



COLORADO
Department of Public
Health & Environment

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

June 15, 2015

The Corporation Company
WPX Energy Rocky Mountain, LLC
1675 Broadway Ste 1200
Denver, CO 80202

Certified Mail Number: 7005 1820 0000 3209 6146

RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-150615-1

To Whom It May Concern:

WPX Energy Rocky Mountain, LLC ("WPX") 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 WPX 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., WPX 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 WPX 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) 692-6498 or by electronic mail at andrea.beebout@state.co.us .

Sincerely,



Andrea Beebout, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Joshua Williams, Garfield County Public Health Service
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Doug Camrud, Engineering Section, CDPHE
Heather Drissel, Field Services Section, CDPHE
Lillian Gonzalez, Permits Section, CDPHE
Tania Watson, Data Management, CDPHE
Nathan Moore, Clean Water Compliance Unit, CDPHE
Matt Lepore, COGCC
Kent Kuster, CDPHE



COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-150615-1

IN THE MATTER OF: WPX ENERGY ROCKY MOUNTAIN, LLC
 CDPS PERMIT NO. COR030000
 CERTIFICATION NO. COR038544
 GARFIELD COUNTY, COLORADO

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, WPX Energy Rocky Mountain, LLC ("WPX") was a Delaware limited liability company in good standing and registered to conduct business in the State of Colorado.
2. On January 19, 2012, WPX changed its legal entity name with the Colorado Secretary of State from Williams Production RMT Company to WPX Energy Rocky Mountain, LLC
3. WPX 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).
4. On approximately July 1, 2005, WPX initiated construction activities within the Grand Valley Field with a planned disturbance area of 86 acres of land at or near 39.494 N and -108.110 W in Garfield County, Colorado (the "Project").
5. Construction activities at the Project include ground disturbing activities associated with oil and natural gas exploration and development.
6. WPX's construction activities at the Project are covered under Colorado Discharge Permit System General Permit, Number COR030000, for Stormwater Discharges Associated with Construction Activity (the "Permit"). The current version of the Permit became effective July 1, 2007 and is currently Administratively Continued until Permit reissuance.



7. On July 5, 2005, the Division provided WPX with Certification Number COR038544 (the “Certification”) authorizing WPX to discharge stormwater from the construction activities associated with the Project to state waters, under the terms and conditions of the Permit. The Certification became effective July 5, 2005, and was reissued under the current version of the Permit effective July 1, 2007. The Certification remains in effect until Permit reissuance or until WPX inactivates permit coverage.
8. On January 28, 2015, 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 WPX’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, WPX 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 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 locations and description of all potential pollution sources, including ground surface disturbing activities, vehicle refueling, storage of fertilizers or chemicals, etc.
 - vii. The locations 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 all outfall(s). If the stormwater discharge is to a municipal separate storm sewer system, the name of the 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, slop 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. During the January 28, 2015 inspection, the Inspector reviewed the Project's SWMP and identified the following deficiencies, as described in paragraphs 11(a-b) below:
- a. The SWMP site map did not identify all areas of ground surface disturbance within the project boundary. Additionally, the SWMP site map did not identify the location of all building materials, specifically, equipment and pipe material storage, observed by the inspector in the field.
 - b. The SWMP did not adequately describe all installation and implementation specifications for each BMP identified in the SWMP. Specifically:
 - i. The specification for temporary berms (RC-8) did not provide a site specific design capacity, such as the required height and length of the berms for management of pollutants from the contributing disturbance.
 - ii. The specification for diversion ditches (RC-10) did not provide site specific design criteria to account for the additional pollutant sources introduced by utilizing an un-compacted, un-stablized diversion ditch, such as those the Inspector observed in the field.
 - iii. The specification for toe trenches (RC-14) did not provide a site specific design capacity such as the required trench depth and length of the trench for management of pollutants based on the contributing disturbance area.
 - iv. The specification for sediment basins (SC-3) did not provide a site specific design capacity required to manage pollutants from the contributing drainage area and runoff. For example, the Urban Storm Drainage Criteria Manual indicates sediment basins shall include a storage volume of 3600 cubic feet per one acre of drainage

- area.
- v. The specification for sediment traps (SC-6) did not provide a site specific design capacity required to manage pollutants from the contributing drainage area and runoff. For example, the Urban Storm Drainage Criteria Manual indicates sediment traps shall only be used to capture drainage from disturbed areas less than one acre and shall be used in conjunction with additional sediment controls.
12. The Division has determined that WPX failed to prepare and maintain a complete and accurate SWMP for the Project.
 13. WPX's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violations of Parts I.B. and I.C. of the Permit.

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

14. Pursuant to Part I.B.3. of the Permit, WPX must implement the provisions of the Project's SWMP as written and updated, from commencement of construction activity until final stabilization is complete.
15. Pursuant to Part I.D.2. of the Permit, WPX 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.
16. 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.
17. During the January 28, 2015 inspection, the Inspector identified the following deficiencies related to BMP selection, design, installation, implementation, and maintenance at the Project, as described in Paragraphs 17 (a-i) below:
 - a. Control measures installed at the GM 21-12 site were not implemented and maintained according to good pollution control practices. Specifically:
 - i. Tracking was observed on the public county road from the well pad egress point. Street sweeping was observed, but was inadequate for the amount of accumulated sediment present. Specifications in the Project SWMP identified that additional vehicle tracking controls such as stabilized access roads with base coarse or gravel or tracking pads may be used as necessary to prevent tracking of mud and sediment, however, those controls were not in place. As a result of this deficiency, sediment was transported to paved road surfaces. No additional control measures were implemented down gradient of the well pad egress and stormwater runoff flowed generally south to Parachute Creek.
 - ii. Temporary earthen berms along the northeast and southwest of the well pad were not compacted and had evidence of erosion and/or deterioration. This deficiency impaired the ability of the temporary earthen berms to divert onsite surface runoff. In addition, this deficiency resulted in an additional, highly erosive pollutant source

- and/or a capacity reduction of the control measure. Additional inadequate control measures were implemented down gradient of the deficient earthen berms (refer to paragraph 17aiii) and stormwater runoff flowed generally south to Parachute Creek.
- iii. Vegetative buffers along the south and southwest side of the site were observed in use as control measures for concentrated flows without adequate up-gradient control measures (refer to paragraph 17aii). In accordance with commonly accepted industry standards, vegetative buffers should be used in combination with additional perimeter control measures. No additional control measures were implemented down gradient of the vegetative buffers and stormwater runoff flowed generally south to Parachute Creek.
- b. Control measures installed at the Riley Gulch Frac Pad (“Riley Gulch”) site were not implemented and maintained according to good pollution control practices. Specifically:
- i. Temporary earthen berms along the south and east sides of the of the frac pad were not directed towards a stabilized outlet, well-vegetated area, or to sediment trapping devices, despite specifications in the Project SWMP requiring temporary berms to be routed towards a well-vegetated area or the installation of a sediment trap or filter control at the outlet. As a result of this deficiency, there was no mechanism to reduce sediment concentrations in the diverted stormwater. No additional control measures were implemented down gradient of the earthen berms and stormwater runoff flowed generally north to Parachute Creek.
 - ii. A culvert cross-drain structure in the northwest corner of the site was damaged and not installed according to the design specifications in the Project’s SWMP. Specifically, the culvert did not have any inlet protections to dissipate velocity and capture sediment or outlet protections to reduce the velocity of stormwater and prevent scouring and erosion. Straw bales previously serving as outlet protection had been pulled out and were in a pile west of the culvert. As a result of these deficiencies, the culvert was filled with sediment and debris and would likely fail during a rain event, leading to additional pollutant contributions. No additional control measures were implemented down gradient of the culvert cross-drain and stormwater runoff flowed from the culvert generally west to Parachute Creek.
- c. Control measures installed at the MV 7-4 site were not implemented and maintained according to good pollution control practices. Specifically:
- i. Temporary earthen berms along the northwest side of the well pad were not compacted and had evidence of erosion/deterioration. This deficiency impaired the ability of the temporary earthen berms to divert onsite surface runoff. In addition, this deficiency resulted in an additional, highly erosive pollutant source and/or further reduction of the capacity of the control measure. Additional inadequate control measures were implemented down gradient of the earthen berms (refer to paragraphs 17cii, 17ciii, and 17civ) and stormwater runoff flowed north to adjacent tributaries.
 - ii. Diversion ditches along the northwest and east side of the well pad were not compacted or stabilized, creating additional pollutant loading to the down gradient control measures. Diversion ditches along the roadways of MV 7-4 were not cleared of brush and accumulated sediment, despite specifications in the Project SWMP requiring all trees, brush, stumps, obstructions, and other objectionable material to be removed and disposed of so as not to interfere with the proper functioning of the diversion ditch. According to Project SWMP specifications, diversion ditches should

be used with caution on soils subject to slippage, however Project site details for MV 7-4 indicate soil types with erosion potentials ranging from moderate to very severe. Additional inadequate control measures were implemented down gradient of the diversion ditches (refer to paragraphs 17ciii and 17civ) and stormwater runoff flowed north to adjacent tributaries.

- iii. Sediment traps on the northwest and northeast sides of the well pad were not implemented according to good engineering, hydrologic and pollution control practices. Specifically, the northwest sediment trap was not properly aligned with the temporary earthen berm and diversion ditch flow paths. As a result, stormwater flows were not being effectively directed to a stabilized outlet, as required by Project SWMP specifications. Additionally, despite Project SWMP specifications indicating that sediment traps do not remove fine particles such as silts and clays, and Project SWMP site details for MV 7-4 indicating a soil type of Nihill channery loam, sediment traps were the only sediment removing control measure in place at MV 7-4. Additional inadequate control measures were implemented down gradient of the sediment traps (refer to paragraph 17civ) and stormwater runoff flowed north to adjacent tributaries.
- iv. Straw bale barriers on the northwest and northeast side of the well pad were in need of maintenance due to sediment accumulation over one half of the straw bale height. Project SWMP specifications indicated that sediment deposits must be removed from the straw bale once the debris has reached one half of the height of the bale. This deficiency impaired the ability of the control measures to intercept stormwater flows from the up-gradient disturbed areas, and, therefore, minimize the transportation of sediment. No additional control measures were implemented down gradient of the deficient straw bale barriers and stormwater runoff flowed north to adjacent tributaries.

d. Control measures installed at the GM 32-4 site were not implemented and maintained according to good pollution control practices. Specifically:

- i. Temporary earthen berms along the northeast and southeast side of the well pad were not compacted and had evidence of erosion/deterioration. This deficiency impaired the ability of the temporary earthen berms to divert onsite surface runoff. In addition, this deficiency resulted in an additional, highly erosive pollutant source and/or further reduction of the capacity of the control measure. Additional inadequate control measures were implemented down gradient of the earthen berms (refer to paragraphs 17dii and 17diii) and stormwater runoff flowed generally northeast to adjacent tributaries.
- ii. A sediment trap control measure on the north side of the well pad was not designed according to specifications in the Project SWMP. Specifically, the spillway was not lined with coarse angular aggregate/riprap, or local adequately sized rock to provide filtering/detention capability and to prevent erosion of the spillway. Additional inadequate control measures were implemented down gradient of the sediment trap (refer to Paragraph 17diii) and stormwater runoff flowed generally northeast to adjacent tributaries.
- iii. Straw bale barriers on the east side of the well pad, both north and south of the haul road into the site, were in need of maintenance due to sediment build-up accumulating on and over the control measure, despite design specifications in the Project SWMP requiring sediment deposits to be removed when the level of deposition reaches approximately one-half of the height of the barrier. No additional control measures were implemented down gradient of the straw bale

- barriers and stormwater runoff flowed generally southeast to adjacent tributaries.
- iv. A culvert cross-drain structure located on the east side of the site under the main haul road was damaged and not installed according to the design specifications in the Project's SWMP. Specifically, the culvert did not have any outlet protections to reduce the velocity of stormwater and prevent scouring and the outlet was blocked by debris. As a result of these deficiencies, the culvert would likely fail during a rain event, leading to additional pollutant contributions. No additional control measures were implemented down gradient of the culvert and stormwater runoff flowed from the culvert generally southeast to adjacent tributaries.
 - v. A slope drain control measure implemented to manage stormwater runoff from disturbed areas on the northeast and southeast sides of the well pad was not installed according to design specifications in the Project SWMP. Specifically, stormwater accumulating on the GM 32-4 well pad drained directly to the slope drain without additional control measures to divert flows. As a result, there was a potential for stormwater contaminated with petroleum products to discharge offsite. There were no up gradient or down gradient controls to remove dissolved petroleum products or other chemicals stored on the well pad. Stormwater runoff flowed from the slope drain generally southeast to adjacent tributaries, eventually discharging to Parachute Creek.
- e. Control measures installed at the GM 41-4 site were not implemented and maintained according to good pollution control practices. Specifically:
- i. Temporary earthen berms along the northwest side of the well pad were not compacted and had evidence of erosion/deterioration. This deficiency impaired the ability of the temporary earthen berms to divert onsite runoff. In addition, this deficiency resulted in an additional, highly erosive pollutant source and/or further reduction of the capacity of the control measure. Additional inadequate control measures were implemented down gradient of the earthen berms (refer to paragraphs 17eii and 17eiii) and stormwater runoff flowed generally northeast to adjacent tributaries.
 - ii. Diversion ditches around the west and south sides of the support pad were in need of maintenance due to sediment accumulation within the control measure despite specifications in the Project SWMP indicating that diversion ditches should be cleared of accumulated sediment and repaired in order to maintain capacity. Additional inadequate control measures were implemented down gradient of this control measure (refer to paragraph 17eiii) and stormwater flowed generally northeast to adjacent tributaries.
 - iii. A sediment trap on the eastern corner of the well pad was not sized according to any documented, engineered design criteria based on the contributing acreage and was in need of maintenance for proper compaction of the banks. Despite Project SWMP specifications indicating that sediment traps do not remove fine particles such as silts and clays, along with Project SWMP site details for GM 41-4 indicating a soil type of Vale silt loam, the sediment trap was the only sediment control measure in place at GM 41-4. No additional control measures were implemented down gradient of the sediment trap and stormwater leaving the sediment trap flowed generally northeast to adjacent tributaries.
- f. Control measures installed at the Starkey Cuttings site were not implemented and maintained according to good pollution control practices. Specifically:

- i. A series of check dams in place within a drainage ditch along the west side of the site were not consistently installed according to Project SWMP specifications. Specifically, the center of the check dams were not consistently at an elevation lower than the edges and the check dams did not align so that the bottom of the first check was at the same height as the top of the subsequent check dam. In addition, the check dams were in need of maintenance to remove accumulated sediment and debris. As a result, the check dams were vulnerable to washout and undermining. Additional inadequate control measures were implemented down gradient of the check dam series (refer to paragraph 17fii) and stormwater flowed generally north to adjacent tributaries and eventually to Parachute Creek.
 - ii. Sediment traps in place on the northwest, northeast, and east sides of the well pad were not installed according to Project SWMP specifications. Specifically, two of the sediment traps did not have spillways lined with coarse angular aggregate/riprap, a small section of pipe, or a level spreader as required by the Project SWMP. As a result, the spillway was subject to erosion. Additionally, despite Project SWMP specifications indicating that sediment traps do not remove fine particles such as silts and clays, along with Project SWMP site details for Starkey Cuttings indicating a soil type of Silas loam, the sediment trap was the only sediment control measure in place at Starkey Cuttings. No additional control measures were implemented down gradient of the sediment traps and stormwater leaving the Starkey Cuttings site flowed generally southeast to adjacent tributaries.
 - iii. A brush barrier observed downgradient of a soil stockpile on the south side of the Starkey Cuttings site was not selected and implemented according to good pollution control practices. Sediment from the stockpile was transported downgradient to the brush barrier. However, brush barriers are not recognized in the industry for use as standalone sediment trapping measures. Stormwater runoff from the stockpile flowed generally northeast to adjacent tributaries and ultimately to Parachute Creek.
- g. Control measures installed at the GM 323-28 site were not implemented and maintained according to good pollution control practices. Specifically:
- i. Drums containing materials were spilled over onto the ground and were not being stored according to Project SWMP Specifications. Specifically, the drums containing dry materials were not kept off the ground within secondary containment and covered to avoid contact with precipitation, stormwater, and wind. In addition, the Project SWMP required all spills to be cleaned up immediately. As a result, there was a potential for the spilled material to come in contact with stormwater and be transported offsite. Additional inadequate control measures were implemented down gradient of this location and stormwater flowed generally south to Parachute Creek.
 - ii. A sediment trap control measure observed on the southern corner of the well pad was not large enough to manage stormwater runoff from the disturbed areas, defined in Project SWMP site details as 3 acres. Installation and implementation specifications for the capacity of sediment traps were not included in the Project SWMP. The Environmental Protection Agency's Stormwater Best Management Practices design criteria include capacity specifications for sediment traps of 1,800 ft³ of storage per disturbed acre. The sediment trap was observed to not meet the above design criteria. No additional control measures were implemented down gradient of the sediment trap and stormwater from this area of the GM 323-28 flowed generally south to Parachute Creek.

- h. Control measures at the GM 11-28 site were not implemented and maintained according to good pollution control practices. Specifically:
 - i. Temporary earthen berms along the southwest side of the well pad serving as secondary containment for a variety of chemicals and materials were in need of maintenance. The berms were not compacted and were not of adequate height to contain the stored materials in the event of a spill. As a result, there was a potential for the chemicals and materials to come in contact with stormwater and be transported off site. Additional inadequate controls were implemented down gradient of this location (refer to paragraph 17hii) stormwater from this area of the site flowed generally southwest to adjacent tributaries.
 - ii. The straw bales were not installed according to good pollution control practices and were in need of significant maintenance. The contributing drainage area of disturbance consisted of a large, steep fill slope, which exceeded the treatment capacity of the control measure, as evidenced by sediment overtopping the bales. The Environmental Protection Agency recommends that alternative sediment control measures be used in place of straw bales due to their historical ineffectiveness. No additional control measures were implemented down gradient of the straw bales. As a result of this deficiency, sediment was observed bypassing the control measure and eroding offsite to Garfield County Road 215. Surface runoff from this location flows generally southwest to the ditch along Garfield County Road 215.

- i. Control measures at the SG 43-28 site were not implemented and maintained according to good pollution control practices. Specifically:
 - i. Temporary earthen berms along the northeast and southwest sides of the well pad were installed along the natural drainage channel and were in need of maintenance. Specifically, the earthen berms were not adequately compacted and were contributing additional erosive pollutant source to the natural drainage way as evidenced by erosion rills within the berms and soil sloughing. In addition, the earthen berms directed flow into the natural drainage way, despite Project SWMP specifications stating berms should to be directed towards a stabilized outlet or sediment trapping device prior to discharging. Additional inadequate control measures were implemented down gradient of this location (refer to paragraph 17i,i and ii) and surface runoff from this location flowed generally southeast to adjacent tributaries.
 - ii. A sediment trap control measure located on the southern corner of the well pad was installed within the natural drainage way. Project SWMP specifications indicate that sediment traps should not be constructed in ephemeral draws where the BMP will trap natural run-off along with construction site stormwater. In addition, the sediment trap was vulnerable to undercutting and washout and, therefore, had the potential to introduce more sediment to runoff within the natural drainage way. No additional control measures were implemented down gradient the sediment trap and surface runoff flowed generally southeast to adjacent tributaries.

18. The Division has determined that WPX failed to implement and/or maintain functional BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic, and pollution control practices.

19. WPX’s failure to implement and/or maintain functional BMPs to protect stormwater quality during construction activities 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

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

Part I.B of the Permit, which states in part, “The SWMP shall 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.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.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.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., WPX is hereby ordered to:

21. 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 WPX to comply with the following specific terms and conditions of this Order:

22. WPX 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, WPX 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

23. WPX 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 from 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, WPX 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, WPX 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, WPX shall submit an original and an electronic copy to the Division at the following address:

Andrea Beebout
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) 692-6498
Email: andrea.beebout@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

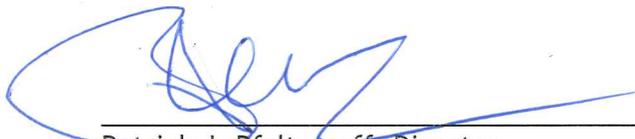
Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. 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 15th day of June, 2015.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Patrick J. Pfaltzgraff, Director
WATER QUALITY CONTROL DIVISION