



## COLORADO

Department of Public  
Health & Environment

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

October 6, 2016

STC Metropolitan District No. 1  
c/o Lisa A. Johnson  
Special District Management Services, Inc.  
141 Union Blvd., Suite 150  
Lakewood, CO 80228

Certified Mail Number: 7012 1640 0000 0801 9366

**RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-161006-1**

Dear Ms. Johnson:

STC Metropolitan District No. 1 ("STC") 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 STC violated the Act and a permit issued pursuant to the Act, as described in the enclosed NOV/CDO.

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

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

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

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



Sincerely,



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

*Enclosure(s)*

cc: Enforcement File

ec: Michael Boeglin, EPA Region VIII  
Joe Malinowski, Boulder County Public Health  
Aimee Konowal, Watershed Section, CDPHE  
Corrina Quintana, Grants and Loans Unit, CDPHE  
Doug Camrud, Engineering Section, CDPHE  
Kelly Jacques, Field Services Section, CDPHE  
Lillian Gonzalez, Permits Section, CDPHE  
Nathan Moore, Clean Water Compliance Unit, CDPHE  
Megan Shirley, Clean water Compliance Unit, CDPHE  
Kelly Morgan, Clean Water Enforcement Unit, CDPHE  
Tania Watson, Data Management, CDPHE





# COLORADO

## Department of Public Health & Environment

### WATER QUALITY CONTROL DIVISION

---

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-161006-1

---

IN THE MATTER OF:       STC METROPOLITAN DISTRICT NO. 1  
                                  CDPS PERMIT NO. COR030000  
                                  CERTIFICATION NO. COR03L397  
                                  BOULDER 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 violations cited herein, STC Metropolitan District No. 1 ("STC") was a "Special District" formed in Boulder County, Colorado pursuant to the Special District Act, §§32-1-101, *et seq.* and 32-4-501, *et seq.*, C.R.S.
2. STC 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. On December 10, 2013, STC initiated construction activities of the Superior Town Center mixed-use development, comprising up to 1,400 dwelling units and one million feet of commercial space in the Town of Superior, in Boulder County, Colorado ("Project").
4. On October 31, 2013, the Division received an application from STC for coverage under the Colorado Discharge Permit System ("CDPS") General Permit Number COR030000, for Stormwater Discharges Associated with Construction Activity ("Permit"), for a planned disturbance of 140 acres of land within the Project.
5. On November 5, 2013, the Division provided STC with Certification Number COR03L397 authorizing STC to discharge stormwater from construction activities associated with the Project to Coal Creek, St. Vrain Creek, and the South Platte River under the terms and conditions of the Permit. Certification Number COR03L397 took effect November 5, 2013 and is administratively continued until a new Permit and certification are issued, or until STC inactivates coverage.

6. Coal Creek, St. Vrain 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).
7. Pursuant to 5 CCR 1002-61, §61.8, STC must comply with all the terms and conditions of the Permit, and violations of such terms and conditions may make STC subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.
8. On October 14, 2015 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 STC’s compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed the Project representative, reviewed the Project’s stormwater management records, and performed a physical inspection of the Project.

#### Deficient Stormwater Management Plan

9. Pursuant to Part I. B. 1. of the Permit, STC must prepare a stormwater management plan in accordance with good engineering, hydrologic, and pollution control practices.
10. Pursuant to Part I. B. 2. of the Permit, the Project’s stormwater management plan must identify all potential sources of pollution and describe the practices used to reduce pollutants in stormwater discharges associated with construction activity at the Project.
11. Pursuant to Part I. C. of the Permit, the stormwater management plan must include, at a minimum, the items listed below.
  - a. Site Description - The plan must 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 Project and the area and location expected to be disturbed;
    - iv. a summary of existing data used in the development of the construction plans or stormwater management plan that describe the soil or existing potential for soil erosion;
    - v. a description of the existing vegetation 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, and storage of fertilizers or chemicals;
    - vii. the location and description of any allowable sources of non-stormwater discharges, such as springs, landscape irrigation return flow, construction dewatering, and concrete washout; and
    - 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 stormwater management plan must include a legible site map, showing the entire site and 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 control measures;
  - vii. locations of all non-structural control measures; and
  - viii. locations of springs, streams, wetlands, and other surface waters.
- c. Stormwater Management Controls - The stormwater management plan must describe all control measures implemented at the Project to reduce the potential for pollutant sources to contribute to stormwater runoff, including the items listed below.
- i. Stormwater Management Plan Administrator - The plan must identify a specific individual(s), position, or title responsible for developing, implementing, maintaining, and revising the plan.
  - ii. Identification of Potential Pollutant Sources - The plan must identify and describe those sources with the potential to contribute pollutants to stormwater discharges.
  - iii. Best Management Practices for Stormwater Pollution Prevention - The plan must describe control measures implemented at the Project to reduce the potential of pollution sources to contribute pollutants to stormwater discharges. The plan must describe installation and implementation specifications for each control measure identified in the plan.
    - (1) Structural Practices for Erosion and Sediment Control - The plan must describe and locate all structural control measures implemented at the Project to minimize erosion and sediment transport. Practices may include: 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 plan must describe and locate all non-structural control measures implemented at the Project to minimize erosion and sediment transport. The description must include interim and permanent stabilization practices and site-specific scheduling for implementation of the practices. Non-structural control measures may include: temporary or permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, tree protection, and preservation of mature vegetation.
    - (3) Phased Control Measure Implementation - The plan must describe the relationship between the phases of construction and the implementation and maintenance of control measures. The plan must identify the 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 plan must describe and locate all practices implemented at the Project to minimize impacts from procedures or significant materials that could contribute pollutants to stormwater discharges.
    - (5) Dedicated Concrete or Asphalt Batch Plants - The plan must describe and locate measures implemented at the Project to control stormwater pollution from dedicated concrete or asphalt batch plants.
    - (6) Vehicle Tracking Control - The plan must describe and locate all measures implemented at the Project to control potential sediment discharges from vehicle tracking.
    - (7) Waste Management and Disposal, Including Concrete Washout - The plan must describe and locate measures implemented at the Project to control stormwater pollution from all construction site wastes, including concrete washout activities.
    - (8) Groundwater and Stormwater Dewatering - The plan must describe and locate measures implemented at the Project to control stormwater pollution from the dewatering of groundwater or stormwater from excavations, wells, etc.
  - d. Final Stabilization and Long-Term Stormwater Management - The plan must describe the practices used to achieve final stabilization of all disturbed areas at the Project and any planned measures to control pollutants in stormwater discharges occurring after construction operations at the Project are complete.
  - e. Inspection and Maintenance - The plan must describe inspection and maintenance procedures used at the Project to maintain all erosion and sediment control measures and other protective practices in good and effective operating condition.
12. During the October 14, 2015 inspection, the Inspector reviewed the Project's stormwater management plan and identified the deficiencies described in paragraphs 12(a-b) below:
  - a. The site map included with the stormwater management plan did not locate the 100 acres of ground surface disturbance occurring across the Project, areas used for the staging of building materials and soil stockpiles outside of designated subcontractor staging areas and observed throughout the northern half of the Project, and the complete length of the irrigation ditch diverted across the southern portion of the Project.
  - b. The stormwater management plan did not describe all control measures used at the Project to reduce the potential for pollutant sources to contribute to stormwater runoff. First, the plan did not describe practices for minimizing the impacts of spilled materials such as paints, solvents, chemicals, and fuels. Although the plan stated that subcontractors implemented individual spill prevention and response procedures, the plan did not clearly describe and locate the procedures themselves. Second, the plan did not describe the practices implemented at the Project to control pollution from the dewatering of stormwater. Specifically, the plan did not describe the process of pumping stormwater collected in utility excavations at the lift station into an adjacent retention pond.
13. The Division has determined that STC failed to prepare a complete and accurate stormwater management plan for the Project.

14. STC's failure to prepare a complete and accurate stormwater management plan for the Project violates Part I. B. 1., Parts I. B. 2. (a) and (b), Parts I. C. 2. (b), (d), and (h), and Parts I. C. 3. (c) (4) and (8) of the Permit.

#### Failure to Maintain Required Records

15. Pursuant to Part I. D. 6. (b) of the Permit, STC is required to keep a record of self-inspections of the Project. The record must include the name and title of personnel making the inspections, a description and the dates of actions taken to correct control measures that needed maintenance, failed to operate or proved inadequate for a particular location, and a signed statement indicating the site is compliant to the best of the signer's knowledge and belief.
16. During the Division's October 14, 2015 inspection, the Inspector reviewed the available self-inspection records for the period from June 19, 2015 through October 5, 2015 and identified that the records did not include the title of the personnel making the inspections, descriptions and dates of actions taken to correct control measures, and signed compliance statements.
17. STC's failure to properly maintain self-inspection records violates Parts I. D. 6. (b) (2) (ii), (vii), and (viii) of the Permit.

#### Failure to Install, Maintain, or Properly Select Control Measures

18. Pursuant to Part I. B. 3. of the Permit, STC must implement the provisions of the Project's stormwater management plan as written and updated, from commencement of construction activity until final stabilization is complete.
19. Pursuant to Part I. D. 2. of the Permit, STC must select, install, implement, and maintain control measures following good engineering, hydrologic, and pollution control practices. Control measures implemented at the site must be adequately designed to control all potential pollutant sources associated with construction activity at the Project.
20. Pursuant to Part I. D. 1. (f) of the Permit, all site wastes must be properly managed to prevent potential pollution of state waters.
21. Pursuant to Part I. D. 7. of the Permit, all erosion and sediment control practices and other protective measures identified in the stormwater management plan must be maintained in effective operating condition. Control measures not adequately maintained in accordance with good engineering, hydrologic, and pollution control practices, including removal of collected sediment outside the acceptable tolerances of the control measures, are considered to be no longer operating effectively and must be addressed.
22. During the October 14, 2015 inspection, the Inspector identified deficiencies related to control measure selection, installation, and maintenance at the Project, as described in Paragraphs 22(a-j) below:
  - a. No control measures were implemented to manage ground disturbance bordering the irrigation ditch diverted through the southern portion of the Project. Specifically, no measures existed to control erosion and sediment transport from ground disturbance surrounding the irrigation ditch and the disturbed banks of the ditch, despite a requirement

in the Project's stormwater management plan for installation of control measures such as surface roughening throughout the Project to "minimize soil erosion, reduce sediment transport, and stabilize disturbed areas." As a result, accumulated sediment from the Project was observed in the irrigation ditch, an unclassified state water. Stormwater runoff from this portion of the Project flowed into the irrigation ditch, which carried stormwater and irrigation water off the eastern boundary of the Project.

- b. No control measures were implemented to manage ground disturbance along the southern portion of the Project. Specifically, no measures existed to control erosion and sediment transport from areas where pre-existing topsoil was being replaced, despite a requirement in the Project's stormwater management plan for control measures to "minimize soil erosion, reduce sediment transport, and stabilize disturbed areas," including perimeter control installation within the first phase of construction and silt fence installation at the time of overlot grading activities. As a result, sediment from the disturbed areas had the potential to be discharged into Coal Creek Ditch. Stormwater runoff from this portion of the Project flowed south off the Project and into Coal Creek Ditch.
- c. No control measures were implemented to manage ground disturbance lining the western boundary of the Project. Specifically, no measures existed to control erosion and sediment transport from ground that was graded along McCaslin Boulevard, despite a requirement in the Project's stormwater management plan for control measures to "minimize soil erosion, reduce sediment transport, and stabilize disturbed areas," including perimeter control installation within the first phase of construction and silt fence installation at the time of overlot grading activities. As a result, sediment from the disturbed areas had the potential to be discharged into Coal Creek. Stormwater runoff from this portion of the Project flowed west off the Project, collected in curb flow lines on McCaslin Boulevard, and discharged into storm inlets and the Town of Superior storm sewer system, which empties into Coal Creek.
- d. No control measures were implemented to manage ground disturbance and the staging area at the northwest corner of the Project. First, no measures existed to control erosion and sediment transport from disturbed ground between the Project entrance and the water truck staging area, despite a requirement in the Project's stormwater management plan for control measures to "minimize soil erosion, reduce sediment transport, and stabilize disturbed areas," including perimeter control installation within the first phase of construction. Second, no measures existed to prevent potential pollution from the truck staging area, despite a requirement in the Project's stormwater management plan for properly contained staging areas. As a result, sediment from the disturbed area and leaked fluids from the truck staging area had the potential to be discharged into Coal Creek. Stormwater runoff from this portion of the Project flowed north off the Project and directly into the adjacent Coal Creek.
- e. Control measures observed along the northern boundary of the Project were not installed and maintained according to good pollution control practices. Specifically, silt fence used to manage ground disturbance was not entrenched and maintenance was needed to repair torn, sagging, and collapsed sections of fabric and to remove accumulated sediment. These deficiencies impaired the ability of the silt fence to intercept stormwater runoff from the disturbed areas and to minimize the transportation of sediment, and violated requirements in the Project's stormwater management plan to replace sections of silt fence undercut by bypassing flows, to repair torn and slumping silt fence fabric, and to remove sediment accumulated more than six inches. As a result, accumulated sediment was observed downgradient of the silt fence in a wetland area less than 100 feet from Coal Creek.

Stormwater runoff from this portion of the Project flowed north off the Project and directly into the adjacent Coal Creek.

- f. A sediment basin in the northeastern corner of the Project used to intercept stormwater runoff from upgradient disturbed areas and to stockpile soils intended for backfilling a retaining wall was not installed according to good pollution control practices. Specifically: (1) Construction of the basin did not follow design specifications in the Project's stormwater management plan. The length of the basin was not twice as long as its width, there was no emergency spillway, and the inlet and outlet pipes shared the same end of the basin rather than being placed at the furthest distance apart. (2) The box cover necessary for settling of sediment was not installed on the outlet pipe placed on the bottom of the basin, contrary to industry publications requiring adequate retention time of stormwater before it exits the basin. (3) The soil stockpile reduced the receiving capacity of the basin. (4) No control measures were installed immediately downgradient of the outlet pipe as it emptied from the sediment basin, despite requirements in the Project's stormwater management plan and industry publications for outlet protection to prevent downgradient erosion and scouring. As a result, sediment-laden stormwater had the potential to be discharged into Coal Creek. Stormwater runoff from this portion of the Project flowed north across ground disturbance and materials staging areas and into the sediment basin, which discharged stormwater into a disturbed drainage swale running along the U.S. Route 36 right-of-way and directly into Coal Creek.
- g. Control measures observed on Discovery Parkway were not selected and maintained according to good pollution control practices. First, no measures existed to control erosion and sediment transport from both ground disturbance adjacent to Discovery Parkway and a large, uncompacted earthen berm used as a traffic control device at the transition point between the Project and the roadway. Stormwater runoff from the disturbed area and berm was transported downgradient to a single inlet protection measure, despite an industry prohibition against inlet protections as primary sediment trapping devices. Further, the rock sock inlet protection measure placed at the edge of the curb inlet was torn and had accumulated sediment and debris beyond one half of the rock sock's capacity, despite the Project's stormwater management plan requiring repair or replacement when tears are observed and removal of accumulated sediment reaching half the storage capacity of the inlet protection. As a result, sediment-laden stormwater had the potential to bypass the rock sock and enter the storm sewer without treatment. Stormwater runoff from this portion of the Project flowed along Discovery Parkway to the curb flow line and into storm inlets and the Town of Superior storm sewer system, which empties into Coal Creek.
- h. No vehicle tracking control measures were implemented at a disturbed area on the western boundary of the Project. Specifically, an undesignated egress was used by construction vehicles and no measures were in place to control the tracking of sediment onto McCaslin Boulevard, despite the Project's stormwater management plan requiring tracking controls where vehicle traffic exits the construction site onto a paved roadway. As a result, sediment from vehicle tracking had the potential to leave the site in stormwater runoff, discharging to the curb flow line and storm inlets on McCaslin Boulevard, and into the Town of Superior storm sewer system, which empties into Coal Creek.
- i. Vehicle tracking control measures at the designated site entrance on the western boundary of the Project were not maintained according to good pollution control practices. Specifically, a vehicle tracking control pad at the transition point between a disturbed area and McCaslin Boulevard was laden with sediment, despite specifications in the Project's stormwater

management plan requiring rock to be reapplied or re-graded as necessary to maintain a stabilized entrance and removal of sediment tracked onto paved roads. As a result, the pad's functionality was restricted and sediment and concrete fines were transported to the roadway. Stormwater runoff from this portion of the Project flowed west off the Project, collected in curb flow lines on McCaslin Boulevard, and discharged into storm inlets and the Town of Superior storm sewer system, which empties into Coal Creek.

- j. No control measures were implemented to manage concrete and masonry waste discharged to the ground at the lift station on the eastern portion of the Project. Concrete waste was discharged directly to the ground, despite the Project's stormwater management plan requiring the use of a designated concrete washout area and good housekeeping practices to "prevent pollution associated with solid, liquid, and hazardous construction-related materials and wastes." As a result, concrete waste had the potential to leave the site in stormwater runoff flowing north off the project to Coal Creek and east into a sediment basin lacking treatment controls and discharging stormwater into a disturbed drainage swale running along the U.S. Route 36 right-of-way and directly into Coal Creek.
23. The Division has determined that STC failed to select, install, and maintain controls for all potential pollutant sources in stormwater runoff at the Project, following good engineering, hydrologic, and pollution control practices.
  24. STC's failure to select, install, and maintain control measures at the Project violates Part I. B. 3., Part I. D. 1. (f), 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, STC is hereby notified that the Division has determined that STC violated the following sections of the Permit:

**Part I. B. 1. of the Permit**, which states in part, "A [Stormwater Management Plan ("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 in part, "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 ..."

**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. 2. of the Permit**, which states in part, "The SWMP shall include a legible site map(s), showing the entire site, identifying: ... (b) all areas of ground surface disturbance; ... (d) areas used for storage of building materials, equipment, soil, or waste; ... (h) locations of springs, streams, wetlands and other surface waters."

**Part I. C. 3. (c) of the Permit**, which states in part, “The SWMP shall identify and describe appropriate [Best Management Practices (“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 ... (4) 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 ... (8) 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. ...”

**Part I. D. 1. (f) of the Permit**, which states, “All site wastes must be properly managed to prevent potential pollution of State waters. This permit does not authorize on-site waste disposal.”

**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. 6. (b) (2) of the Permit**, which states in part, “The permittee shall keep a record of inspections ... At a minimum, the inspection report must include: ... ii) Name(s) and title(s) of personnel making the inspection; ... (vii) Description of corrective action for items iii, iv, v, and vi, above, dates corrective action(s) taken, and measures taken to prevent future violations, including requisite changes to the SWMP, as necessary; and viii) After adequate corrective action(s) has been taken, or where a report does not identify any incidents requiring corrective action, the report shall contain a signed statement indicating the site is in compliance with the permit to the best of the signer’s knowledge and belief.”

**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.”

#### **REQUIRED CORRECTIVE ACTION**

Based upon the foregoing factual and legal determinations and pursuant to §§25-8-602 and 25-8-605, C.R.S., STC 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 STC to comply with the following specific terms and conditions of this Order:

27. STC must immediately evaluate the Project’s stormwater management plan and implement necessary measures to ensure the plan contains all elements required by the Permit and is effective in managing pollutant discharges from the Project. Within 45 calendar days of receipt of this Order, STC must submit a written certification to the Division stating that a complete, effective, and up-to-date stormwater management plan is fully developed and implemented at the Project.

28. STC must immediately ensure control measures are in place to prevent pollutant discharges from the Project. This includes stabilizing or protecting all disturbed areas at the Project with a system of erosion and sediment control practices selected, designed, installed, and maintained following good engineering, hydrologic, and pollution control practices. Within 45 calendar days of receipt of this Order, STC must evaluate and modify all control measures at the Project to ensure they meet the installation and implementation requirements specified in the Project's complete and up-to-date stormwater management plan. Within 45 calendar days of receipt of this Order, STC must submit photographs to the Division documenting current conditions at the site and the associated control measures implemented at the Project.

### NOTICES AND SUBMITTALS

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

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  
Telephone: (303) 692-2271  
Email: lindsay.ellis@state.co.us

30. For any person submitting documents, plans, records, and reports pursuant to this Notice of Violation / Cease and Desist Order, that person must 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

31. Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11, STC must 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 must be filed no later than 30 calendar days after receipt of this Order.
32. 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 must 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 will be deemed established in any subsequent Department proceeding. The request for hearing, if any, must be filed no later than 30 calendar days after issuance of this Order. The filing of an answer does not constitute a request for hearing.

### FALSIFICATION AND TAMPERING

33. 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 \$10,000, 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

34. STC 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 \$10,000 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

35. Pursuant to §25-8-601, C.R.S., STC 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, must 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

36. 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.
37. For further clarification of STC's rights and obligations under this Notice of Violation / Cease and

Desist Order, STC 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 6<sup>th</sup> day of October, 2016.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



---

Nicole Rowan, Clean Water Program Manager  
WATER QUALITY CONTROL DIVISION