COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

October 6, 2014

Steve R. Graves, Registered Agent
SEMA Construction Inc
7353 S Eagle Street
Centennial, Colorado 80112

Certified Mail Number: 7005 1820 0000 3208 7113

RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-141006-1

Dear Sir or Madam:

SEMA Construction Inc is hereby served with the enclosed Notice of Violation / Cease and Desist Order ("NOV/CDO"). The NOV/CDO is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division ("Division") pursuant to the authority given to the Division by §§25-8-602 and 25-8-605, C.R.S., of the Colorado Water Quality Control Act ("Act"). The Division bases the NOV/CDO upon findings that SEMA Construction Inc has violated the Act and/or a permit issued pursuant to the Act, as described in the enclosed NOV/CDO.

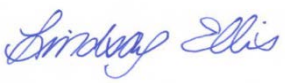
Pursuant to §25-8-603, C.R.S., SEMA Construction Inc is required, within thirty calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S., to impose a penalty of $10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.

Should you or representatives of SEMA Construction Inc desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact me at (303) 692-2271 or lindsay.ellis@state.co.us.

Sincerely,



Lindsay Ellis, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Crystal Lambert, Gunnison County Community Development
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Bret Icenogle, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Lillian Gonzalez, Permits Unit 1, CDPHE
Nathan Moore, Clean Water Compliance Unit, CDPHE
Michael Harris, Clean Water Enforcement Unit, CDPHE
Tania Watson, Business Data Services, CDPHE

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER **NUMBER: SO-141006-1**

IN THE MATTER OF: **SEMA CONSTRUCTION INC**
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03I632
GUNNISON COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's ("Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division ("Division"), and pursuant to §§25-8-602 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the alleged violations identified herein, SEMA Construction Inc ("SEMA") was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.

2. 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).

3. SEMA is conducting highway construction activities with a planned disturbance of 58.3 acres on US Highway No. 50, between mile markers 117.55 and 121.71, in Gunnison County, Colorado ("Project").

4. On March 21, 2013 the Division received an Application for Transfer of Ownership For Permit Certification Number COR-03I632, issued under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity ("Permit"), seeking to transfer permit coverage from the Colorado Department of Transportation to SEMA.

5. On March 22, 2013, the Division approved the transfer of coverage under Certification Number COR-03I62 and authorized SEMA to discharge stormwater from construction activities associated with the Project to waters of the State of Colorado, including Stumpy Creek, Blue Creek and the Gunnison River under the terms and conditions of the Permit. Certification Number COR-03I632 issued to

SEMA became effective March 25, 2013 and has been administratively continued until a new Permit and associated certification is issued, or until SEMA inactivates Permit coverage.

6. Pursuant to 5 CCR 1002-61, §61.8, SEMA must comply with all the terms and conditions of the Permit, and violations of such terms and conditions may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

7. Stumpy Creek, Blue Creek and the Gunnison 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).

8. On October 18, 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 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

9. 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 shall identify all potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the Project. In addition, the SWMP shall describe the Best Management Practices ("BMPs") that will be used to reduce the pollutants in stormwater discharges associated with construction activity at the Project.

10. Pursuant to Part I. C. of the Permit, the 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 at the site.
        ii. The proposed sequence for major activities.
        iii. Estimates of the total area of the site, and the area and location expected to be disturbed by clearing, excavation, grading, or other construction activities.
        iv. A summary of any existing data used in the development of the site 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 disturbing activities, vehicle fueling, storage of fertilizers or chemicals, etc.
        vii. The location and description of any anticipated allowable sources of non-stormwater discharge at the site, such as uncontaminated 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(s). If the stormwater discharge is to a municipal separate storm sewer system, 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 non-structural BMPs as applicable.
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 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. BMPs for Stormwater Pollution Prevention – The SWMP shall identify and describe appropriate BMPs that will be implemented at the Project 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, as applicable, 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 both structural and non-structural stormwater management controls. 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. Such procedures or significant materials could include: exposed storage of building materials; paints and solvents; fertilizers or chemicals; waste material; and equipment maintenance or fueling procedures.

(5) Dedicated Concrete or Asphalt Batch Plants – The SWMP shall clearly describe and locate all practices implemented at the site 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 identified in the SWMP, in good and effective operating condition.

11. Pursuant to Part I. D. 3. (b) of the Permit, discharges from uncontaminated springs and/or landscape irrigation return flow that are combined with stormwater discharges associated with construction activity may be authorized by the permit, provided that the non-stormwater component of the discharge is identified in the SWMP.

12. Pursuant to Part I. D. 5. (c) of the Permit, the permittee shall amend the SWMP when there is a change in design, construction, operation, or maintenance of the site, which would require the implementation of new or revised BMPs, or if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity, or when BMPs are no longer necessary and are removed. SWMP changes may include a schedule for further BMP design and implementation, provided that, if any interim BMPs are needed to comply with the permit, they are also included in the SWMP and implemented during the interim period.

13. During the October 18, 2013 inspection, the Inspector reviewed the Project's SWMP and identified the following deficiencies, as described in paragraphs 13(a-d) below:

    a. The SWMP did not identify and describe all anticipated allowable sources of non-stormwater discharges. Specifically, the SWMP site description did not describe all springs and irrigation return flows observed in the field. Additionally, the SWMP site map did not identify the locations of springs observed in the field.

    b. Certain BMPs identified in the SWMP were not selected according to good engineering, hydrologic and pollution control practices. Specifically, the SWMP stated that kick brooms would be used to clean Project roadways, and that street cleaning must be done in accordance with Colorado Department of Transportation, Standard Specifications for Road and Bridge Construction (2011), Subsection 208.04. However, as affirmed in Subsection 208.04(f), kick brooms are not recognized in the industry for use as vehicle tracking controls.

    c. Certain installation and implementation specifications included in the SWMP were not designed according to good engineering, hydrologic and pollution control practices. Specifically, specifications for erosion log check dams did not include spacing requirements. As affirmed in Colorado Department of Transportation, Erosion Control and Stormwater Quality Guide (2002), Section 5.5, spacing requirements are necessary to determine the elevation of successive check dams, and, therefore, the capacity to reduce flow velocity to non-erosive rates.

    d. The SWMP was not revised to reflect the selection of appropriate BMPs for site conditions. Specifically, the SWMP required placement of velocity and erosion control checks in ditches immediately after grading. Additionally, the SWMP site map identified the locations of erosion log check dams installed in ditches. However, erosion log check dams were removed to facilitate construction access. The SWMP was not updated to (1) reflect this change in site design, construction and operation, and (2) address implementation of interim BMPs.

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

15. SEMA's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violations of Part I. B., Part I. C. 1. (g), Part I. C. 2. (h), Part I. C. 3. (c), Part I. D. 3 (b) and Part I. D. 5. (c) of the Permit.

Failure to Maintain Required Records and/or Documents

16. Pursuant to Part I. D. 6. (b) of the Permit, SEMA is required to keep a record of inspections. The record must identify any incidents of non-compliance with the terms and conditions of the permit and must include a description and date of corrective actions taken.

17. During the October 18, 2013 inspection, the Inspector reviewed the available inspection records for the period from June 12, 2013 – October 12, 2013 and identified that records from June 12, 2013 August 27, 2013 and September 12, 2013 did not include corrective action descriptions and/or dates.

18. SEMA's failure to properly maintain required inspection records constitutes a violation of Part I. D. 6. (b) of the Permit.

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

19. Pursuant to Part I. B. 3. of the Permit, SEMA must implement the provisions of the Project's SWMP as written and updated, from commencement of construction activity until final stabilization is complete.

20. Pursuant to Part I. D. 2. of the Permit, SEMA must select, install, implement, and maintain appropriate BMPs, following good engineering, hydrologic and pollution control practices. BMPs implemented at the site must be adequately designed to provide control for all potential pollutant sources associated with construction activity at the Project.

21. Pursuant to Part I. D. 7. of the Permit, all erosion and sediment control practices and other protective measures identified in the SWMP must be maintained in effective operating condition. BMPs that are not adequately maintained in accordance with good engineering, hydrologic and pollution control practices, including removal of collected sediment outside the acceptable tolerances of the BMPs, are considered to be no longer operating effectively and must be addressed.

22. During the October 18, 2013 inspection, the Inspector identified the following deficiencies related to BMP selection, design, installation, implementation and maintenance at the Project, as described in Paragraphs 22(a-f) below:

    a. No control measures were implemented to manage stormwater runoff from (1) disturbed areas at the toe of the cut and fill slopes north of, and adjacent to, the Project roadway and (2) disturbed areas south of, and adjacent to, the Project roadway. Specifically, no erosion control measures were implemented in sloped drainage channels, despite specifications in the Project's SWMP requiring erosion control checks to be placed in ditches immediately after grading. As a result, stormwater flow velocity was not reduced to non-erosive rates and erosion occurred in the drainage channels. Stormwater runoff from this portion of the Project flowed through disturbed drainage channels adjacent to the Project roadway and collected in a storm sewer system that discharges stormwater runoff to Stumpy Creek and Blue Creek.

    b. Inlet protection measures installed at culverts located (1) at the toe of the cut and fill slopes north of, and adjacent to, the Project roadway and (2) south of, and adjacent to, the Project roadway were not implemented and maintained according to good pollution control practices. Specifically, straw wattles installed at culvert inlets did not extend to the front, edge and/or perimeter of the inlets, despite specifications in the Project SWMP requiring erosion log culvert inlet protections to tightly surround and abut culvert inlets so as not to create gaps. Additionally, numerous straw wattle inlet protection measures were overtopped with sediment and debris, and, therefore, required maintenance. These deficiencies impaired the ability of the straw wattles to prevent sediment-laden stormwater from entering storm drains without treatment. Stormwater runoff from this portion of the Project flowed through disturbed drainage channels adjacent to the Project roadway and collected in a storm sewer system that discharges stormwater runoff to Stumpy Creek and Blue Creek.

c. Outlet protection measures south of, and adjacent to, the Project roadway were not implemented according to good pollution control practices. Specifically, numerous straw wattles installed at culvert outlets did not extend to the front and/or edge of the culvert aprons, despite specifications in the Project SWMP requiring erosion log culvert outlet protections to tightly abut culvert outlets. Additionally, numerous straw wattle outlet protection measures were overtopped with sediment and debris, and, therefore, required maintenance. These deficiencies impaired the ability of the straw wattles to reduce erosion downstream of the outlets. Stormwater runoff from this portion of the Project flowed through disturbed drainage channels adjacent to the Project roadway and collected in a storm sewer system that discharges stormwater runoff to Stumpy Creek and Blue Creek.

d. Certain control measures north of the Project roadway were not selected, designed and implemented according to good pollution control practices. First, no measures to control erosion from a disturbed area near Station 390 and the Project boundaries were observed, despite specifications in the Project SWMP requiring perimeter controls to prevent potential pollutants from leaving construction site boundaries and entering the stormwater drainage system. Sediment from the disturbed area was transported to an adjoining irrigation ditch with a straw wattle installed across the waterway, despite specifications in the Project SWMP prohibiting impediment or pollution of irrigation flows during construction, and despite a general industry prohibition against BMP installation in active waterways. Stormwater runoff from this portion of the Project flowed through disturbed drainage channels and existing irrigation ditches adjacent to the Project roadway and discharged to Stumpy Creek.

e. No control measures were implemented to manage vehicle tracking of sediment from the Project materials storage area. Specifically, the vehicle tracking pad was removed from the materials storage area on July 10, 2013, despite specifications in the Project SWMP requiring stabilized construction and staging area entrances in order to reduce vehicle tracking. As a result, sediment was transported to paved road surfaces. Stormwater runoff from this portion of the Project flowed through disturbed drainage channels adjacent to the Project roadway and collected in a storm sewer system that discharges stormwater runoff to Stumpy Creek.

f. Vehicle tracking control measures implemented on the Project roadway were not selected according to good pollution control practices. Specifically, a kick broom was implemented to clean Project roadways; however, as affirmed in Colorado Department of Transportation, Standard Specifications for Road and Bridge Construction (2011), Subsection 208.04(f), kick brooms are not recognized in the industry for use as vehicle tracking controls. As a result, sediment was transported to paved road surfaces. Stormwater runoff from this portion of the Project flowed through disturbed drainage channels adjacent to the Project roadway and collected in a storm sewer system that discharges stormwater runoff to Stumpy Creek.

23. The Division has determined that SEMA failed to select, design, install, implement and/or maintain BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic, and pollution control practices.

24. SEMA's failure to select, design, install, implement and/or maintain BMPs at the Project constitutes violations of Part I. B. 3., Part I. D. 2., and Part I. D. 7. of the Permit.

NOTICE OF VIOLATION

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

Part I. B. 1. of the Permit, which states in part, "A SWMP shall be developed for each facility covered by this permit. The SWMP shall be prepared in accordance with good engineering, hydrologic and pollution control practices."

Part I. B. 2. of the Permit, which states, "The SWMP shall: a) Identify all potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity from the facility; b) Describe the practices to be used to reduce the pollutants in stormwater discharges associated with construction activity at the facility; and ensure the practices are selected and described in accordance with good engineering practices, including the installation, implementation and maintenance requirements; and c) Be properly prepared, and updated in accordance with Part I.D.5.c., to ensure compliance with the terms and conditions of this permit."

Part I. B. 3. of the Permit, which states in part, "Facilities must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete, as a condition of this permit."

Part I. C. of the Permit, which states in part, "The SWMP shall include the following items, at a minimum."

Part I. C. 3. (c) of the Permit, which states in part, "The SWMP shall identify and describe appropriate BMPs, including, but not limited to, those required by paragraphs 1 through 8 below, that will be implemented at the facility to reduce the potential of the sources identified in Part I.C.3.b to contribute pollutants to stormwater discharges. The SWMP shall clearly describe the installation and implementation specifications for each BMP identified in the SWMP to ensure proper implementation, operation and maintenance of the BMP."

Part I. D. 2. of the Permit, which states, "Facilities must select, install, implement, and maintain appropriate BMPs, following good engineering, hydrologic and pollution control practices. BMPs implemented at the site must be adequately designed to provide control for all potential pollutant sources associated with construction activity to prevent pollution or degradation of State waters."

Part I. D. 3. (b) of the Permit, which states in part, "Discharges from the following sources that are combined with stormwater discharges associated with construction activity may be authorized by this permit, provided that the non-stormwater component of the discharge is identified in the SWMP …: uncontaminated springs and landscape irrigation return flow."

Part I. D. 5. (c) of the Permit, which states in part, "The permittee shall amend the SWMP: 1) when there is a change in design, construction, operation, or maintenance of the site, which would require the implementation of new or revised BMPs; or 2) if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity; or 3) when BMPs are no longer necessary and are removed. … SWMP

revisions may include, but are not limited to: potential pollutant source identification; selection of appropriate BMPs for site conditions; BMP maintenance procedures; and interim and final stabilization practices."

Part I. D. 7 of the Permit, which states in part, "All erosion and sediment control practices and other protective measures identified in the SWMP must be maintained in effective operating condition."

Part I. D. 6. (b) (2) of the Permit, which states in part, "The permittee shall keep a record of inspections. Inspection reports must identify any incidents of non-compliance with the terms and conditions of this permit. … At a minimum, the inspection report must include: … vii) Description of corrective action for items iii, iv, v, and vi, above, dates corrective action(s) taken …"

REQUIRED CORRECTIVE ACTION

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

26. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders SEMA to comply with the following specific terms and conditions of this Order:

27. SEMA shall immediately evaluate the Project's SWMP and implement necessary measures to ensure the SWMP contains all of the elements required by the Permit and is effective in managing pollutant discharges from the Project. Within thirty (30) calendar days of receipt of this Order, SEMA shall submit a written certification to the Division stating that a complete, effective, and up-to-date SWMP has been fully developed and implemented at the Project.

28. SEMA shall immediately begin documenting inspections of the Project's stormwater management system pursuant to the provisions outlined in the Permit. Within thirty (30) calendar days of receipt of this Order, SEMA shall submit a written certification to the Division stating that all such inspections are being conducted and documented in accordance with the terms and conditions of the Permit.

29. SEMA shall immediately implement necessary measures to ensure that BMPs are in place to control pollutant discharges from the Project. This includes ensuring that all disturbed areas at the Project are stabilized and/or protected with a system/series of erosion and sediment control practices, and that all BMPs at the site are selected, designed, installed, implemented, and maintained following good engineering, hydrologic, and pollution control practices. Within thirty (30) calendar days of receipt of this Order, SEMA shall evaluate and modify all BMPs at the Project to ensure the BMPs meet the installation and implementation requirements specified in the Project's complete and up-to-date SWMP. Within forty-five (45) calendar days of receipt of this Order, SEMA shall submit photographs to the Division documenting the current conditions at the site and the associated BMPs implemented at the Project.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, SEMA shall submit an original and an electronic copy to the Division at the following address:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CWE-B2
Attention: Lindsay Ellis
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-2271
Fax: (303) 782-0390
Email: lindsay.ellis@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11, SEMA is required to submit to the Division an answer responding to the Notice of Violation and affirming or denying each paragraph of the Findings of Fact. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

SEMA is also advised that any person who violates any provision of the Colorado Water Quality Control Act ("Act"), §§25-8-101 to 803, C.R.S., or any control regulation promulgated pursuant to the Act, or any provision of any permit issued under the Act, or any final cease and desist order or clean-up order issued by the Division, shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

Pursuant to §25-8-601, C.R.S., SEMA is further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

EFFECT OF ORDER

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of SEMA's rights and obligations under this Notice of Violation / Cease and Desist Order, SEMA is advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued in Denver, Colorado, this 3rd day of October, 2014.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

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