainage capacity. Project stormwater from this area flows to a sump near the Burlington Northern Railroad bridge which discharges via a culvert to Lower Church Lake.

- f. The Inspector observed that BMPs were not implemented per specification on the eastern side of US-36, adjacent to the crusher yard, and downgradient to the Burlington Northern Railroad bridge at the Project. Installation and implementation specifications were included in the SWMP for a temporary berm in this area. However, the temporary berm was not stabilized, as described in the specifications, causing the berm to become a potential pollutant source. Project stormwater from this area flows to a sump near the Burlington Northern Railroad bridge which discharges via a culvert to Lower Church Lake.
- g. The Inspector observed inadequate BMPs on the eastern side of US-36 south to the Burlington Northern Railroad bridge at the Project. Not all of the soil stockpiles or slopes in the area had been adequately stabilized to prevent erosion. Additionally, the gravel bag inlet pipe protection BMPs for the area were not stacked as according to the specifications listed in section 5 of the SWMP and no sediment control BMPs were observed to inhibit Project stormwater from discharging directly to the unprotected drainage culvert. Project stormwater from this area flows to a sump near the Burlington Northern Railroad bridge which discharges via a culvert to Lower Church Lake.
- h. The Inspector observed inadequate BMPs to control sediment transport to paved surfaces along US-36 at the Project. Jersey barriers and intermittent gravel bags were utilized for sediment control between the construction area and traffic lanes. The gravel bags were not installed according to good engineering, hydrologic, and pollution control practices because they were not utilized at every Jersey barrier opening. Additionally, installation and implementation specifications for this application were not included in the SWMP. Consequently, sediment was discharged offsite and was observed in the US-36 traffic lanes along the entire corridor. Project stormwater from the area flows to the state waters listed in the permit certification and municipal separate storm sewers along the US-36 corridor.
- i. The Inspector observed inadequate BMPs to control sediment transport to paved surfaces along US-36 at the Project. Daily street sweeping was discussed as a sediment tracking control BMP in the SWMP. However, no street sweeper was observed onsite and sediment was observed on low traffic areas and paved surfaces across the site. Consequently, sediment was discharged offsite and was observed in the US-36 traffic lanes along the entire corridor. Project stormwater from the area flows to the state waters listed in the permit certification and municipal separate storm sewers along the US-36 corridor.
- j. The Inspector observed inadequate BMPs to control sediment transport to paved surfaces near the US-36 and State Highway 121 intersection at the Project. Vehicle Tracking Control ("VTC") in the area was inadequate. Installation and implementation specifications were included in the SWMP for the VTC. However, one VTC rock pad did not extend all the way to the paved surface and numerous others were in need of maintenance to replace the missing rock and remove the dirt that was visible underlying the rock pads. Consequently, sediment was discharged offsite and was observed in the US-36 traffic lanes along the entire corridor. Project stormwater from the area flows to the

## EXHIBIT A

state waters listed in the permit certification and municipal separate storm sewers along the US-36 corridor.

- k. The Inspector observed numerous soil stockpiles throughout the Project. Installation and implementation specifications were included in the SWMP for soil stockpile BMPs. However, the compacted berm and silt fence soil stockpile BMPs were not being implemented. Consequently, sediment discharged from the soil stockpiles was being transported throughout the project and offsite. Project stormwater from the area flows to the state waters listed in the permit certification and municipal separate storm sewers along the US-36 corridor.
  - l. The Inspector observed numerous construction waste stockpiles throughout the Project. Installation and implementation specifications were included in the SWMP for construction waste stockpile BMPs. However, the construction waste stockpile where not removed as stated in the SWMP and the appropriate containers provided for in the SWMP were not being utilized. Project stormwater from across the project flows to the state waters listed in the permit certification.
  - m. The Inspector observed no BMPs being implemented to manage stormwater runoff near equipment repair or servicing areas near the north end of the concrete batch plant. Numerous petroleum spills were observed at this location and no BMPs were in place to control the pollutants or to clean up the spills. Project stormwater from across the project flows to the state waters listed in the permit certification.
  - n. The Inspector observed inadequate BMPs within culverts near the area of Church Ranch Boulevard and Big Dry Creek at the Project. The stacked gravel bag BMPs for culvert protection as described in SWMP for this area were either inadequate since only single gravel bags were utilized or were not being utilized at all. Project stormwater from this area flows via the culverts to the east side of US-36 and into unnamed drainages.
  - o. The Inspector observed a disturbed area south of US-36 at the Westminster Boulevard Bridge at the Project. No BMPs were utilized in this area to control erosion or sediment transport. Additionally, the SWMP did not indicate that any BMPs would be used in the area. Project stormwater from across the project flows to the state waters listed in the permit certification.
21. The Division has determined that Ames-Granite failed to implement and/or maintain functional BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic, and pollution control practices.
22. Ames-Granite's failure to implement and/or maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations of Part I. C. 3. (c), Part I. D. 2., and Part I. B. 3., of the Permit.

## EXHIBIT A

### ORDER AND AGREEMENT

23. 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, the Division orders Ames-Granite to comply with all provisions of this Consent Order, including all requirements set forth below.
24. Ames-Granite agrees to the terms and conditions of this Consent Order. Ames-Granite 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. Ames-Granite also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Ames-Granite 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.
25. Notwithstanding the above, Ames-Granite does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Ames-Granite pursuant to this Consent Order shall not constitute evidence of fault and liability by Ames-Granite with respect to the conditions of the Project.

### CIVIL PENALTY

26. 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, Ames-Granite shall pay Ninety-Five Thousand Dollars (\$95,000.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Ninety-Five Thousand Dollar (\$95,000.00) civil penalty for the above violation(s) and Ames-Granite agrees to make the payment within thirty 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:

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

27. Pursuant to §25-8-608, C.R.S., the submitted civil penalty payment will be deposited into the State of Colorado's Water Quality Improvement Fund. The moneys in such fund shall be subject to annual appropriation for the purpose of improving water quality in Colorado.

## EXHIBIT A

### 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 and in the NOV/CDO.
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 Ames-Granite 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 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 Ames-Granite, 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.
31. Notwithstanding paragraph 25 above, the violations described in this Consent Order will constitute part of Ames-Granite'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 Ames-Granite. Ames-Granite agrees not to challenge the use of the cited violations for any such purpose.

### LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

32. 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 and in the NOV/CDO. 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.
33. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
34. 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.
35. Upon the effective date of this Consent Order, Ames-Granite 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.
36. 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.

## EXHIBIT A

### NOTICES

37. 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-CWE-B2  
Attention: Lindsay Ellis  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: 303-692-2271  
E-mail: lindsay.ellis@state.co.us

For Ames-Granite:

Ernie Green  
Ames Granite JV  
500 Eldorado, Suite 2301  
Broomfield, Colorado 80021

### MODIFICATIONS

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

### NOTICE OF EFFECTIVE DATE

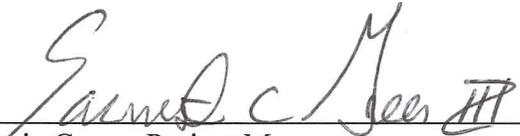
39. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty following closure of the public comment period referenced in paragraph 31. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

### BINDING EFFECT AND AUTHORIZATION TO SIGN

40. This Consent Order is binding upon Ames-Granite 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 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.

EXHIBIT A

**FOR AMES-GRANITE A JOINT VENTURE:**

  
\_\_\_\_\_  
Ernie Green, Project Manager

Date: 7-1-14

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

  
\_\_\_\_\_  
Ron Falco, P.E., Acting Director  
WATER QUALITY CONTROL DIVISION

Date: 7/9/14