

BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

In re:

Buckley Air Force Base Municipal Separate  
Storm Sewer System

United States Department of the Air Force,  
460th Space Wing, *Permit Applicant*

NPDES Permit No. CO-R042003

NPDES Appeal No. 13-07

**PETITION FOR REVIEW OF NPDES PERMIT FOR BUCKLEY AIR FORCE BASE  
MUNICIPAL SEPARATE STORM SEWER SYSTEM  
AND REQUEST FOR ORAL ARGUMENT**

**Attachment A**

NPDES Permit No. CO-R042003, issued August 6, 2013

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8  
1595 WYNKOOP STREET  
DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. §1251 et seq; "the Act"), except as provided in Part 1.3 of this permit,

**United States Department of the Air Force, 460<sup>th</sup> Space Wing**

hereinafter "permittee", is authorized to discharge from all municipal separate storm sewer outfalls existing as of the effective date of this permit

to receiving waters which include East Tollgate Creek, Murphy Creek, Granby Ditch, and other associated waters of the United States within the exterior boundaries of Buckley Air Force Base, located at 39° 42' 30" N and 104° 45' 30" W in Aurora, Colorado,

in accordance with the conditions and requirements set forth herein.

This permit shall become effective **October 1, 2013**

This permit and the authorization to discharge shall expire at midnight, **September 30, 2018**

Signed this 6 day of August, 2013

  
Authorized Permitting Official

Derrith R. Watchman-Moore, Assistant Regional Administrator  
Office of Partnerships and Regulatory Assistance

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## 1. COVERAGE UNDER THIS PERMIT

### 1.1. Permit Area

This permit covers all areas of the municipal separate storm sewer system (MS4) within the exterior boundary of Buckley Air Force Base, except for the privatized housing area currently leased to Hunt Housing. Hunt Housing, LLC, and its successors shall be solely responsible for the sanitary sewer and storm systems under its operation and control. However, this permit does contain requirements for Buckley Air Force Base to provide public education and outreach materials within the privatized housing area(s) located within Buckley Air Force Base but not operated by the Air Force.

### 1.2. Discharges Authorized Under This Permit

1.2.1. During the effective dates of this permit, the permittee is authorized to discharge stormwater from the following areas, under the conditions of this permit:

1.2.1.1. All portions of the MS4 within the exterior boundaries of Buckley Air Force Base.

1.2.2. This permit also authorizes the discharge of stormwater commingled with flows contributed by process wastewater, non-process wastewater, and stormwater associated with industrial activity, provided that the stormwater is commingled only with those discharges set forth in Part 1.3 of this permit.

### 1.3. Limitations on Permit Coverage

1.3.1. Non-Stormwater Discharges. The permittee must prohibit all types of non-stormwater discharges into its MS4, except for allowable non-stormwater discharges described in Part 1.3.2.

1.3.2. Allowable Non-Stormwater Discharges. The following sources of non-stormwater discharges are allowed to be discharged into the MS4 unless the permittee determines they are significant contributors of pollutants. If the permittee identifies any of the following categories as a significant contributor of pollutants, the permittee must include the category as an illicit discharge (see Part 2.4):

- Discharges authorized by a separate NPDES permit;
- Discharges in compliance with instructions of an On-Scene-Coordinator pursuant to 40 CFR part 300 or 33 CFR 153.10(e);
- Water line flushing;
- Landscape irrigation;
- Diverted stream flows;
- Rising ground waters;
- Uncontaminated ground water infiltration;
- Uncontaminated pumped ground water;
- Discharges from potable water sources;
- Foundation drains;
- Air conditioning condensate;
- Irrigation water;
- Springs;
- Water from crawl space pumps;
- Footing drains;
- Lawn watering;
- Individual residential car washing;
- Flows from riparian habitats and wetlands;
- Dechlorinated swimming pool discharges;

- Street wash water;
  - Power washing where no chemicals are used;
  - Roof drains;
  - Fire hydrant flushings;
  - Non-storm water discharges resulting from a spill which are the result of an unusual and severe weather event where reasonable and prudent measures have been taken to minimize the impact of such discharge;
  - Emergency discharges required to prevent imminent threat to human health or severe property damage, provided that reasonable and prudent measures have been taken to minimize the impact of such discharges; and
  - Discharges or flows from fire fighting activities.
- 1.3.3. Stormwater Discharges Associated with Industrial Activity. This permit does not authorize stormwater discharges associated with industrial activity as defined in 40CFR §122.26(b)(14)(i)-(ix) and (xi).
- 1.3.4. Stormwater Discharges Associated with Construction Activity. This permit does not authorize stormwater discharges associated with construction activity as defined in 40 CFR §122.26(b)(14)(x) or 40 CFR §122.26(b)(15).
- 1.3.5. Discharges that are causing or contributing to an exceedance of applicable numeric or narrative water quality standards. EPA will notify the permittee if its MS4 discharges are likely to cause or contribute to a water quality impairment, or whose discharges contribute directly or indirectly to a 303(d) listed waterbody. If EPA determines that discharges from the MS4 are causing or contributing to a water quality impairment, the permittee's stormwater management plan (SWMP) must include a section describing how the program will control the discharge of the pollutants of concern and ensure discharges from the MS4 will not cause or contribute to instream exceedances of the water quality standards. This documentation must specifically identify measures and Best Management Practices (BMPs) that will collectively control the discharge of the pollutants of concern. The permittee may be required to provide additional information to EPA to determine whether its discharge is causing or contributing to a water quality impairment.
- 1.3.6. Discharges of pollutants into waters which a Total Maximum Daily Load (TMDL) has been either established or approved by EPA unless the discharge is consistent with that TMDL. The permittee must incorporate any conditions and requirements applicable to discharges from the MS4 into the Stormwater Management Program in order to remain eligible for permit coverage. EPA will notify the permittee if a TMDL has been developed that specifies a wasteload allocation (WLA) for discharges from the MS4. The notification will require the MS4 operator to assess and document whether the WLA is being met through implementation of existing stormwater control measures or if additional control measures are necessary. The notification may also include requirements to describe and document an implementation schedule for controls, calculations, and monitoring or other proof that show that the WLA is being met. This may involve an iterative process of controls and evaluation. All documentation related to these requirements must be included as part of the records for the SWMP.
- 1.3.7. Discharges that do not comply with Colorado's anti-degradation policy for water quality standards. Colorado's anti-degradation policy can be obtained from the Colorado Department of Public Health and Environment or from its web site: <http://www.cdphe.state.co.us/op/regs/waterqualityregs.asp> (The anti-degradation rules are contained within Regulation 31 - Basic Standards and Methodologies for Surface Water).
- 1.3.8. Discharges and discharge-related activities that affect endangered species. Coverage under this permit is available only if the permittee's stormwater discharges, allowable non-storm water discharges, and discharge-related activities are not likely to:



- Jeopardize the continued existence of any species that are listed as endangered or threatened (“listed”) under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA (“critical habitat”); or
- Cause a prohibited "take" of endangered or threatened species (as defined under Section 3 of the ESA and 50 CFR 17.3), unless such takes are authorized under sections 7 or 10 of the ESA.

“Discharge-related activities” include: activities which cause, contribute to, or result in stormwater point source pollutant discharges; and measures to control stormwater discharges, including the citing, construction, and operation of Best Management Practices (BMPs) to control, reduce, or prevent stormwater pollution.

1.3.9. Discharges that Affect Historical Properties. Coverage under this permit is available only if the permittee’s stormwater discharges, allowable non-stormwater discharges, and discharge-related activities are:

- Not likely to affect a property that is listed or is eligible for listing on the National Register of Historic Places as maintained by the Secretary of the Interior; or
- In compliance with a written agreement with the State Historic Preservation Officer (SHPO) that outlines all measures the permittee will undertake to mitigate or prevent adverse effect to the historic property.

## 2. STORMWATER MANAGEMENT PLAN (SWMP)

### 2.1. General Requirements

- 2.1.1. The permittee must continue to develop, implement, and enforce a SWMP. The SWMP must include management practices, control techniques, system design, engineering methods, and other provisions the permittee or EPA determines appropriate for the control of pollutants in discharges from the MS4.
- 2.1.2. The permittee must fully implement the SWMP; including meeting its measurable goals. Implementation should take place in approximate equal intervals throughout the permit and progress will be tracked in the annual report (see Part 3.3).
- 2.1.3. The SWMP must include each of the minimum control measures of Parts 2.2-2.7.
- 2.1.4. The permittee must conduct an annual review of the SWMP in conjunction with preparation of the annual report required under Part 3.3.
- 2.1.5. EPA may request documentation of the minimum control measures as required by the SWMP. EPA may review and subsequently notify the permittee that changes to the SWMP are necessary to:
- Address discharges from the MS4 that are causing or contributing to water quality impacts;
  - Include more stringent requirements necessary to comply with new Federal or State statutory or regulatory requirements;
  - Include other conditions deemed necessary by the EPA to comply with water quality standards, ESA related requirements, and/or other goals and requirements of the Clean Water Act (CWA); and/or
  - Address the SWMP requirements of the permit, if EPA determines that the permittee’s current SWMP does not meet permit requirements.

- 2.1.5.1. EPA may request changes in writing and can require including a schedule to develop and implement the changes. The request will offer the permittee the opportunity to propose alternative program changes to meet the objectives of the requested modification.
- 2.1.6. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation. The permittee must implement the SWMP on all new areas added to the permittee's MS4 (or for which the permittee becomes responsible for implementation of storm water quality controls) as expeditiously as practicable, but not later than one year, unless deemed longer by the permitting authority, from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.
- 2.1.7. If EPA notifies the permittee that changes are necessary to ensure that stormwater discharges are not causing or contributing to a violation of water quality standards, the notification will offer the permittee an opportunity to propose alternative program changes to meet the objectives of the requested modification. Following this opportunity, the permittee must implement any required changes according to the schedule set by EPA.
- 2.2. Public Education and Outreach on Stormwater Impacts. The permittee must:
  - 2.2.1. Continue an education and outreach program for Buckley AFB which targets project managers, contractors, tenants, residents, and environmental staff in an effort to provide education and outreach about the impacts of stormwater discharges on local water bodies and the steps that can be taken to reduce pollutants in stormwater runoff;
  - 2.2.2. At a minimum, produce and disseminate informational material to inform the public (i.e., project managers, contractors, tenants, residents, and environmental staff) of the effects of erosion and runoff on water quality. Informational materials shall be updated and distributed as necessary throughout the duration of this permit, and should provide a location where all annual reports and/or SWMP updates as required by this permit may be viewed;
  - 2.2.3. For new residents in on-base housing, update new resident packets or provide information through alternative sources to educate new residents with information on household hazardous waste collection and disposal and information on the potential impacts of stormwater runoff;
  - 2.2.4. Provide and document training to appropriate 460<sup>th</sup> Space Wing personnel, for example, environmental, engineering and planning staff, and contracting officers to communicate the specific requirements for post-construction control as specified in this permit. Such training will be made available to tenant unit personnel, within the context of current contracts or inter-service support agreements; and
  - 2.2.5. Document education and outreach activities, including documents created for distribution and a training schedule which notes the dates that trainings occurred and the target audiences reached.
  - 2.2.6. The annual report (See Part 3.3) must document the following information related to public education and outreach:
    - 2.2.6.1. A description of the methods, frequency, type, and target audience of stormwater outreach performed during the permit term;
    - 2.2.6.2. A copy or representation of public outreach materials provided to the target audience(s);
    - 2.2.6.3. An estimation of the number of people expected to be reached by the program over each year of the permit term; and

- 2.2.6.4. The name or title of the person(s) responsible for coordination and implementation of the stormwater public education and outreach program.
- 2.3. Public Involvement and Participation. The permittee must:
- 2.3.1. Comply with applicable public notice requirements when implementing a public involvement and participation program;
- 2.3.2. Make all relevant annual reports available on the permittee web site or provide links to all relevant annual reports posted on the EPA Region 8 web site in a locally available publication;
- 2.3.3. Maintain a log of public participation and outreach activities performed;
- 2.3.4. Document efforts to meet at least annually with the City of Aurora to discuss development, maintenance, and new discharges to East Toll Gate Creek; and
- 2.3.5. Document volunteer activities to actively engage residents and personnel at Buckley Air Force Base in understanding water resources and how their activities can affect water quality.
- 2.3.6. The annual report (See Part 3.3) must document the following information related to public involvement/participation:
- 2.3.6.1. Documentation of any events or other activities to clean up MS4 receiving waters;
- 2.3.6.2. Documentation of any volunteer activities conducted to help actively engage residents and personnel at Buckley AFB in understanding water resources and how their activities can affect water quality; and
- 2.3.6.3. The name or title of the person(s) responsible for coordination and implementation of the storm water public education and outreach program.
- 2.4. Illicit Discharge Detection and Elimination. An illicit discharge is any discharge to a MS4 that is not composed entirely of stormwater. Exceptions are described in Part 1.3.2. The permittee must:
- 2.4.1. Implement a program to detect and eliminate illicit discharges into its MS4. The program shall include procedures for detection, identification of sources, and removal of non-stormwater discharges from the storm sewer system. This program shall address illegal dumping into the storm sewer system, and include training for staff on how to respond to reports of illicit discharges;
- 2.4.2. Effectively prohibit, through ordinance or other regulatory mechanism available under the legal authorities of the MS4, non-stormwater discharges into the storm sewer system and implement appropriate enforcement procedures and actions;
- 2.4.3. Provide a mechanism for reporting of illicit discharges and provide this number on any outreach materials as appropriate;
- 2.4.4. Investigate any illicit discharge within fifteen (15) days of its detection, and take action to eliminate the source of the discharge within forty five (45) days of its detection (or obtain permission from EPA for such longer periods as may be necessary in particular instances);
- 2.4.5. Maintain an information system which tracks dry weather screening efforts, illicit discharge reports, and the location and any remediation efforts to address identified illicit discharges;



- 2.4.6. Conduct dry weather screening annually at each of the major outfalls for the presence of non-stormwater discharges and to determine if there are significant erosion issues which need to be addressed. If an illicit discharge is detected, an assessment of that discharge shall be made. For example, sampling could include field tests of selected chemical parameters as indicators of discharge sources where dry weather flows are detected. Screening level tests may utilize less expensive "field test kits" using test methods not approved by EPA under 40 CFR Part 136, provided the manufacturer's published detection ranges are adequate for the illicit discharge detection purposes;
- 2.4.7. Address the categories of non-stormwater discharges or flows listed in Part 1.3.2 and require local controls or conditions on these discharges as necessary to ensure that they are not significant contributors of pollutants to the small MS4. If the permittee identifies any of these non-stormwater discharges as a significant contributor of pollutants, the permittee must include the category as an illicit discharge and implement a plan of action to minimize or eliminate the illicit discharge as soon as practicable;
- 2.4.8. Update the complete storm sewer system map in the Buckley AFB GIS prior to the end of year three of the permit; and
- 2.4.9. The annual report (See Part 3.3) must document the following information related to illicit discharge detection and elimination:
  - 2.4.9.1. A description of the program used to detect and eliminate illicit discharges into the MS4; including procedures for detection, identification of sources, and removal of non-stormwater discharges from the storm sewer system;
  - 2.4.9.2. A description of the location and method of dry weather screening performed;
  - 2.4.9.3. A description of illicit discharges located and all actions taken to eliminate sources of illicit discharges;
  - 2.4.9.4. A description of training materials used and the frequency at which training was provided to the target audience(s) on how to respond to reports of illicit discharges;
  - 2.4.9.5. A description or citation of the established ordinance or other regulatory mechanism used to prohibit illicit discharges into the MS4;
  - 2.4.9.6. A copy or excerpt from the information management system used to track illicit discharges;
  - 2.4.9.7. A description of the categories of non-stormwater discharges evaluated as potentially being significant contributors of pollutants to the MS4 and any local controls placed on these discharges; and
  - 2.4.9.8. A description of the schedule and/or progress in creating a complete storm sewer map in the Buckley AFB GIS.
- 2.5. Construction Site Stormwater Runoff Control. The permittee must:
  - 2.5.1. Develop, implement, and enforce a program to reduce pollutants in stormwater runoff from construction activities;
  - 2.5.2. Use an ordinance or other mechanism available under the legal authorities of the permittee to require erosion and sediment controls with sanctions for compliance to ensure compliance with the terms of the NPDES General Permit for Stormwater Discharges for Construction Activity in Colorado,

- COR10000F (i.e., the Construction General Permit or “CGP”);
- 2.5.3. Provide information on construction site BMPs with criteria for maintenance and installation. This may reference or incorporate documents which define how to install and maintain BMPs such as the Urban Drainage and Flood Control District Criteria Manual;
  - 2.5.4. Implement procedures for site plan review which incorporate consideration of potential water quality impacts, and review the Scope of Work for Buckley AFB projects to ensure that effective construction stormwater BMPs are proposed;
  - 2.5.5. Maintain a list of policies and procedures which can be used to enforce construction site compliance within Buckley AFB independent of EPA staff directly enforcing the CGP;
  - 2.5.6. Implement an inspection plan and keep a copy of that plan which provides inspection triggers, a priority for order of inspections, and a required timeframe upon which construction sites must be inspected by Buckley AFB. All construction sites within Buckley AFB must be inspected at a minimum semi-annually, and all sites must be inspected prior to construction stormwater permit termination to verify that final stabilization has been met on all areas of the site;
  - 2.5.7. Maintain a site inspection form for use by Buckley AFB stormwater managers at sites;
  - 2.5.8. Provide training to contracting officials which perform daily QAEs (Quality Assurance Evaluations) annually regarding the maintenance and installation of BMPs for construction stormwater control and the terms of the construction stormwater permit; and
  - 2.5.9. Upon the closeout for construction projects where there has been documented non-compliance with the construction stormwater permit, provide information to the appropriate contracting authority for their action to document incidences of non-compliance;
  - 2.5.10. The annual report (See Part 3.3) must document the following information related to construction site stormwater runoff control:
    - 2.5.10.1. A description of construction activities which disturbed greater than or equal to one acre of land at Buckley AFB during the term of this permit;
    - 2.5.10.2. A description or citation of the established ordinance or other regulatory mechanism used to require erosion and sediment controls;
    - 2.5.10.3. A description of the sanctions and enforcement mechanisms Buckley AFB uses to ensure that construction activities disturbing equal to or greater than one acre of land are in compliance with the terms of the CGP. This should include a description of any methods developed for Buckley AFB staff to stop work on construction sites in non-compliance independent of contracting procedures;
    - 2.5.10.4. A description of the procedures for site plan review, including the review of pre-construction site plans, which incorporate consideration of potential water quality impacts and applicable contract language;
    - 2.5.10.5. A description of the procedures for receipt and consideration of information submitted by the public;
    - 2.5.10.6. A description of the procedures for site inspection, including how sites will be prioritized for inspection, including documentation of the frequency of site inspections and methods for

prioritizing site inspections;

- 2.5.10.7. Documentation of annual training provided to contracting officials, including those who perform Quality Assurance Evaluations (QAEs), regarding the maintenance and installation of BMPs for construction stormwater control and the terms of the construction stormwater permit; and
  - 2.5.10.8. The name or title of the person(s) responsible for coordination and implementation of the construction site runoff control program.
- 2.6. Post-construction Stormwater Management for New Development and Redevelopment. The permittee must:
- 2.6.1. Develop or revise Form 1391 Military Construction Project Data Sheets to require the design of permanent post-construction stormwater control measures for all new and redevelopment construction projects disturbing equal to or greater than one acre. The resulting forms, at a minimum, must require that the permanent post-construction stormwater control measures be designed to retain, detain, infiltrate, or treat runoff from newly and re-developed impervious surfaces in a manner which maintains pre-development hydrology such as runoff volumes, patterns and quality;
  - 2.6.2. Develop or revise Form 1391 to include a line item for costs associated with the design and installation of permanent stormwater control measures;
  - 2.6.3. As part of the pre-construction design review process for new and redevelopment construction projects disturbing equal to or greater than one acre, review all projects to ensure (1) that they include the permanent post-construction stormwater control measures required by Form 1391, and (2) that such measures are designed to retain, detain, infiltrate, or treat runoff from newly and re-developed impervious surfaces in a manner which maintains pre-development hydrology such as runoff volumes, patterns and quality;
  - 2.6.4. When updated, include hydrologic performance specifications and information related to the design and maintenance of permanent stormwater control measures in natural resource plans;
  - 2.6.5. Include post-construction BMP “as-builts” for all newly installed permanent stormwater control measures in a georeferenced data management system;
  - 2.6.6. Ensure that all newly installed post-construction stormwater control measures are working as designed prior to closing out contracts;
  - 2.6.7. Upon closeout of new construction projects, include maintenance requirements for newly installed permanent post-construction stormwater control measures into a long-term maintenance plan (e.g., the recurring work program); and
  - 2.6.8. Ensure that permanent post-construction stormwater control measures are included in any applicable warranty reviews.
  - 2.6.9. The annual report (See Part 3.3) must document the following information related to post-construction site stormwater runoff control:
    - 2.6.9.1. A description of the program to ensure that hydrologic endpoints are evaluated for new development and re-development projects as required in Part 2.6.1 and the mechanism used to review the adequacy of permanent stormwater control measures;

- 2.6.9.2. A description of the review procedures and the assumptions provided to ensure the long-term operation and maintenance of permanent stormwater control measures, including an excerpt from any data management system that includes maintenance requirements and schedules for permanent stormwater control measures installed during the year;
  - 2.6.9.3. A description of the process used to ensure that all Buckley AFB scopes of work initiated after the effective date of the permit contain language which requires the installation of permanent stormwater control measures and an excerpt of applicable scopes of work language;
  - 2.6.9.4. A description of any activities to include requirements or planning for permanent stormwater control measures in the natural resource plan; and
  - 2.6.9.5. The name or title of the person(s) responsible for coordination and implementation of the post-construction stormwater management program.
- 2.7. Pollution Prevention and Good Housekeeping for Municipal Operations. The permittee must:
- 2.7.1. Provide and document annual training for operators at all fleet maintenance facilities and civil engineering shops covering the topics of stormwater runoff impacts and controls and the maintenance of onsite pollution control measures. These trainings can be provided to a single point of contract for each facility for further distribution;
  - 2.7.2. Consider deicing training if available to minimize the use of and runoff from chemical deicers and traction aggregates;
  - 2.7.3. Evaluate options for consolidated areas to wash large equipment where practicable;
  - 2.7.4. Develop and implement a schedule for cleanout of storm sewer inlets in a manner which prevents significant deposition of sediment or other debris to receiving waters;
  - 2.7.5. Develop and implement a schedule for sweeping streets in a manner which prevents significant deposition of sediment or other debris to receiving waters and provide data or a description of this schedule and its implementation in the SWMP for the facility;
  - 2.7.6. Include in recurring work contracts (e.g., the recurring work program (RWP)), specifications for maintenance of instream BMPs (e.g., sediment basins, drop structures, trash racks); and
  - 2.7.7. Include maintenance activities for all permanent stormwater control measures in the Integrated Wastewater Information Management System (IWIMS) or another suitable application when turned over (as-builts, specifications, etc.) to the 460<sup>th</sup> Civil Engineer Squadron.
  - 2.7.8. The annual report (See Part 3.3) must document the following information related to pollution prevention and good housekeeping for municipal operations:
    - 2.7.8.1. A description of the contents and frequency of the training program (see Part 2.7.1) for municipal personnel and a list of the personnel or positions trained during the term of the permit;
    - 2.7.8.2. A description of the evaluation performed on the street cleaning operations, catch basin cleaning operations, and street sanding/salt practices and any measures taken as a result of the evaluation to minimize negative impacts to water quality; and
    - 2.7.8.3. A description of how maintenance activities are tracked for permanent stormwater control measures.



### 3. MONITORING, RECORDKEEPING AND REPORTING

#### 3.1. Monitoring. The permittee must:

- 3.1.1. Not later than the end of year three of the permit term, develop a program to evaluate the water quality in East Tollgate Creek, and if deemed necessary by the permittee, Granby Ditch, as it both enters Buckley AFB and leaves Buckley AFB. This program shall at a minimum include evaluations of streambank stabilization, and water quality. The water quality monitoring program indicators such as, but not limited to, chemical monitoring, assessment of macroinvertebrates or other aquatic life, or watershed assessment of river stability and sediment supply, provided that the monitoring program provides meaningful data to evaluate the effectiveness of the stormwater management program. The permittee is responsible for evaluating data for analysis of trends; and
- 3.1.2. Send a description of the water quality monitoring program to EPA with the Annual Report for year 3 of this permit term. Programs will be assessed by EPA Region 8 to determine whether the program meets the goals of this permit and whether the data is being collected and reported in compliance with EPA test procedures approved under 40 CFR Part 136.

#### 3.2. Recordkeeping

- 3.2.1. The permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of Discharge Monitoring Reports (DMRs), a copy of the NPDES permit, and records of all data used to complete the application for this permit for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the EPA at any time.
- 3.2.2. The permittee must submit the records referred to in Part 3.2.1 to EPA only when specifically asked to do so. The permittee must retain a description of the SWMP required by this permit (including a copy of the permit language) at a location accessible to the EPA. The permittee must make records, including the application and the description of the SWMP, available to the public if requested to do so in writing.

#### 3.3. Annual Reports.

The permittee must submit an annual report to EPA for each year of the permit term. The first report is due April 1, 2011, and must cover the activities during the period beginning on the effective date of the permit through December 31, 2010. Each subsequent annual report is due on April 1 of each year following 2009 for the remainder of the permit term. Reports must be signed in accordance with the signatory requirements in Part 4.7. Reports may be posted on the EPA Region 8 web site. Therefore, parts of the annual report which cannot be publicly available should be marked as "confidential" or "for official use only." Reports must be submitted to EPA at the following address:

Stormwater Coordinator (8P-W-WW)  
Small MS4 Annual Report  
US EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129



#### 4. STANDARD PERMIT CONDITIONS

- 4.1. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
- 4.1.1. *Criminal Violations*.
- 4.1.1.1. *Negligent Violations*. The CWA provides that any person who *negligently* violates permit conditions implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both. In the case of a second, or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both.
- 4.1.1.2. *Knowing Violations*. The CWA provides that any person who *knowingly* violates permit conditions implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. In the case of a second, or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or by imprisonment of not more than 6 years, or both.
- 4.1.1.3. *Knowing Endangerment*. The CWA provides that any person who *knowingly* violates permit conditions implementing section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction be subject to a fine not more than \$250,000 or by imprisonment for not more than 15 years, or both. In the case of a second, or subsequent conviction for a knowing endangerment violation, a person shall be subject to criminal penalties of not more than \$500,000 per day of violation, or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- 4.1.1.4. *False Statement*. The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both. (See section 309(c)(4) of the Clean Water Act).
- 4.1.2. *Civil Penalties*. The CWA provides that any person who violates a permit condition implementing section 301, 302, 306, 307, 308, 318, or 405 of the Act or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act is subject to a civil penalty not to exceed \$37,500 per day for each violation.

- 4.1.3 *Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing section 301, 302, 306, 307, 308, 318, or 405 of the Act or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act is subject to an administrative penalty as follows:
- 4.1.3.1. *Class I penalty.* Not to exceed \$16,000 per violation nor shall the maximum amount exceed \$37,500.
- 4.1.3.2. *Class II penalty.* Not to exceed \$16,000 per day for each day during which violation continues nor shall the maximum amount exceed \$177,500.
- 4.2. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.
- 4.3. Need to Halt or Reduce Activity Not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- 4.4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.
- 4.5. Duty to Provide Information. The permittee shall furnish to the EPA, within a reasonable time, any information which the EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the EPA, upon request, copies of records required to be kept by this permit.
- 4.6. Other Information. If the permittee becomes aware that the permittee has failed to submit any relevant facts in the Notice of Intent or submitted incorrect information in the Notice of Intent, or in any other report to the EPA, the permittee must promptly submit such facts or information.
- 4.7. Signatory Requirements. All Notices of Intent, Notices of Termination, reports, certifications, or information submitted to the EPA, or that this permit requires be maintained by the permittee, shall be signed and certified as follows:
- 4.7.1. *Notices of Intent.* All Notices of Intent/Termination shall be signed by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- 4.7.2. *Reports and other information.* All reports required by the permit and other information requested by the EPA or authorized representative of the EPA shall be signed by a person described in Part 5.7.1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 4.7.2.1. The authorization is made in writing by a person described in Part 5.7.1 and submitted to the EPA; and

- 4.7.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility for environmental matter for the regulated entity.
- 4.7.3. *Changes to authorization.* If an authorization under Part 4.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the MS4, a new authorization satisfying the requirements of Part 5.7.2 must be submitted to the EPA prior to or together with any reports, information, or notices of intent to be signed by an authorized representative.
- 4.7.4. *Certification.* Any person signing a document under Parts 4.7.1 or 4.7.2 shall make the following certification:
- “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 gathered and evaluated 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 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.”
- 4.8. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations
- 4.9. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the conditions of the permittee’s storm water management program. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- 4.10. Inspection and Entry. The permittee shall allow the Regional Administrator or State working on EPA’s behalf pursuant to a resource sharing agreement with EPA to inspect the installation, or authorized representative (including an authorized contractor acting as a representative of the Administrator) upon presentation of credentials and other documents as may be required by law, to:
- 4.10.1. Enter upon the permittee’s premises where a regulated activity is located or conducted or where records must be kept under the conditions of this permit;
- 4.10.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 4.10.3. Inspect at reasonable times, any facilities or equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and
- 4.10.4. Sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.
- 4.11. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

- 4.12. Permit. This permit is not transferable to any person except after notice to the EPA. The EPA may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.
- 4.13. Anticipated Noncompliance. The permittee shall give advance notice to the EPA of any planned changes in the permitted small MS4 or activity which may result in noncompliance with permit conditions.
- 4.14. State/Tribal Environmental Laws.
- 4.14.1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Tribal law or regulation under authority preserved by section 510 of the Act.
- 4.14.2. No condition of this permit releases the permittee from any responsibility or requirements under other environmental statutes or regulations.
- 4.15. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- 4.16. Procedures for Modification or Revocation. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

## 5. DEFINITIONS

All definitions contained in Section 502 of the Act and 40 CFR 122 shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided but, in the event of a conflict, the definition found in the Statute or Regulation takes precedence.

- 5.1. *Best Management Practices (BMPs)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- 5.2. *Control Measure* as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the United States.
- 5.3. *CWA or The Act* means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.
- 5.4. *Discharge*, when used without a qualifier, refers to “discharge of a pollutant” as defined at 40 CFR 122.2.
- 5.5. *Discharge-related Activities* include: activities which cause, contribute to, or result in storm water point source pollutant discharges and measures to control storm water discharges, including the siting, construction, and operation of best management practices to control, reduce or prevent storm water pollution.
- 5.6. *EPA* means the EPA Regional Administrator or an authorized representative.



- 5.7. *Measurable Goal* means a quantitative measure of progress in implementing a component of a storm water management program.
- 5.8. *MS4* means "municipal separate storm sewer system" and is used to refer to either a Large, Medium, or Small Municipal Separate Storm Sewer System. The term, as used within the context of this permit, refers to small MS4s (see definition below) and includes systems operated by a variety of public entities (e.g., military facilities, prisons, and systems operated by other levels of government).
- 5.9. *Municipal Separate Storm Sewer* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.
- 5.10. *NOT* means Notice of Termination to be covered under EPA's Construction General Permit.
- 5.11. *Outfall* means a point source (defined below) at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels, or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States.
- 5.12. *Point Source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
- 5.13. *Small Municipal Separate Storm Sewer System* is defined at 40 CFR 122.26(b)(16) and refers to all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States, but is not defined as "large" or "medium" municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas such as individual buildings.
- 5.14. *Stormwater* is defined at 40 CFR 122.26(b)(13) and means storm water runoff, snow melt runoff, and surface runoff and drainage.
- 5.15. *Storm Water Management Plan (SWMP)* refers to a comprehensive program to manage the quality of storm water discharged from the municipal separate storm sewer system.