



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

MAR 31 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Russell George, Executive Director
Colorado Department of Transportation
4201 Arkansas Ave.
Denver, CO 80222

Steve Graves, Registered Agent
SEMA Construction, Inc.
7353 S. Eagle St.
Englewood, CO 80112-4223

Re: Administrative Complaint and Notice of
Opportunity for Hearing
Docket No. CWA-08-2009-0010

Dear Mr. George and Mr. Graves:

Enclosed is an Administrative Complaint and Notice of Opportunity for Hearing (Complaint) that the U.S. Environmental Protection Agency, Region 8 (EPA) is issuing to the Colorado Department of Transportation (CDOT) and SEMA Construction, Inc. (SEMA) under the authority of section 309(g) of the Clean Water Act (Act), 33 U.S.C. § 1319(g). In the Complaint, EPA alleges that CDOT and SEMA have violated sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342, and their implementing regulations by violating the terms of the Federal NPDES General Permit for Storm Water Discharges for Construction Activities. The violations that EPA is alleging are specifically set out in the Complaint. The Complaint proposes that a penalty of \$86,500.00 be assessed against CDOT and SEMA for these violations.

By law, CDOT and SEMA have the right to request a hearing regarding the violations alleged in the Complaint and the appropriateness of the proposed administrative civil penalty. Please pay particular attention to the section of the Complaint entitled "Notice of Opportunity to Request a Hearing." If CDOT and SEMA wish to request a hearing, they must file within thirty (30) days of receipt of the enclosed Complaint, a written Answer with the EPA Regional Hearing Clerk at the address set forth in the Complaint. The written request must follow the requirements



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of the Consolidated Rules of Practice at 40 C.F.R. Part 22, a copy of which is enclosed. Note that should CDOT and SEMA fail to request a hearing within thirty (30) days of receipt of the Complaint, the right to such a hearing will be waived and the proposed civil penalty may be assessed against CDOT and SEMA without further proceedings.

If CDOT and SEMA wish to settle this matter without further legal action, they may waive the right to a hearing and, within thirty days of receipt of this letter, pay the proposed penalty to "Treasurer, United States of America," at the address set forth in the Complaint.

Enclosed is a copy of "U.S. EPA Small Business Resources," which can assist in compliance with complying with federal environmental laws. Also enclosed is an SEC Disclosure Notice.

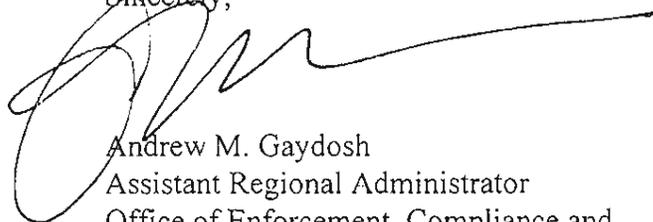
Whether or not CDOT and SEMA request a hearing, they may confer informally with EPA concerning the alleged violations and the amount of the proposed penalty. EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference. If such a mutually satisfactory settlement can be reached, it will be formalized by the issuance of a Consent Agreement signed by CDOT and SEMA and the delegated official in EPA Region 8. The issuance of such a consent agreement shall constitute a waiver by CDOT and SEMA of their rights to a hearing on, and to a judicial appeal of, the agreed upon civil penalty.

A request for an informal conference with EPA does not extend the thirty day period within which CDOT and SEMA must request or waive the right to a hearing, and the two procedures can be pursued simultaneously.

CDOT and SEMA have the right to be represented by an attorney at any stage in the proceedings, including any informal discussions with EPA, but it is not required. If CDOT and SEMA wish to discuss settlement or technical questions, please contact Lee Hanley, Environmental Engineer, at (303)312-6555. Legal questions, including any communications from an attorney, should be directed to Wendy Silver, Senior Attorney, at (303) 312-6637.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Gaydosh", with a long horizontal flourish extending to the right.

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Enclosures:

1. Administrative Complaint and Notice of Opportunity for Hearing
2. Consolidated Rules of Civil Practice (40 C.F.R. Part 22)
3. U.S. EPA Small Business Resources Information Sheet
4. SEC Disclosure Notice

cc: James Martin, Colorado Department of Public Health and Environment
Tim Harris, Regional Transportation Director, Colorado Department of Transportation,
Region 2

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2009 OCT 14 11:29

IN THE MATTER OF:)	ADMINISTRATIVE COMPLAINT
)	AND NOTICE OF OPPORTUNITY
Colorado Department of Transportation)	FOR HEARING
4201 E. Arkansas Avenue)	Proceeding to Assess Class II
Denver, CO 80222)	Administrative Penalty Under
)	Clean Water Act, Section 309(g)
and)	
)	
SEMA Construction, Inc.)	Docket No. CWA-08-2009-0010
7353 South Eagle Street)	
Centennial, CO 80112,)	
)	
Respondents.)	
_____)	

1. This Administrative Complaint and Notice of Opportunity for Hearing (Complaint) is issued pursuant to section 309(g) of the Clean Water Act (CWA or the Act), 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.13. Section 309(g) of the Act authorizes the Administrator of the United States Environmental Protection Agency (EPA) to make findings and to assess civil penalties for violations of section 301 of the CWA, 33 U.S.C. § 1311. This proceeding is subject to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22, a copy of which accompanies this Complaint.

2. The undersigned EPA official has been properly delegated the authority to issue this Complaint.

STATUTORY AND REGULATORY FRAMEWORK

3. Section 301(a) of the Act, 33 U.S.C. § 1311(a), among other things, prohibits the discharge of any pollutant into waters of the United States except as in compliance with a permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342.

4. Section 402 of the Act, 33 U.S.C. § 1342, establishes a National Pollutant Discharge Elimination System (NPDES) program, under which EPA and, upon receiving authorization from EPA, states may permit discharges of pollutants into navigable waters, subject to specific terms and conditions.

5. Pursuant to section 402 of the Act, 33 U.S.C. § 1342, and 40 C.F.R. Part 122, EPA is authorized to implement the NPDES program for discharges on Federal lands in Colorado.

6. Section 402(p) of the Act, 33 U.S.C. § 1342(p), requires a permit for storm water discharges associated with industrial activity.
7. 40 C.F.R. § 122.26(b)(14)(x) defines the term “storm water discharge associated with industrial activity” to include storm water discharges from construction activities, including clearing, grading, and excavation activities, that result in a disturbance of five or more acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger plan will ultimately disturb equal or greater than five acres. *Id.*
8. EPA regulations also define the term “storm water discharge associated with small construction activity” to include storm water discharges from construction activities, including clearing, grading, and excavation activities, that result in a disturbance of equal to or greater than one acre and less than five acres. 40 C.F.R. § 122.26(b)(15)(I). Construction activity also includes the disturbance of less than one acre that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre. *Id.*
9. In 1992, EPA issued a Final NPDES General Permit for Storm Water Discharges for Construction Activities (Federal CGP). 57 Fed. Reg. 41176, 41209 (Sept. 9, 1992). EPA has, on various occasions, subsequently modified and reissued the Federal CGP. *See* 63 Fed. Reg. 7858-7906 (Feb. 17, 1998); 63 Fed. Reg. 36490-36519 (July 6, 1998); 65 Fed. Reg. 25122-25145 (Apr. 28, 2000); 68 Fed. Reg. 39087-39091 (July 1, 2003); 73 Fed. Reg. 40338-40343 (July 14, 2008).
10. The Federal CGP requires any person subject to the permit to develop a storm water pollution prevention plan (SWPPP) which sets forth a plan to control and reduce pollutants in storm water discharges from construction activities. Federal CGP, Parts 3.1.B.2. and 3.4.A. The SWPPP must meet specific requirements and include certain information. Federal CGP, Part 3.
11. Central requirements of the SWPPP are a description of the project area and the selection of best management practices (BMPs) to “prevent or reduce the discharge of pollutants to waters of the United States.” Federal CGP, Appendix A.
12. The Federal CGP also requires implementation of the SWPPP and proper operation and maintenance of the BMPs. Federal CGP, Parts 3.1.D. and 3.6.A.
13. Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of a Class II civil penalty of up to \$11,000.00 per violation of section 301 of the Act, 33 U.S.C. § 1311, and per violation of any condition or limitation in a permit issued pursuant to section 402 of the Act, 33 U.S.C. § 1342, up to a maximum for all violations of \$157,500.00 for violations occurring between March 16, 2004 and January 12, 2009.

GENERAL ALLEGATIONS

14. All general allegations set forth in this Complaint are specifically incorporated into each count by this reference.
15. Respondent Colorado Department of Transportation (CDOT) is and was at all relevant times a political subdivision of the State of Colorado.
16. Respondent SEMA Construction, Inc. (SEMA) is and was at all relevant times a Colorado corporation doing business in the State of Colorado and registered with the Colorado Secretary of State.
17. At all times relevant to this action, CDOT and SEMA engaged in construction activities at the SH16/I-25 Expansion Project (the Site). The Site is a roadway improvement project to widen SH 16 from two lanes to four lanes between Gate 20 of the Ft. Carson Garrison Army Base through the I-25 interchange and over Fountain Creek and Clover Ditch in El Paso County, Colorado. The project also involved shifting the I-25 interchange to the north and replacing the diamond interchange with a partial cloverleaf, excavation and disposal of the contents of Landfill 11, installation of a 33 inch water line, and installation of a Fountain Valley conduit and electrical utilities.
18. Respondents' construction activities at the Site resulted in the disturbance of at least five acres of Federal land.
19. On November 2, 2007, Respondent CDOT submitted a notice of intent (NOI) to EPA requesting authorization to discharge at the Site pursuant to the CGP.
20. On May 8, 2008, EPA inspectors inspected the Site and observed, among other things, the following:
 - a. The SWPPP did not delineate all Federal land where ground disturbance occurred;
 - b. the SWPPP did not correctly estimate the total area expected to be disturbed by construction activities on Federal land;
 - c. The SWPPP did not describe all of the ground disturbance activities occurring on Federal land and did not address endangered species; and
 - d. BMPs were either lacking or inadequate at various locations along Clover Ditch, and outside Gate 20. Sediment loading was present outside Gate 20 and in Clover Ditch.
21. On July 16, 2008, inspectors from the Ft. Carson Environmental Office inspected the Site and observed, among other things, the following:

- a. BMPs were not correctly installed or maintained north of Gate 20, along the southeast portion of the Site, and along Clover Ditch. Sediment loading was observed north of Gate 20 and in Clover Ditch.
 - b. The BMP was inadequate at the Clover Ditch crossing; the BMP applied was specifically indicated in the SWPPP to be ineffective for the areas along Clover Ditch;
 - c. The SWPPP did not include the location of material and equipment storage; and
 - d. The SWPPP did not delineate all Federal land where ground disturbance occurred.
22. On July 16, 2008, Respondents revised the notice of intent (NOI) and SWPPP for the Site to correct the inadequacies described in paragraph 20.a. and 20.b, above.
23. On September 2, 2008, inspectors from the Ft. Carson Environmental Office inspected the Site and observed, among other things, that BMPs were inadequately maintained at the southwest slope of the I-25 bridge above Clover Ditch, resulting in bank erosion and sediment loading into Clover Ditch.
24. On September 11, 2008, inspectors from the Ft. Carson Environmental Office inspected the Site and observed, among other things, the following:
- a. BMPs were not correctly installed or maintained along Clover Ditch;
 - b. Vehicle track out pads were not installed at the entrance to the Site on Bandlely Road and off the new ramp to southbound I-25; and
 - c. BMPs were not properly maintained at the southwest slope of the I-25 bridge over Clover Ditch, resulting in bank erosion and sediment loading into Clover Ditch.
25. On October 14, 2008, inspectors from the Ft. Carson Environmental Office and EPA inspected the Site and observed, among other things, the following:
- a. Poor maintenance of BMPs at the southwest slope of the I-25 bridge over Clover Ditch, resulting in continuing erosion of the slope and sediment loading into Clover Ditch;
 - b. No BMPs were implemented in disturbed areas beneath the I-25 bridge;
 - c. BMPs were inadequate to prevent sediment from entering Clover Ditch in several locations above and around Outfall 9, at Outfall 8, and along Clover Ditch west of the I-25 bridge; and
 - d. Construction debris was damaging the BMPs on the north side of Clover Ditch.
26. On November 12, 2008, inspectors from the Ft. Carson Environmental Office inspected the Site and observed, among other things, the following:
- a. No BMPs were implemented on the east side of the I-25 bridge during the diversion of Clover Ditch; and

- b. BMPs were inadequate to cover all disturbed areas at the Clover Ditch diversion and minimize sediment loading below the I-25 bridge.

27. On December 2, 2008, inspectors from the Ft. Carson Environmental Office inspected the Site and observed, among other things, the following:

- a. The SWPPP had not been amended to cover construction of the Clover Ditch diversion, where work had commenced on October 20, 2008;
- b. BMPs had not been implemented to control storm water discharges to Clover Ditch beneath the I-25 bridge; and
- c. BMPs installed to the east of the I-25 bridge were inadequate to prevent sediment from entering Clover Ditch.

28. On December 2, 2008, Respondents updated the SWPPP to include the Clover Ditch diversion below the I-25 bridge.

29. Clover Ditch is a perennial tributary to Fountain Creek, which is a perennial tributary to the Arkansas River.

30. Clover Ditch, Fountain Creek, and the Arkansas River are each a “water of the United States” within the meaning of 33 C.F.R. § 328.3(a), and therefore a “navigable water” within the meaning of the definition set forth in section 502(7) of the Act, 33 U.S.C. § 1362(7).

31. Respondents are, and were at all relevant times, each a “person” within the meaning of the definition set forth in section 502(5) of the Act, 33 U.S.C. § 1362(5).

32. Runoff and drainage from the Site is “storm water” as defined in 40 C.F.R. § 122.26(b)(13).

33. Storm water contains “pollutants” as defined in section 502(6) of the Act, 33 U.S.C. § 1362(6).

34. The storm water discharged from the Site is the “discharge of a pollutant” as defined in section 502(12) of the Act, 33 U.S.C. § 1362(12) and 40 C.F.R. § 122.2.

35. The Site, as well as the outfalls and other conveyances referenced above, constitute “point source[s]” within the meaning of section 502(14) of the Act, 33 U.S.C. § 1362(14) and 40 C.F.R. § 122.2.

36. Pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g), EPA has consulted with James Martin, Executive Director, Colorado Department of Public Health and Environment,

regarding assessment of this administrative penalty by furnishing a copy of this complaint and inviting him to comment on behalf of the State of Colorado.

COUNT I

37. As described in paragraphs 20 - 22, above, from May 2008, until July 16, 2008, the SWPPP for the Site did not contain all of the information required by Part 3 of the CGP.

38. Respondents' failure to prepare a SWPPP in compliance with the terms and conditions of Part 3.3 of the CGP constitutes a violation of the CGP.

COUNT II

39. As described in paragraphs 27 and 28, from October 20, 2008, until December 2, 2008, the Respondents failed to amend the SWPPP to include construction of the Clover Ditch diversion.

40. Respondents' failure to amend the SWPPP to include construction of the Clover Ditch diversion constitutes a violation of Parts 3.11 and 3.4.C of the CGP.

COUNT III

41. As described in paragraphs 20 - 21 and 23 - 27, above, from May 2008, through December, 2008, Respondents failed to properly select, operate, and maintain BMPs as required by Parts 3.13 and 3.4.A. of the CGP.

42. Respondents' failures to comply with the terms and conditions of Parts 3.13 and 3.4.A. of the CGP constitute violations of the CGP.

NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY

43. Based on the foregoing allegations and pursuant to the authority of section 309(g) of the Act, 33 U.S.C. §1319(g), EPA Region 8 hereby proposes that a penalty of \$86,500.00 be assessed against Respondents for the violations alleged above, as explained below:

Nature, Circumstances, Extent, and Gravity of Violations

The sediment loading into Clover Ditch would have been minimized if the SWPPP had been updated and the BMPs properly implemented and maintained, as required by the CGP. The first documented evidence of sediment loading was on May 8, 2008, at various locations along Clover Ditch. The CDOT response to the May 8, 2008, inspection indicated that the deficiencies in the SWPPP and the BMPs were not fully addressed until August 2008. The Ft. Carson Environmental Office's inspection on September 2, 2008, identified the same types of violations as those observed by EPA on May 8, 2008. Sediment loading into Clover Ditch continued until

the project was close to completion on the west side of northbound I-25, on approximately November 14, 2008.

Storm water that runs off of large construction sites can carry sediment, debris, and other pollutants into surrounding waterways. Polluted runoff can harm or damage aquatic habitat. High volumes of storm water runoff can erode stream banks.

Prior Compliance History

This complaint is the second enforcement action that EPA Region 8 has pursued against Respondent SEMA for non-compliance with the CWA. In August 2006, EPA found the same types of violations as alleged herein at a CDOT project on Federal land at the Air Force Academy in Colorado Springs, Colorado. The storm water permit for that project was held by CDOT's contractor, Rockrimmon Constructors, a SEMA/CH2MHill joint venture. In addition, the Colorado Department of Public Health and Environment took enforcement actions against CDOT for violations in 2004 - 2005 similar to those found during the EPA inspections on Federal land at the Air Force Academy in 2006 and at the Site in 2008.

Degree of Culpability

Respondents could have minimized the discharge of pollutants into Clover Ditch if the SWPPP has been updated and revised to identify the appropriate BMPs to be implemented, and if the Respondents had properly implemented, maintained, and replaced the BMPs.

Economic Benefit

For storm water cases, the actual cost for developing and updating a SWPPP and implementing and maintaining BMPs is minimal with respect to the overall project. However, the impact to health and the environment caused by the failure to develop a complete SWPPP and to implement appropriate BMPs is significant.

Ability to Pay

The proposed penalty was not reduced based upon the statutory factor of an inability to pay. However, EPA will consider any new information that Respondents may present regarding their inability to pay the penalty proposed in this complaint.

Other Matters That Justice May Require

At this time, EPA has not made any adjustment to the proposed penalty based on this statutory factor.

44. As required by section 309(g)(4) of the Act, 33 U.S.C. § 1319(g)(4), prior to assessing a civil penalty, EPA will provide public notice of the proposed penalty and a reasonable opportunity for the public to comment on the matter and, if a hearing is held, to be heard and present evidence.

45. EPA may issue the Final Order Assessing Administrative Penalties thirty days after Respondents' receipt of this Notice, unless Respondents, within that time, requests a hearing on this Notice pursuant to the following section.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

46. As provided in section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and 40 C.F.R. § 22.15(c), Respondents have the right to request a hearing in this matter. If Respondents (1) contest any material fact upon which the Complaint is based, (2) contend that the amount of penalty proposed in the Complaint is inappropriate, or (3) contend that it is entitled to judgment as a matter of law, they must file a written answer in accordance with 40 C.F.R. § 22.15 within thirty days after service of the Complaint.

47. Respondents' answer must (1) clearly admit, deny, or explain each of the factual allegations contained in the Complaint, (2) state the circumstances or arguments which are alleged to constitute grounds of defense, (3) state the facts intended to be placed at issue, (4) state the basis for opposing any proposed relief, and (5) specifically request a hearing, if desired. 40 C.F.R. § 22.15(b). Failure to admit, deny, or explain any factual allegation contained in the Complaint constitutes an admission of the allegation. 40 C.F.R. § 22.15(c).

48. Respondents' answer, an original and one copy, must be filed with:

Regional Hearing Clerk
U.S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, Colorado 80202-1129

A copy of the answer and all other documents filed in this action must be served on:

Wendy Silver
Senior Attorney
U.S. EPA, Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129

49. Be aware that should Respondents request a hearing on this proposed penalty assessment, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under section 309(g)(4)(B) of the Act, 33 U.S.C. §1319(g)(4)(B), to be heard and to present evidence on the appropriateness of the penalty assessment.

**IF RESPONDENTS FAIL TO REQUEST A HEARING, THEY WILL WAIVE
THEIR RIGHT TO CONTEST ANY OF THE ALLEGATIONS SET FORTH IN
THE COMPLAINT.**

IF RESPONDENTS FAIL TO FILE A WRITTEN ANSWER WITHIN THE THIRTY (30) DAY LIMIT, A DEFAULT JUDGMENT MAY BE ENTERED

PURSUANT TO 40 C.F.R. § 22.17. THIS JUDGMENT MAY IMPOSE THE FULL PENALTY PROPOSED IN THE COMPLAINT.

50. Should Respondents not request a hearing, EPA will issue a Final Order Assessing Administrative Penalties, and only members of the public who submit timely comments on this proposal will have an additional 30 days to petition EPA to set aside the Final Order Assessing Administrative Penalties and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order Assessing Administrative Penalties.

TERMS OF PAYMENT FOR QUICK RESOLUTION

51. If Respondents do not contest the findings and assessments set out above, this action may be resolved by paying the proposed penalty in full pursuant to 40 C.F.R. § 22.18. If such payment is made within thirty (30) calendar days of receipt of this Complaint, no Answer need be filed. For more time for payment, Respondents may file a statement agreeing to pay the penalty within thirty (30) days of receipt of the Complaint, then pay the money within sixty (60) days of such receipt. Penalty payment must be made by certified or cashier's check payable to "Treasurer, the United States of America," and remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 9790777
St. Louis, MO 63197-9000

Copies of the check shall be sent to:

Lee Hanley
U.S. Environmental Protection Agency (8ENF-W-NP)
1595 Wynkoop Street
Denver, CO 80202-1129

and

Wendy Silver
U.S. Environmental Protection Agency (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129

A transmittal letter identifying the case title and docket number must accompany the remittance and copies of the check.

52. Payment of the penalty in this manner shall constitute consent by Respondents to the assessment of the proposed penalty and a waiver of Respondents' right to a hearing in this matter.

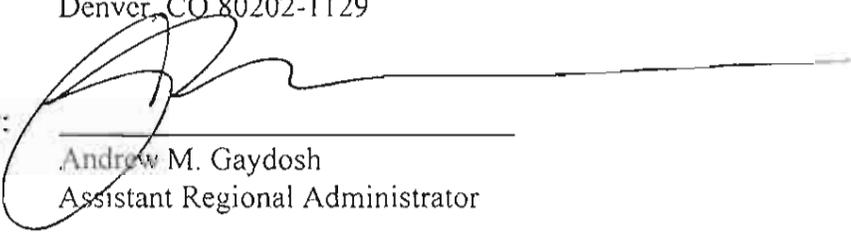
53. Neither assessment nor payment of an administrative civil penalty pursuant to section 309 of the Act, 33 U.S.C. § 1319, shall affect Respondents' continuing obligation to comply with the Clean Water Act or any other federal, state, or local law or regulations and any separate Compliance Order issued under section 309(a) of the Act, 33 U.S.C. §1319(a), for the violations alleged herein.

SETTLEMENT CONFERENCE

54. EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation process. If a settlement can be reached, its terms will be expressed in a written consent agreement signed by the parties and incorporated into a final order signed by the Regional Judicial Officer. 40 C.F.R. § 22.18. To explore the possibility of settlement in this matter, contact Wendy Silver, Senior Attorney, at the address below. Ms. Silver can also be reached at (303) 312-6637.

United States Environmental Protection Agency, Region 8
Office of Enforcement, Compliance, and
Environmental Justice, Complainant.
1595 Wynkoop Street
Denver, CO 80202-1129

Date: 3/31/09

By: 

Andrew M. Gaydosh
Assistant Regional Administrator

Date: 3/31/09

By: Wendy I. Silver

Wendy I. Silver, Senior Attorney
Legal Enforcement Program

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by certified mail, return receipt requested, a copy of the foregoing ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING, and a copy of the Consolidated Rules of Practices Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, to:

Steve Graves, Registered Agent and
SEMA Construction, Inc.
7353 S. Eagle St.
Englewood, CO 80112-4223

Russell George, Executive Director
Colorado Department of Transportation
4201 E. Arkansas Ave.
Denver, CO 80222

Certified Return Receipt No:
7008 3230 0003 0730 5519

Certified Return Receipt No:
7008 3230 0003 0730 5502

I further certify that on the same date below I sent by first class mail, a copy of this document to:

James B. Martin
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

The original and one copy were hand-delivered to:

Tina Artemis
Regional Hearing Clerk
U.S. Environmental Protection Agency (8RC)
1595 Wynkoop Street
Denver, CO 80202-1129

Date: 3/31/09

Judith M. McTernan