



**COLORADO**  
Department of Public  
Health & Environment

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

May 15, 2015

William E. Tanis, Esq  
Shaw Builders, LLC  
c/o Ireland Stapleton Pryor & Pascoe, PC  
717 17<sup>th</sup> Street, Suite 2800  
Denver, CO 80202

Certified Mail Number: 7005 1820 0000 3207 8159

**RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-150515-1**

Dear Mr. Tanis:

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

Pursuant to §25-8-603, C.R.S., Shaw Builders, LLC is required, within thirty (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 Shaw Builders, LLC 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 by phone at (303) 692-2312 or by electronic mail at [eric.mink@state.co.us](mailto:eric.mink@state.co.us).

Sincerely,



Eric T. Mink, Enforcement Specialist  
Clean Water Enforcement Unit  
WATER QUALITY CONTROL DIVISION

*Enclosure(s)*

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII  
Brian Hlavacek, Tri-County Health Dept  
Nicole Rowan, Watershed Section, CDPHE  
Michael Beck, Grants and Loans Unit, CDPHE  
Doug Camrud, Engineering Section, CDPHE  
Kelly Jacques, Field Services Section, CDPHE  
Lillian Gonzalez, Permits Section, CDPHE  
Mike Harris, Clean Water Enforcement Unit, CDPHE  
Tania Watson, Compliance Assurance, CDPHE  
Nathan Moore, Clean Water Compliance Unit, CDPHE





# COLORADO

## Department of Public Health & Environment

### WATER QUALITY CONTROL DIVISION

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NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-150515-1

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IN THE MATTER OF:      SHAW BUILDERS LLC  
   CDPS PERMIT NO. COR-030000  
   CERTIFICATION NO. COR-03K287  
   ADAMS COUNTY, COLORADO

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "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 (the "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, Shaw Builders LLC ("Shaw Builders") was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.
2. Shaw Builders 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 approximately April 15, 2013, Shaw Builders initiated construction activities on Phase II of the Orchard Town Center Project with a planned disturbance area of approximately 28.7 acres of land at 38°57'57" N and 104°59'40" W in Adams County, Colorado (the "Project").
4. Construction activities at the Project include ground disturbing activities associated with the construction of a new multi-family residential development.
5. Shaw Builders' construction activities at the Project are covered under the Colorado Discharge Permit System General Permit Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit").
6. On March 19, 2013, the Division provided Shaw Builders with Certification Number COR-03K287 (the "Certification") authorizing Shaw Builders to discharge stormwater from the construction activities associated with the Project to state waters, including the South Platte River, under the terms and conditions of the Permit. The Certification became effective March 19, 2013 and remains in effect until Permit reissuance or until Shaw Builders inactivates permit coverage.

7. The South Platte River is a “state water” as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).
8. Pursuant to 5 CCR 1002-61, §61.8, Shaw Builders must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.
9. On September 3, 2014, a representative from the Division (the “Inspector”) conducted an on-site inspection of the Project pursuant to the Division’s authority under §25-8-306, C.R.S., to determine Shaw Builders’ 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

10. Pursuant to Part I.B. of the Permit, Shaw Builders 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.
11. Pursuant to Part I.C. of the Permit, the Project’s SWMP shall include, at a minimum, the following items:
  - a. Site Description - The SWMP shall clearly describe the construction activity, including:
    - i. The nature of the construction activity.
    - ii. The proposed sequence for major activities.
    - iii. Estimates of the total area of the site and the area of the site that is expected to undergo clearing, excavation or grading.
    - iv. A summary of any existing data used in the development of the construction plans or SWMP that describe the soil or existing potential for soil erosion.
    - v. A description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.
    - vi. The location and description of all potential pollution sources, including ground surface disturbance, vehicle fueling, storage of fertilizers or chemicals, etc.
    - vii. The location and description of any allowable sources of non-stormwater discharge, such as springs, landscape irrigation return flow, construction dewatering, and concrete washout.
    - viii. The name of the receiving water(s) and the size, type, and location of any outfall or, if the discharge is to a municipal separate storm sewer, the name of that system, the location of the storm sewer discharge, and the ultimate receiving water(s).
  - b. Site Map - The SWMP shall include a legible site map(s), showing the entire site, identifying:
    - i. Construction site boundaries.
    - ii. All areas of ground surface disturbance.
    - iii. Areas of cut and fill.
    - iv. Areas used for storage of building materials, equipment, soil, or waste.

- v. Locations of dedicated asphalt or concrete batch plants.
  - vi. Locations of all structural BMPs.
  - vii. Locations of all non-structural BMPs.
  - viii. Locations of springs, streams, wetlands, and other surface waters.
- c. Stormwater Management Controls - The SWMP must include a description of all stormwater management controls that will be implemented as part of the construction activity to control pollutants in stormwater discharges, including:
- i. SWMP Administrator - The SWMP shall identify a specific individual(s), position or title that is responsible for developing, implementing, maintaining, and revising the SWMP.
  - ii. Identification of Potential Pollutant Sources - The SWMP shall identify and describe those sources determined to have the potential to contribute pollutants to stormwater discharges.
  - iii. BMPs for Stormwater Pollution Prevention - The SWMP shall identify and describe appropriate BMPs that will be implemented at the facility to reduce the potential of pollution sources to contribute pollutants to stormwater discharges. The SWMP shall clearly describe the installation and implementation specifications for each BMP identified in the SWMP.
    - (1) Structural Practices for Erosion and Sediment Control - The SWMP shall clearly describe and locate all structural practices implemented at the site to minimize erosion and sediment transport. Practices may include, but are not limited to: straw bales, wattles/sediment control logs, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, pipe slope drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.
    - (2) Non-Structural Practices for Erosion and Sediment Control - The SWMP shall clearly describe and locate all non-structural practices implemented at the site to minimize erosion and sediment transport. Description must include interim and permanent stabilization practices, and site-specific scheduling for implementation of the practices. Non-structural practices may include, but are not limited to: temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, protection of trees, and preservation of mature vegetation.
    - (3) Phased BMP Implementation - The SWMP shall clearly describe the relationship between the phases of construction and the implementation and maintenance of BMPs. The SWMP must identify the stormwater management controls to be implemented during the project phases, which can include, but are not limited to, clearing and grubbing, road construction, utility and infrastructure installation, vertical construction, final grading, and final stabilization.
    - (4) Materials Handling and Spill Prevention - The SWMP shall clearly describe and locate all practices implemented at the site to minimize impacts from procedures or significant materials that could contribute pollutants to runoff.
    - (5) Dedicated Concrete or Asphalt Batch Plants - The SWMP shall clearly describe and locate BMPs to control stormwater pollution from dedicated concrete batch plants or dedicated asphalt batch plants.
    - (6) Vehicle Tracking Control - The SWMP shall clearly describe and locate all practices implemented at the site to control potential sediment discharges from vehicle tracking.

- (7) Waste Management and Disposal, Including Concrete Washout - The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from all construction site wastes, including concrete washout activities.
      - (8) Groundwater and Stormwater Dewatering - The SWMP shall clearly describe and locate the practices implemented at the site to control stormwater pollution from the dewatering of groundwater or stormwater from excavations, wells, etc.
    - d. Final Stabilization and Long-Term Stormwater Management - The SWMP shall clearly describe the practices used to achieve final stabilization of all disturbed areas at the site, and any planned practices to control pollutants in stormwater discharges that will occur after construction operations have been completed at the site.
    - e. Inspection and Maintenance - The SWMP shall clearly describe the inspection and maintenance procedures implemented at the site to maintain all erosion and sediment control practices and other protective practices in good and effective operating condition.
12. Pursuant to Part I.D.5.c. of the Permit, the permittee shall update the SWMP when new BMPs are installed or when BMPs are revised or replaced.
13. During the September 3, 2014 inspection, the Inspector reviewed the Project's SWMP and identified that the SWMP did not clearly identify all items required by Part I.C. of the Permit, as described in Paragraphs 13(a-g) below:
  - a. The SWMP site map failed to identify all the areas being used for the storage of construction materials and waste at the time of inspection.
  - b. The SWMP site map identified the location of structural BMPs and concrete washout areas that were not in use at the time of inspection.
  - c. The SWMP site map failed to identify the location of all structural and non-structural BMPs in use at the time of inspection.
  - d. The SWMP site map failed to identify all areas of ground surface disturbance.
  - e. The Stormwater Management Controls section of the SWMP failed to identify and describe all structural and non-structural BMPs in use at the time of inspection.
  - f. The Stormwater Management Controls section of the SWMP failed to describe the relationship between the phases of construction and the implementation and maintenance of BMPs.
  - g. The Stormwater Management Controls section of the SWMP failed clearly describe and locate the practices implemented at the site to control stormwater pollution from all construction site wastes.
14. The Division has determined that Shaw Builders failed to prepare and maintain a complete and accurate SWMP for the Project.
15. Shaw Builders' failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violation(s) of Part I.B., Part I.C., and Part I.D.5.c. of the Permit.

### **Failure to Perform and/or Document Inspections of Stormwater Management System**

16. Pursuant to Part I.D.6.a. of the Permit, for active sites where construction has not been completed, Shaw Builders is required to make a thorough inspection of the Project's stormwater management system at least every 14 calendar days; within 24 hours of any precipitation or snowmelt event that causes surface erosion; and within 72 hours of any precipitation or snowmelt event that causes surface erosion when the site is temporarily idle.
17. Pursuant to Part I.D.6.b.2. of the Permit, inspection reports must identify any incidents of non-compliance, a description of the corrective action, dates the corrective action(s) were taken, measures taken to prevent future violations, and a signed statement indicating the site is in compliance with the permit to the best of the signer's knowledge and belief.
18. Pursuant to Part I.D.8. of the Permit, BMPs must be repaired or replaced as soon as possible, immediately in most cases, once the need for repair or replacement has been identified.
19. During the September 3, 2014 inspection, the Inspector reviewed the available inspection records for the Project for the period from February 7, 2014 - September 3, 2014. The Inspector determined that Shaw Builders failed to perform an inspection of the Project's stormwater management system at least once every 14 calendar days between: June 9, 2014 and June 24, 2014 and August 14, 2014 and September 2, 2014.
20. During the September 3, 2014 inspection, the Inspector reviewed the available inspection records. The inspection records that showed completed corrective actions did not contain a signed statement indicating the site is in compliance with the Permit to the best of the signer's knowledge and belief.
21. During the September 3, 2014 inspection, the Inspector reviewed the available inspection records and those records identified instances where BMPs needed to be either cleaned out or repaired, as well as dates corrective actions were completed. The inspection records did not provide which inspection reports the corrective actions stemmed from and the box asking if "corrective actions were completed from the last report" is checked "no" on several inspection reports. In addition, corrective actions initiated in February were not completed until May.
22. Shaw Builders' failure to properly perform and/or document inspections of the Project's stormwater management system constitutes violation(s) of Parts I.D.6.a and I.D.6.b.2. of the Permit.
23. Shaw Builders' failure to repair or replace BMPs in need of corrective action as soon as possible, immediately in most cases, constitutes violation(s) of Part I.D.8. of the Permit.

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

24. Pursuant to Part I.C.3.c. of the Permit, Shaw Builders 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.

25. Pursuant to Part I.D.2. of the Permit, Shaw Builders is required to select, design, install, implement, and maintain appropriate BMPs, following good engineering, hydrologic, and pollution control practices. The BMPs implemented at the site must be adequately designed to provide control for all potential pollutant sources associated with construction activity at the Project.
26. Pursuant to Part I.B.3. of the Permit, Shaw Builders 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.
27. During the September 3, 2014 inspection, the Inspector identified the following deficiencies related to BMP installation and maintenance at the Project, as described in Paragraphs 27(a-f) below:
  - a. The Inspector observed cement waste at the following locations:
    - i. the northwest corner of building D7;
    - ii. the southeast corner of building D2; and
    - iii. the east side of building B1.

No control measures were implemented to manage stormwater pollution from these cement waste sites. No additional control measures were implemented down gradient of these concrete waste sites. Stormwater from these concrete waste sites flows into the associated curb inlet(s) and into the City of Westminster's municipal separate storm sewer system ("MS4"), which discharges to the adjacent regional detention facility before ultimately discharging into the South Platte River.

- b. The Inspector observed rock sock/curb sock inlet protection control measures at the following locations:
  - i. north of building D5;
  - ii. south of building B3;
  - iii. south of building D6;
  - iv. the northeast corner of building E3;
  - v. the northwest corner of building D5; and
  - vi. the northeast corner of building D4.

These inlet protection control measures were inadequately implemented and/or maintained according to good pollution control practices. Specifically:

- The associated contributing drainage areas significantly exceeded the standard recommended by industry publications for 100 linear feet of rock sock per 0.25 acreage of drainage.
- No inlet protection or additional up-gradient control measures were installed at the back of the curb to prevent bypass of pollutants over the top of the inlets.

No additional control measures were implemented down gradient of these Project areas. Stormwater from these Project areas flows into the associated curb inlets and into the City of

Westminster's MS4 which discharges to the adjacent regional detention facility, before ultimately discharging into the South Platte River.

- c. The Inspector observed a straw wattle inlet protection control measures at the following locations:
- i. the east side of building D6
  - ii. between building B1 and B2
  - iii. 2<sup>nd</sup> between building B1 and B2

The straw wattle inlet protection control measures were not implemented and maintained according to good pollution control practices. Specifically:

- Straw wattles showed signs of tearing and damage preventing the control measure from functioning properly.
- Straw wattle inlet protection control measures exceeded the industry standard, which states that debris must be removed when fifty (50) percent of the capacity of a control measure has been utilized.
- Instead of replacing straw wattles that were completely silted, new straw wattles were "stacked" on top of base layers that had become completely silted.

No additional control measures were implemented down gradient of these Project areas. Stormwater from these Project areas flows into the associated drop inlets and into the City of Westminster's MS4 which discharges to the adjacent regional detention facility, before ultimately discharging into the South Platte River.

- d. The Inspector observed that control measures were not implemented to manage stormwater runoff from the disturbed areas located on the south side of building A4. The SWMP identified a rock sock inlet protection control measure to manage stormwater runoff from this area of the Project. However, the identified control measure was not installed. No additional control measures were implemented down gradient of this area. Stormwater from this Project area flows into the associated curb inlet and into the City of Westminster's MS4 which discharges to the adjacent regional detention facility, before ultimately discharging into the South Platte River.
- e. The Inspector observed rock sock and filter fabric inlet protection control measures at the following locations:
- i. the valley pan east of building C1
  - ii. the valley pan west of building D1

The rock sock and filter fabric inlet protection control measures were not implemented and maintained according to good pollution control practices. Specifically:

- The filter fabric used inside the gate was torn and missing in some sections, and in need of maintenance and/or replacement.
- Sediment discharge had overtopped rock socks to enter the inlet and maintenance was needed to remove sediment.

No additional control measures were implemented down gradient of these Project areas. Stormwater from these Project areas flows into the associated drop inlets and into the City of

Westminster's MS4 which discharges to the adjacent regional detention facility, before ultimately discharging into the South Platte River.

- f. The Inspector observed a straw wattle control measure on the west side of project between buildings B3 and B4. The straw wattle was not implemented and maintained according to good pollution control practices. The straw wattle was installed around the inlet grate but the inlet pipe was not properly lined up with the inlet grate, allowing sediment to reach the inlet. Sediment had built up to approximately half the inlet's capacity. No additional control measures were implemented down gradient of this Project area. Stormwater from this Project area flows into the associated drop inlet and into the City of Westminster's MS4 which discharges to the adjacent regional detention facility, before ultimately discharging into the South Platte River.
28. The Division has determined that Shaw Builder's failed to implement and/or maintain functional BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic, and pollution control practices.
  29. Shaw Builders' 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.

#### NOTICE OF VIOLATION

30. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined Shaw Builders has violated the following sections of the Permit.

**Part I.B. of the Permit**, which states in part, "The SWMP shall be prepared in accordance with good engineering, hydrologic and pollution control practices. ... 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.C. of the Permit**, which states in part, "The SWMP shall include the following items, at a minimum."

**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."

**Part I.D.6.a. of the Permit**, which states in part, "The permittee shall, at a minimum, make a thorough inspection, in accordance with the requirements in I.D.6.b. below, at least once every 14 calendar days. Also, post-storm event inspections must be conducted within 24 hours after the end of any precipitation or snowmelt event that causes surface erosion."

**Part I.D.6.b.2. of the Permit**, which states in part, "At a minimum, the inspection report must include: vii) Description of corrective actions 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.8. of the Permit**, which states in part, "Where BMPs have failed, resulting in noncompliance with Part I.D.2, they must be addressed as soon as possible, immediately in most cases, to minimize the discharge of pollutants."

**Part I.C.3.c. of the Permit**, which outlines in part, that BMPs for Stormwater Pollution Prevention shall address erosion and sediment control, including "structural practices implemented at the site to minimize erosion and sediment transport" and "non-structural practices implemented at the site to minimize erosion and sediment transport," as well as phased BMP implementation, materials handling and spill prevention, dedicated concrete or asphalt batch plants, vehicle tracking control, waste management and disposal, including concrete washout, and groundwater and stormwater dewatering.

**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.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."

### **REQUIRED CORRECTIVE ACTION**

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

31. 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 Shaw Builders to comply with the following specific terms and conditions of this Order:

32. Shaw Builders 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, Shaw Builders 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.
33. Shaw Builders shall immediately begin conducting and 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, Shaw Builders shall submit a written certification to the Division stating that all inspections are being conducted and documented in accordance with the terms and conditions of the Permit.

34. Shaw Builders shall immediately implement necessary measures to ensure that adequate 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, installed, implemented, and maintained following good engineering, hydrologic, and pollution control practices. Within thirty (30) calendar days of receipt of this Order, Shaw Builders shall evaluate and modify all existing BMPs at the Project to ensure the BMPs meet the design requirements specified in the Project's complete and up-to-date SWMP. Within forty-five (45) calendar days of receipt of this Order, Shaw Builders 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, Shaw Builders shall submit an original and an electronic copy to the Division at the following address:

Eric T. Mink  
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) 692-2312  
Email: [eric.mink@state.co.us](mailto:eric.mink@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 you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. 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**

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 803, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to 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., you are 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**

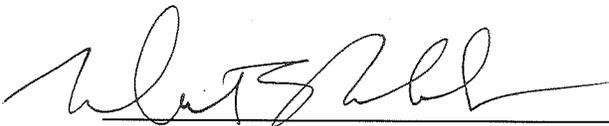
Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. 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 your rights and obligations under this Notice of Violation / Cease and Desist Order you are 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 at Denver, Colorado, this 15<sup>th</sup> day of May, 2015.

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



Martha Rudolph,  
Environmental Programs Director