

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)

Colorado Department of Transportation)
4201 East Arkansas Ave., Suite 262)
Denver, Colorado 80222,)

Respondent.)

Docket No. **CWA-08-2017-0020**

**ADMINISTRATIVE ORDER
FOR COMPLIANCE ON CONSENT**

) Proceeding Under Section 309(a) of the
) Clean Water Act, 33 U.S.C. § 1319(a)

INTRODUCTION

1. This Administrative Order on Consent (Consent Order) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and the Respondent Colorado Department of Transportation (CDOT). The EPA has authority to issue this Consent Order pursuant to section 309(a) of the Clean Water Act (Act), 33 U.S.C. § 1319(a), which authorizes the Administrator of the EPA to issue an order requiring compliance by a person found to be in violation of, *inter alia*, a permit issued pursuant to section 402 of the Act. This authority has been properly delegated to the undersigned EPA official.
2. The Findings of Fact and of Violation in paragraphs 15 through 58, below, are made solely by the EPA. The EPA and CDOT stipulate to the statements in paragraphs 59 through 62. In signing this Consent Order, CDOT neither admits nor denies the Findings of Fact and of Violation. Without any admission of liability, CDOT consents to the issuance of this Consent Order and agrees to abide by all of its conditions. CDOT waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that CDOT may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review of this Consent Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-706. CDOT

further agrees not to challenge the jurisdiction of the EPA or the Findings of Fact and of Violation in any proceeding to enforce this Consent Order or in any action under this Consent Order.

STATUTORY AND REGULATORY BACKGROUND

3. In order to restore and maintain the integrity of the nation's waters, the Act prohibits any person from discharging pollutants into navigable waters, unless authorized by certain provisions of the Act, including section 402 of the Act, 33 U.S.C. § 1342, 33 U.S.C. § 1311(a).
4. The term "person" includes, among other things, a State or political subdivision of a State. 33 U.S.C. § 1362(5).
5. The term "discharge of a pollutant" includes any addition of any pollutant or combination of pollutants into navigable waters from any point source. 33 U.S.C. § 1362(12).
6. The term "pollutant" includes, among other things, dredged spoil, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. 33 U.S.C. § 1362(6).
7. The term "navigable waters" includes the waters of the United States. 33 U.S.C. § 1362(7). The term "waters of the United States" is defined in 40 C.F.R. § 122.2.
8. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, under which the EPA and states with EPA authorization may permit persons to discharge pollutants into navigable waters, subject to specific terms and conditions.
9. The State of Colorado is a state approved under Section 402(b) of the Act to administer the NPDES program.
10. Discharges of stormwater from municipal separate storm sewer systems may be authorized by NPDES permits. 33 U.S.C. § 1342(p); 40 C.F.R. §§ 122.26.
11. The term "stormwater" is defined as stormwater runoff, snow melt runoff and surface runoff and drainage. 40 C.F.R. § 122.26(b)(13).

12. The term “municipal separate storm sewer” is defined in 40 C.F.R. § 122.26(b)(8). In summary, this term includes a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):
- (i) owned or operated by a State . . . or other public body such as a sewer district, flood control district or drainage district, or similar entity . . . that discharges to waters of the United States;
 - (ii) designed or used for collecting or conveying stormwater;
 - (iii) which is not a combined sewer; and
 - (iv) which is not part of a Publicly Owned Treatment Works as defined at 40 C.F.R. § 122.2.
13. The term “MS4” is defined as a municipal separate storm sewer system. 40 C.F.R. § 122.26(b)(19).
14. Pursuant to Section 402(i) of the Act, 33 U.S.C. § 1342(i), the EPA retains authority to take enforcement action for NPDES permit violations within Colorado.

FINDINGS OF FACT AND OF VIOLATION

15. CDOT is a department of the State of Colorado and, therefore, a person as defined in section 502(5) of the Act, 33 U.S.C. § 1362(5).
16. At all times relevant to this Consent Order, CDOT has owned and/or operated an MS4 as that term is defined in 40 C.F.R. § 122.26(b)(19).
17. CDOT’s MS4 (referenced in this Consent Order as “the MS4”) is located within the geographic boundaries of the State of Colorado.
18. Stormwater from the MS4 drains to the numerous rivers, creeks and tributaries within the State of Colorado that are waters of the United States as defined in 40 C.F.R. § 122.2.

19. The Colorado Department of Health and Environment (CDPHE) issued NPDES Permit No. COS000005, effective February 1, 2007, (the MS4 Permit), under which CDOT was authorized to discharge stormwater from the MS4. The expiration date for the MS4 Permit was January 31, 2012; however, the MS4 Permit was administratively extended until a replacement permit was issued on August 28, 2015. The version of the MS4 Permit issued effective February 1, 2007, will be referenced as the 2007 Permit, and the version issued on August 28, 2015, will be referenced as the 2015 Permit.

20. Part I.A.3 of the 2007 Permit stated:

This permit covers only state and interstate highways and their right-of-ways within the jurisdictional boundary of CDOT served by, or otherwise contributing to discharges to state waters from, municipal separate storm sewers owned or operated by CDOT that are within the following areas:

- a. the Cities of Aurora, Colorado Springs, Denver, and Lakewood, herein referred to as the Phase I permit coverage areas; and
- b. the urbanized and CDPHE-designated areas; and the Cherry Creek Watershed, including any permitted Non-Standard MS4s that are within the urbanized areas of the counties, municipalities, and the Cherry Creek watershed, herein referred to as the Phase II permit coverage areas.

If additional geographical areas are designated after permit issuance, the permittee will have 90 days to evaluate how to implement its programs into the newly designated areas and provide a schedule for implementation.

21. In a letter dated February 29, 2008, CDPHE designated additional areas for coverage under the 2007 Permit, effective March 10, 2008.
22. CDPHE's February 29, 2008 letter stated that prior to the designation reflected in that letter, permit coverage had extended to all areas within the jurisdictional boundaries of the cities of Aurora, Colorado Springs, Denver, Lakewood, Steamboat Springs, Canon City, Montrose, Brighton, Castle Rock, and Durango, all areas within Census Designated Urbanized Areas, and the Cherry Creek Reservoir drainage basin.
23. CDPHE's February 29, 2008 letter designated all areas within the jurisdiction of any of the following municipalities as covered by the 2007 Permit, effective March 10, 2008: City of Arvada, Town of Berthoud, City of Boulder, City of Brighton, City of Centennial, City of Cherry Hills Village, City of Columbine Valley, City of Commerce City, City of Edgewater, City of Englewood, Town of Erie, City of Evans, City of Federal Heights, City of Fort Collins, City of Fountain, City of Glendale, City of Golden, City of Grand Junction, City of Greeley, City of Greenwood Village, City of Lafayette, City of Littleton, City of Lone Tree, City of Longmont, City of Louisville, City of Loveland, City of Manitou Springs, Town of Monument, City of Northglenn, Town of Palisade, Town of Parker, City of Pueblo, City of Sheridan, Town of Superior, City of Thornton, City of Westminster, and City of Wheat Ridge.
24. On March 30 through April 2, 2015, representatives of the EPA and CDPHE conducted an inspection (Inspection) of the MS4 program at various CDOT locations within Colorado. The EPA generated an inspection report detailing the findings of the inspection (Inspection Report).
25. By letter dated September 30, 2015, the EPA transmitted the Inspection Report to CDOT.
26. The Inspection Report identified various categories of findings, including:
 - Construction Sites Program,
 - Post-Construction / New Development / Redevelopment,

- Pollution Prevention, and
- Program Management.

Construction Sites Program

27. Part I.B.1.a of the 2007 Permit requires CDOT to implement its Construction Sites Program. The overarching Construction Sites Program document is CDOT's *Standard Specifications for Road and Bridge Construction (Standard Specifications)*.
28. Part I.B.1.a.1.b of the 2007 Permit required CDOT to implement "contract provisions or other regulatory mechanism to require erosion and sediment controls at construction sites, as well as sanctions and internal management procedures to ensure compliance with the CDOT Construction Sites Program and Colorado Discharge Permit System (CDPS) general discharge permits associated with construction activity, to the extent allowable under State or local law." This Permit provision required CDOT to take specific steps to ensure that compliance with CDPS construction site general permits, including the CDPS general permit for *Stormwater Discharges Associated With Construction Activity* number COR-30000 (Construction General Permit) and with the Construction Sites Program specifications. These steps included "issuance of an immediate stop work order in the case of discharges to state waters or other egregious non-compliance instances."
29. Section 208.09 of CDOT's *Standard Specifications* stated, beginning at the bottom of page 211:
- When a failure meets any one of the following conditions, the Engineer *may* immediately issue a Stop Work Order in accordance with subsection 105.01 irrespective of any other available remedy:
- (1) It may endanger health or the environment.
 - (2) It consists of a spill or discharge of hazardous substances or oil which may cause pollution of the waters of the state.

(3) It consists of a discharge of stormwater which may cause an exceedance of a water quality standard. (*emphasis added*)

30. Regarding stop work orders, section 208.09 of CDOT's *Standard Specifications* states under which circumstances a stop work order *may* be issued. Although the CDOT's *Standard Specifications* states a stop work order *may* be issued under various circumstances, it does not require the issuance of a stop work order for discharges to state waters or other egregious non-compliance instances.
31. CDOT's failure to require immediate stop work orders in the case of discharges to state waters or other egregious non-compliance instances in its *Standard Specifications* violated Part I.B.1.a.1.b of the 2007 Permit.
32. Part I.B.1.a of the 2007 Permit required CDOT to implement a Construction Sites (CS) Program to assure adequate design, implementation, and maintenance of Best Management Practices (BMPs) at construction sites, in order reduce pollutant discharges and protect water quality. As part of its CS Program, CDOT was required, among other things, to include contract provisions or other regulatory mechanisms to require erosion and sediment controls at construction sites, to include sanctions and internal management procedures to assure compliance with applicable Colorado Discharge Permit System (CDPS) permits, to train construction site operators, and to require construction site operators to implement appropriate BMPs to control waste that may cause adverse water quality impacts.
33. The Inspection Report documented instances in which CDOT did not ensure that its construction contractors implemented appropriate BMPs, erosion controls, or sediment controls. It also documented instances in which CDOT allowed chronic CDPS permit violations by its contractors. (See Findings 2CS-5CS of the Inspection Report.)

34. The extent and duration of the contractors' permit violations, and the contractors' failure to implement BMPs and other controls, indicated that CDOT failed to implement an adequate Construction Sites Program, in violation of Part I.B.1.a of the 2007 Permit.

Post-Construction / New Development/Redevelopment

35. Part I.B.1.b.2 of the 2007 Permit required CDOT to implement a New Development and Redevelopment (ND) Program to reduce pollutant discharges from new or redeveloped highways after completion of construction. The ND program was to include comprehensive planning and controls and was to ensure that permanent controls were in place to prevent or minimize water quality impacts.

36. To help ensure permanent pollutant discharge controls, the 2007 Permit required CDOT, among other things,

- to update and maintain an inventory of permanent structural controls (referenced in the Inspection Report and this Consent Order as permanent water quality features or PWQFs) related to stormwater quality (Part I.B.1.f.1.d of the 2007 Permit),
- to develop and implement a mechanism to ensure long-term maintenance of PWQFs (Part I.B.1.b.2 of the 2007 Permit), and
- to operate and maintain all treatment and control facilities properly (Part II.A.3 of the 2007 Permit).

37. Parts I.B.1.b and I.F of the 2007 Permit required CDOT to submit annual reports to CDPHE. The annual reports were required to include, among other things, the number, type, and location of post-construction PWQFs.

38. At the time of the Inspection, CDOT lacked a complete and accurate inventory of PWQFs. The Inspection Report identified numerous discrepancies between the inventories of PWQFs in CDOT databases and those listed CDOT's annual reports. The Inspection Report also identified

- existing PWQFs that were missing from CDOT's inventories. (See Finding 1ND of the Inspection Report.)
39. CDOT's failure to maintain an inventory of permanent structural controls related to stormwater quality violated Part I.B.1.f.1.d of the 2007 Permit.
 40. At the time of the Inspection, CDOT lacked a description in its inventory of which PWQFs were to be maintained by local municipalities pursuant to state law and/or intergovernmental agreements (IGAs) and which were to be maintained by CDOT. (See Finding 2ND of the Inspection Report.)
 41. Due to the lack of an accurate or complete inventory indicating the entity responsible for maintenance, CDOT was failing to ensure long-term maintenance or proper operation and maintenance of PWQFs, in violation of Parts I.B.1.b.2 and II.A.3 of the 2007 Permit.
 42. The Inspection also identified numerous instances in which CDOT had failed to properly operate or maintain PWQFs. (See Finding 3ND of the Inspection Report.)
 43. The Inspection Report found that CDOT's budget for maintaining PWQFs was not allocated to the Regional offices in a manner reflective of the inventory of PWQFs within each Region, and that the allocated budget was not adequate to maintain the PWQFs that were inspected. (See Finding 4ND of the Inspection Report.)
 44. CDOT's failure to develop and implement a mechanism to ensure proper long-term maintenance and operation of PWQFs, and its failure to provide an adequate budget for PWQF operation and maintenance violated Parts I.B.1.b.2 and II.A.3 of the 2007 Permit.

Pollution Prevention /Municipal Operations Program

45. Part I.B.1.f of the 2007 Permit required CDOT to implement a Pollution Prevention and Good Housekeeping (Pollution Prevention) Program to reduce discharges of pollutants from its facilities.

46. As part of its Pollution Prevention Program, CDOT is required to develop, implement, and update Facility Runoff Control Plans (FRCPs) at its municipal facilities. (Part I.B.1.f.5 of the 2007 Permit.)
47. The Inspection Report documented at least 18 instances in which CDOT facilities were not implementing or updating their FRCPs. (See Finding 1PP of the Inspection Report.)
48. CDOT's failure to implement and update its FRCPs violated Part I.B.1.f.5 of the 2007 Permit.
49. Part I.B.1.e.3.b of the 2007 Permit stated, "Salt and sand storage BMPs shall be implemented at all CDOT sites as necessary to minimize, to the extent practicable, run-on, run-off and salt migration off-site." (See Finding 1PP in the Inspection Report.)
50. Part I.B.1.f.5 of the 2007 Permit stated, in relevant part:
 - e) Copies of the FRCPs shall be kept on the facility site...
 - g) Runoff control plans shall be amended as appropriate at any time; with the revised plans distributed as outlined in paragraph e), above.
51. At the time of the Inspection, CDOT's maintenance facility at 18500 East Colfax Avenue in Aurora did not have the most recent updated FRCP on-site. (See Finding 2PP in the Inspection Report.)
52. CDOT's failure to keep the latest FRCP on-site at the 18500 East Colfax Avenue maintenance facility violated Part I.B.1.f.5 of the 2007 Permit.

Program Management

53. Part I.B.3 of the 2007 Permit stated, "The permittee shall provide adequate finances, staff, equipment, and support capabilities to implement the Stormwater Management Programs."

54. The Inspection Report cited instances in which the MS4 program lacked resources, assigned personnel, and equipment to ensure that PWQFs were adequately inspected or maintained. (See Findings 1PM and 4ND of the Inspection Report.)
55. CDOT's failure to provide adequate finances, staff, equipment, and support capabilities to implement the Stormwater Management Programs violated Part I.B.3 of the 2007 Permit.
56. Part I.B.1.e.1.d of the 2007 Permit stated:
- CDOT shall develop and implement training sessions for CDOT staff on the requirements of the 2007 Permit and associated CDOT programs at the annual Winter Conferences, in the region offices or other venues, as deemed the most effective. CDOT shall report to the Division within 12 months after the permit effective date on the new 8-hour erosion control supervisor training that is now required for engineers, new environmental trainings to meet the new CDOT 10-hour training requirement, general MS4 awareness classes in each Phase II region, and the updated illicit discharge detection and elimination training for the regions.
57. The Inspection Report identified instances in which CDOT had not provided adequate training and communication on basic elements of CDOT's stormwater program (such as what geographic areas were covered by the 2007 Permit), in which training was not documented, and in which CDOT's stormwater management program was implemented inconsistently among different CDOT Regions. (See Findings 2PM, 3PM and 4PM of the Inspection Report.)
58. CDOT's failure to implement training sessions for CDOT staff on each of the requirements of the 2007 Permit and associated CDOT programs, failure to document training, and failure to

operate its stormwater management programs consistently among all Regions has violated Part I.B.I.e.1.d of the 2007 Permit.

CDOT'S CORRECTIVE ACTIONS TO DATE

59. When the EPA provided a copy of the Inspection Report to CDOT (as mentioned in paragraph 25, above, the EPA requested that within 45 days of receipt, CDOT provide the EPA and CDPHE a summary of corrective actions to address the findings in the report and any information that could warrant changing the findings.
60. CDOT submitted an initial response to the EPA and CDPHE on December 11, 2015. In this response, CDOT notified the EPA and CDPHE:
 - that it would conduct a review of its Stormwater Management Program resources (personnel and equipment) and a timetable for acquiring any necessary additional resources;
 - that it would ensure that its staff receive training on MS4 Permit requirements and associated CDOT programs;
 - that it was in the process of developing a self-audit and corrective action program to be part of an Environmental Management System;
 - that it was updating its enforcement procedures, including its process to address chronic noncompliance;
 - that it was preparing a memorandum for distribution to its Project Engineers describing CDOT's regulatory authority process;
 - that it would update and maintain an accurate inventory of its assets;
 - that it would develop an assessment report to address procedures for ensuring PWQFs are operated and maintained adequately;
 - that it had taken corrective actions to address the Inspection Report's findings on FRCPs;

61. CDOT has provided updates to the EPA on its implementation of the corrective actions on April 11, 2016; November 22, 2016; May 5, 2017; and May 12, 2017.
62. In addition to addressing the EPA's corrective actions, CDOT has notified the EPA that it intends to update its PWQF tracking and inspection procedures. CDOT has also notified the EPA that it intends to implement a new internal electronic system interface for linear asset management using a software program that will link CDOT's geographic information system (GIS) PWQFs database with the internal electronic system PWQF inventory and provide CDOT inspectors in the field with portable computer devices that will be able to access the internal electronic system interface, including the GIS database, the inspection checklists, and design documents. This interface will allow CDOT to track inspections and generate alerts based on those inspections. The inspections and work orders will be tied to the internal electronic system functional location number (unique asset number) for tracking purposes. This interface will first be piloted in a single Region before going statewide.

ORDER

The EPA orders, and CDOT agrees, as follows:

63. CDOT shall comply with the 2015 Permit.
64. By December 31, 2017, CDOT shall conduct a review of its Stormwater Management Program resources and evaluate whether these resources (personnel, equipment and other resources) are adequate for implementing the current Stormwater Management Program and for complying with the 2015 Permit. By January 31, 2018, CDOT shall provide the EPA and CDPHE with a written summary of:
 - a) The Stormwater Management Program resources review;
 - b) What additional resources are needed, if any, including a time frame for obtaining these resources; and

c) A plan to ensure that adequate resources (personnel, equipment and other resources) will be provided to comply with the 2015 Permit.

65. By December 31, 2017, CDOT shall allocate adequate funding to the Regional offices in order to ensure long-term maintenance of PWQFs. By January 31, 2018, CDOT shall provide the EPA and CDPHE a summary of the funding provided to each of the Regional offices to perform long-term maintenance of PWQFs.
66. By September 1, 2017, CDOT shall complete its MS4 and Stormwater Management Plan training materials. By December 31, 2017, CDOT shall provide training to CDOT Headquarters and Regional staff with MS4 responsibilities on the requirements of the 2015 Permit and associated CDOT programs, including but not limited to permit boundary determination, 2015 Permit requirements, construction general permit requirements, those portions of CDOT's *Standard Specifications* related to the stormwater program, and procedures for inspecting and maintaining PWQFs. By January 31, 2018, CDOT shall provide the EPA and CDPHE with a list of personnel with MS4 responsibilities who have and have not received the training.
67. By July 1, 2018, CDOT shall develop a self-audit and corrective action program to ensure that the Construction Site Program is consistently implemented throughout each of its Regions. By July 1, 2019, CDOT shall complete the self-audits of each of its Regions in the Construction Site Program. By January 31, 2020, CDOT shall provide a report of the self-audit and corrective action program findings to the EPA and CDPHE.
68. By July 1, 2018, CDOT shall develop a self-audit and corrective action program to ensure that the Post-Construction / New Development / Redevelopment Program is consistently implemented throughout its Regions. By July 1, 2019, CDOT shall complete the self-audits of each of its Regions in the Post-Construction / New Development / Redevelopment Program. By

January 31, 2020, CDOT shall provide a report of the self-audit and corrective action program findings to the EPA and CDPHE.

69. By July 1, 2018, CDOT shall complete an evaluation of Design-Build improvement ideas for MS4 compliance and include any appropriate compliance improvements in the MS4 Construction Site Program. By September 1, 2018, CDOT shall update its MS4 Construction Site Program with the evaluation of the appropriate Design-Build improvement ideas for MS4 compliance and provide a written copy to the EPA and CDPHE. Thereafter, CDOT shall implement the Construction Sites Program to ensure CDOT requires contractors implement the requirements listed in the 2015 Permit.
70. CDOT shall follow its *Standard Specifications* procedure for construction sites by issuing and collecting liquidated damages for corrective actions that are not completed within 48 hours from the date of the notification to correct the failure. By January 31, 2018, CDOT shall provide the EPA and CDPHE a list of all violations that were not corrected within 48 hours from the date of the notification to correct the failure and any measure CDOT undertook to address them (e.g., liquidated damages, stop work orders) for the year 2017. By January 31, 2019, CDOT shall provide the EPA and CDPHE a list of all violations that were not corrected within 48 hours from the date of the notification to correct the failure and any measures CDOT undertook to address them (e.g., liquidated damages, stop work orders) for the year 2018. The 2017 and 2018 lists shall also describe any violations that were not corrected within 48 hours and that did not receive a stop work order or issuance and collection of liquidation damages.
71. By January 31, 2018, CDOT shall provide the EPA and CDPHE with a written update of its Construction Site Program. The update will include: (1) an escalation process to address chronic noncompliance by contractors, and (2) a mechanism to track chronic noncompliance by contractors. By January 31, 2019, CDOT shall provide the EPA and CDPHE with a list of

chronic violators and measures it has taken to address chronic violations during 2018. By January 31, 2020, CDOT shall provide the EPA and CDPHE with a list of chronic violators and measures it has taken to address chronic violations during 2019.

72. By September 1, 2017, CDOT shall update and maintain an accurate inventory of its PWQFs. By January 31, 2018, and January 31, 2019, CDOT shall provide a copy of the current inventory, along with a description of any new PWQFs added to the inventory, to the EPA and CDPHE.
73. By September 1, 2017, CDOT shall develop a procedure to ensure long-term maintenance of CDOT's PWQFs, including those that are covered under IGAs other similar agreements with municipalities. By September 1, 2017, CDOT shall provide a written procedure to the EPA and CDPHE describing:
 - a. How inspection findings are communicated to maintenance personnel;
 - b. How maintenance work activities are generated and tracked;
 - c. How CDOT will keep an accurate inventory of PWQFs covered by an IGA and therefore are to be maintained by the municipality;
 - d. How CDOT will transmit the information from routine inspection of PWQFs to the municipality; and
 - e. How CDOT will verify the maintenance needs transmitted to the municipality are accomplished.
74. No later than the date it submits the procedure described in paragraph 73, above, to the EPA and CDPHE, CDOT shall implement that procedure. CDOT shall inspect all functional elements of control measures at a frequency it determines; however, it shall inspect each control measure at least once during the 2015 Permit term. CDOT shall maintain all control measures requiring routine maintenance as necessary to meet the control measure requirements in the 2015 Permit as soon as possible, but not later than six months from the inspection finding. No later than January

31, 2018, and January 31, 2019, respectively, CDOT shall provide the EPA and CDPHE with a written summary report of all inspections and maintenance of PWQFs for the calendar years 2017 and 2018. For each PWQF CDOT has inspected during the relevant year, the summary report to the EPA shall provide CDOT's PWQF tracking number, a short description of the PWQF, the PWQF's latitude and longitude, the date of CDOT's inspection, the date of CDOT's maintenance, a summary of inspection findings including maintenance needs and/or a summary of the maintenance activities, and whether the PWQF is being maintained by CDOT or, under an IGA or similar agreement, a municipality.

75. By January 31, 2018, CDOT shall submit an itemized list of all costs incurred or estimated to be incurred to implement the corrective actions listed in the Inspection Report and actions specified in paragraphs 64 through 74, above. The itemized list of costs shall include at a minimum:
- a. the cost of any full-time equivalent (FTE) staff added to CDOT's budget to comply with this Consent Order and implement the corrective actions listed in the Inspection Report;
 - b. the cost of contractor support in order to comply with this Consent Order and implement the corrective actions listed in the Inspection Report; and
 - c. any other itemized costs incurred to implement the corrective actions listed in the Inspection Report and the actions specified in paragraphs 64 through 74, above.
76. CDOT shall send all written reports, information, and related correspondence required by this Consent Order to:

Emilio Llamozas (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop St.
Denver, Colorado 80202-1129

and

Nathan Moore
Water Quality Control Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246

77. All reports and information required by this Consent Order shall include the certification statement set forth in Exhibit I for CDOT submitting the report or information. The certification shall be signed and dated by an individual meeting the definition of either a principal executive officer or ranking elected official in 40 C.F.R. § 122.22(a)(3).
78. Any failure to comply with the requirements of this Consent Order shall constitute a violation of this Consent Order and may subject CDOT to penalties as provided under the section 309(d) of the Act, 33 U.S.C. § 1319(d).
79. This Consent Order does not constitute a waiver or election by the EPA to forego any civil or criminal action to seek penalties, fines, or other relief as it may deem appropriate under the Act. Section 309(g) of the Act, 33 U.S.C. § 1319(g), as adjusted for inflation by 40 C.F.R. part 19, authorizes administrative penalties of up to \$20,965 per day for each day for which a violation of continues. Section 309(d) of the Act, 33 U.S.C. § 1319(d), as adjusted for inflation by 40 C.F.R. part 19, authorizes civil penalties of up to \$52,414 per day for each violation. Section 309(c) of the Act, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations.
80. Compliance with this Consent Order shall not be construed to relieve CDOT of its obligation to comply with any applicable federal, state, or local law, permit, or regulation.
81. The undersigned representative of CDOT certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind CDOT to the terms and conditions of this Consent Order.
82. This Consent Order shall be effective upon each party's receipt of a fully executed copy.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**

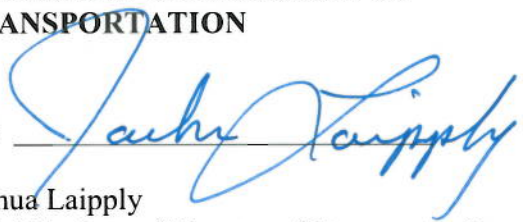
Date: 8/7/2017

By: 

Kimberly S. Opekar
Acting Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

**COLORADO DEPARTMENT OF
TRANSPORTATION**

Date: 8/2/2017

By: 

Joshua Laipply
Chief Engineer / Director of Stormwater Compliance
4201 East Arkansas Avenue, Suite 262
Denver, Colorado 80222

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the foregoing ADMINISTRATIVE ORDER FOR COMPLIANCE ON CONSENT were hand delivered to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop St., Denver, Colorado, and that a true copy of the same was sent via Certified Mail to the following:

Joshua Laipply
Chief Engineer / Director of Stormwater Compliance
4201 East Arkansas Avenue, Suite 262
Denver, Colorado 80222
Certified Mail No. 7012 2210 0000 5369 2897

8/7/17
Date

Joan Petty
Signature

Exhibit 1

Statement of Certification
Colorado Department of Transportation

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, I certify that 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.

Signature

Date

Printed Name

Official Title