COLORADO
Water Quality Control Division
Department of Public Health & Environment

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

January 10, 2019

P David Pretzler, Registered Agent
Prowers Aggregate Operators, LLC
7991 Shaffer Parkway, Suite 200
Littleton, CO 80127

Certified Mail Number: 7015 0640 0005 0389 5298

RE: Service of Notice of Violation / Cease and Desist Order, Number: IO-190110-1

Dear Mr. Pretzler:

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

Pursuant to § 25-8-603, C.R.S., Prowers Aggregate Operators, LLC is required, within 30 calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to § 25-8-608, C.R.S., to impose a penalty of up to $10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.

Should you or representatives of Prowers Aggregate Operators, LLC desire to discuss this matter informally with the Division, or if you have questions regarding the NOV/CDO, please do not hesitate to contact me at (303) 692-6498 or andrea.beebout@state.co.us.

Sincerely,

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

Enclosure(s)

cc: Enforcement File

ec: Michael Boeglin, EPA Region 8
Seth Odett, Prowers County Public Health and Environment
Aimee Konowal, Watershed Section, CDPHE
Nathan Moore, Compliance & Enforcement Section, CDPHE
Bradley Monson, Grants and Loans Unit, CDPHE

Amy Zimmerman, Engineering Section, CDPHE
Heather Drissel, Field Services Section, CDPHE
Erin Scott, Permits Section, CDPHE
Kelly Morgan, Clean Water Enforcement Unit, CDPHE
Tania Watson, Data Management Workgroup, CDPHE
Maura McGovern, Clean Water Compliance Unit, CDPHE
Joseph Campbell, Clean Water Compliance Unit, CDPHE
Amy Eschberger, Division of Reclamation, Mining, and Safety, DNR
Jim Ramsay, Colorado Parks and Wildlife, DNR

COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER
NUMBER: IO-190110-1

IN THE MATTER OF: PROWERS AGGREGATE OPERATORS, LLC
CDPS GENERAL PERMIT NO. COG500000
CERTIFICATION NO. COG501574
and UNPERMITTED
PROWERS COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's ("Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division ("Division"), and pursuant to §§25-8-602 and 25-8-605, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order ("Order"):

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the alleged violations identified herein, Prowers Aggregate Operators, LLC ("Prowers Aggregate") was a Colorado limited liability company in good standing and registered to conduct business in the State of Colorado.

2. Prowers Aggregate is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

3. On June 30, 2016, the Division received an application from Prowers Aggregate for Colorado Discharge Permit System ("CDPS") coverage for process water and stormwater discharges from sand and gravel mining and processing at the West Farm Pit located at or near 38.096 N, -102.586 W, near the City of Lamar, Prowers County, Colorado ("Facility").

4. During times relevant to the violations cited herein, the Facility is subject to CDPS General Permit, Number COG500000 for Sand and Gravel Mining and Processing ("Permit"). The current version of the Permit was issued on October 13, 2016, became effective on January 1, 2017, and is set to expire on December 31, 2021.

5. On July 11, 2016, the Division provided Prowers Aggregate with Certification Number COG501574, authorizing Prowers Aggregate to discharge dewatering discharges associated with sand and gravel mining at the Facility through outfall 001A (discharge from dewatering pump to farm ditch to the Arkansas River) and to discharge stormwater discharges associated with sand and gravel mining and

processing at the Facility through outfall 002A (stormwater discharge from sediment logs near CR HH 8/10 to the Arkansas River) under the terms and conditions of the Permit ("Certification"). The Certification was renewed and reissued under the Permit on December 22, 2016. The current version of the Certification became effective on January 1, 2017 and remains in effect until Permit expiration or until Prowers Aggregate inactivates Permit coverage.

6. Pursuant to 5 CCR 1002-61, §61.8, Prowers Aggregate must comply with all terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

7. On June 15, 2018, a representative from the Division ("Inspector") conducted an on-site inspection of the Facility pursuant to the Division's authority under §25-8-306, C.R.S. to determine Prowers Aggregate's compliance with the Water Quality Control Act and its implementing regulations, the Permit, and the Certification ("Inspection"). During the Inspection, the Inspector interviewed Project representatives, reviewed the stormwater management plan and discharge records, reviewed process water discharge logs and Discharge Monitoring Reports ("DMRs"), and performed a physical inspection of the Facility.

Unauthorized Discharge / Unauthorized Discharge Location

8. Pursuant to §25-8-501(1), C.R.S. and 5 CCR 1002-61, §61.3(1)(a), no person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit.

9. Pursuant to Part I.C.2.a.ix. of the Permit, Prowers Aggregate must eliminate non-stormwater discharges not authorized by the Permit, the Certification, or any other CDPS permit.

10. According to the Certification, outfall 001A is located at approximately 38.102489 N, -102.581011 W. Outfall 001A discharges to a farm ditch on the northern side of the Facility, which eventually discharges to the Arkansas River.

11. According to the Certification, outfall 002A is located at approximately 38.096614 N, -102.581383 W. Outfall 002A discharges from sediment logs near CR HH 8/10.

12. During the Inspection, the Inspector observed activities associated with pit dewatering at the Facility at approximately 38.099671 N, -102.576716 W, at the end of a dewatering pump pipe, which discharges to a farm ditch on the eastern perimeter of the Facility, eventually discharging to the Arkansas River. During the Inspection, representatives of Prowers Aggregated confirmed that sampling and analytical data for effluent discharged at this location was reported on DMRs for Outfall 001A.

13. On June 12, 2017, satellite imagery (Google Earth, See Attachment A) of the Facility shows an unauthorized discharge of sediment laden wastewater from a pond/impoundment in the western portion of the Facility into a stormwater drainage swale/roadside ditch ("Roadside Ditch"), which discharges directly to the Arkansas River.

14. On June 8, 2018, the Division received a complaint and photographs from the Colorado Department of Natural Resources ("DNR") alleging a discharge of sediment-laden waters to the Arkansas River from the Facility. DNR's complaint included photographs of the Arkansas River, upgradient and downgradient of the Facility, as documented in Attachment B.

15. During the Inspection, a representative of Prowers Aggregate informed the Inspector that, at some point in 2018, following a breach of the sediment ponds used by Prowers Aggregate to recycle wash water, there was an unauthorized discharge of process water and sediment, and potentially some stormwater, into the Roadside Ditch and eventually the Arkansas River.

16. During the Inspection, the Inspector observed process wastewater within the Roadside Ditch. The Inspector observed several large deposits of sediment within the Roadside Ditch, indicating the discharge of process water occurred or had been occurring more frequently than the one occasion acknowledged by representatives of Prowers Aggregate during the Inspection. The Inspector observed sediment deposits within the Roadside Ditch up to the point where the Roadside Ditch discharges into the Arkansas River, sediment deposition within the riparian zone of the Arkansas River, as well as sediment staining on vegetation at the point where the Roadside Ditch discharges into the Arkansas River. The Roadside Ditch was not actively discharging to the Arkansas River at the time of the Inspection, however the Inspector observed conditions indicating that an unauthorized discharge had occurred and that, in the event of additional process water discharges to the Roadside Ditch and/or a rain event, additional unauthorized discharges to the Arkansas River would likely occur.

17. The Roadside Ditch referenced in paragraphs 13, 15 and 16 discharges to the Arkansas River at approximately 38.105862 N, -102.584642 W, a point that is not authorized by the Certification or the Permit.

18. The Arkansas River is "state waters" as defined by §25-8-103(19), C.R.S., and its implementing permit regulation 5 CCR 1002-61, §61.2(102).

19. The dewatering pump pipe, as it relates to the discharge events described in paragraph 12 above is a "point source" as defined by §25-8-103(14) C.R.S., and its implementing permit regulation, 5 CCR 1002-61, §61.2(75).

20. The Roadside Ditch, as it relates to the discharge events described in paragraphs 13, 15, and 16 above, is a "point source" as defined by §25-8-103(14) C.R.S., and its implementing permit regulation, 5 CCR 1002-61, §61.2(75).

21. Prowers Aggregate's discharge of process water and/or stormwater containing sediment and potentially additional pollutants into the Arkansas River constitutes a "discharge of pollutants" as defined by §25-8-103(3).

22. Prowers Aggregate has never had a permit and/or permit certification authorizing the discharge(s) of pollutants from the Roadside Ditch, as described in paragraphs 13, 14, 15, or the dewatering pump pipe to the Arkansas River, as described in paragraph 12.

23. Prowers Aggregate's discharge(s) of pollutants into the Arkansas River, as described in paragraphs 12 through 16 of this Order, constitutes an unauthorized discharge(s) of pollutants from a point source into state waters, in violation of §25-8-501(1), C.R.S., 5 CCR 1002-61, §61.3(1)(a), and I.C.2.a.ix. of the Permit.

Failure to Properly Monitor / Failure to Use Required Analytical Method

24. Pursuant to Part I.C. of the Permit and the Certification, Prowers Aggregate is required to monitor effluent discharged at Outfall 001A at the following specified frequencies:

PROWERS AGGREGATE REQUIRED MONITORING FREQUENCY - OUTFALL 001A	
Parameter	**Monitoring Frequency**
Flow	Continuous[1] / Instantaneous Monthly[1]
pH	2x/month
Total Suspended Solids	2x/month
Oil and Grease Visual	2x/month
Oil and Grease	Contingent[2]
Total Flow[3]	Continuous[1]/Instantaneous Monthly[1]
Electrical Conductivity	Quarterly
Dissolved Manganese	2x/month
Potentially Dissolved Selenium	2x/month
Total Recoverable Uranium	2x/month

1: Flow - If power is not available, flow may be measured on an instantaneous basis.
2: Oil and Grease - A visual observation of the discharge for each permitted outfall must be made 2 times per month. In the event an oil sheen or floating oil is observed, a grab sample shall be collected, analyzed, and reported on the DMR. In addition, corrective action shall be taken immediately to mitigate the discharge of oil.
3: Total Flow - Total Flow is the cumulative flow of the discharge for the quarter in million gallons. If continuous flow monitoring is not conducted, the permittee must calculate the total flow for the month or quarter using the 30-day average flow (measured) and the number of days the facility discharged within the month or quarter.

25. Pursuant to Part I.F.1. of the Permit, Prowers Aggregate is required to summarize and report the analytical results of its effluent monitoring to the Division via quarterly DMRs. The Permit specifies that the DMRs shall be filled out accurately and completely in accordance with the requirements of the Permit. Prowers Aggregate is required to ensure the DMRs are received by the Division no later than the 28th day of the month following the reporting period. The Permit specifies that if no discharge occurs during the reporting period, "No Discharge" shall be reported on the DMR.

26. Pursuant to Part I.E.4. of the Permit, Prowers Aggregate is required to install, calibrate, use and maintain monitoring methods and equipment in accordance with specified methods in 40 C.F.R. Part 136; methods approved by EPA pursuant to 40 C.F.R. 136; or methods approved by the Division in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136.

27. During the Inspection, the Inspector reviewed Prowers Aggregate's sampling and monitoring records from January 1, 2017 through March 31, 2018 and found them to be inadequate. Specifically, effluent samples for flow, total suspended solids, oil and grease, dissolved manganese, potentially dissolved selenium, and total recoverable uranium were only being collected one time per quarter.

28. Division records establish Prowers Aggregate failed to submit DMRs to the Division by the 28th day of the month following the end of the reporting periods identified in the table below:

PROWERS AGGREGATE LATE DISCHARGE MONITORING REPORTS			
DMR REPORTING PERIOD	OUTFALL NUMBER(S)	DMR DUE DATE	DMR RECEIPT DATE
4th Quarter 2016 (10/1/2016–12/31/2016)	001A, 002A	1/28/2017	2/10/2017
1st Quarter 2017 (1/1/2017–3/31/2017)	001A, 002A	4/28/2017	5/10/2017
2nd Quarter 2017 (4/1/2017–6/30/2017)	001A, 002A	7/28/2017	8/8/2017
3rd Quarter 2017 (7/1/2017–9/30/2017)	001A, 002A	10/28/2017	11/13/2017
4th Quarter 2017 (10/1/2017–12/31/2017)	001A, 002A	1/28/2018	2/12/2018

29. During the Inspection, the Inspector reviewed Prowers Aggregate's sampling methods and found them to be inadequate. Specifically, a representative of Prowers Aggregate confirmed that pH is being analyzed at the laboratory and that the pH analysis is conducted more than 15 minutes after sample collection, which is outside the acceptable holding time.

30. Prowers Aggregate's failure to submit DMRs to the Division so that they are received by no later than the 28th day of the month following the end of the reporting period constitutes violations of Part I.F.1. of the Permit.

31. Prowers Aggregate's failure to properly monitor and analyze its effluent at outfall 001A, constitutes violations of Parts I.C. and I.E.4. of the Permit.

Failure to Perform Visual Monitoring

32. Pursuant to Part I.I.1. of the Permit and the Certification, once each quarter for the entire permit term, Prowers Aggregate is required to collect a stormwater sample from outfall 002A and conduct a visual assessment of each of the samples. Prowers Aggregate must document the visual assessment results and maintain the documentation onsite with the Facility SWMP.

33. During the Inspection, representatives of the Prowers Aggregate informed the Inspector that no stormwater discharges had occurred at outfall 002A since January 1, 2017 and, therefore, stormwater visual monitoring had not been conducted at the Facility.

34. Division records indicate that sampling data was reported on DMRs for outfall 002A for the 1st Quarter 2017 and 2nd Quarter 2017 monitoring periods, indicating a stormwater discharge from the Facility had occurred.

35. Prowers Aggregate's failure to perform and document visual monitoring of stormwater discharge(s) from the Facility constitutes violations of Part I.I.1. of the Permit.

Failure to Comply with Permit Effluent Limitations

36. Pursuant to Part I.C.1. of the Permit and the Certification, Prowers Aggregate's permitted discharge at Outfall 001A shall not exceed, among others not subject of this action, the following effluent discharge limitations specified below:

PROWERS AGGREGATE EFFLUENT DISCHARGE LIMITATIONS - OUTFALL 001A			
Parameter	Units	Discharge Limitations	
		30-Day Average	7-Day Average
Total Suspended Solids	mg/L	30	45

37. Pursuant to Part I.C. of the Permit and the Certification, Prowers Aggregate is required to monitor defined effluent parameters at specified frequencies to provide an indication of compliance or non-compliance with the effluent limitations of the Permit and the Certification.

38. Pursuant to Part I.F.1. of the Permit, Prowers Aggregate is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly DMRs. Each DMR shall include a certification by Prowers Aggregate that the information provided therein is true, accurate, and complete to the knowledge and belief of Prowers Aggregate.

39. Prowers Aggregate's DMRs include, among other information and data, the following effluent concentration data, which exceeded the effluent limitations in Part I.C.1. of the Permit and the Certification:

PROWERS AGGREGATE EFFLUENT SELF-MONITORING DATA		
DISCHARGE MONITORING REPORTING PERIOD	SAMPLE MEASUREMENTS FOR OUTALL 001A	
Total Suspended Solids	30-DAY AVERAGE LIMIT = 30mg/L	7-DAY AVERAGE LIMIT = 45mg/L
2nd Quarter 2017 (4/1/2017—6/30/2017)	58.7	58.7
3rd Quarter 2017 (7/1/2017—9/30/2017)	44	--
1st Quarter 2018 (1/1/2018—3/31/2018)	80.8	80.8
2nd Quarter 2018 (4/1/2018—6/30/2018)	40.5	--

40. Total suspended solids is a "pollutant", as defined by §25-8-103, C.R.S. and its implementing permit regulation 5 CCR 1002-61, §61.2(76).

41. The Permit and the Certification do not authorize the pollutant levels identified above in paragraph 39. Division records establish that Prowers Aggregate does not have any other permit authorizing such discharges to State Waters.

42. Prowers Aggregate's failure to comply with the effluent limitations constitutes violations of Part I.C.1. of the Permit and the Certification.

Failure to Comply with Permit Reporting Requirement / Failure to Properly Notify Division of Discharge

43. Pursuant to §25-8-601(2) C.R.S., any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state contrary to the provision of this article, as soon as he has knowledge thereof, shall notify the Division of such discharge.

44. Pursuant to Part II.A.3. of the Permit, Prowers Aggregate is required to report circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident orally within 24 hours from the time the permittee becomes aware of the circumstances and shall mail to the Division a written report within five days of the incident.

45. Department and Division records establish Prowers Aggregate failed to notify the Division of the unpermitted discharge(s) to state waters described in paragraphs 13, 14, and 15 above, within 24 hours of becoming aware of the incident(s).

46. Prowers Aggregate's failure to notify the Division of the discharge(s) to state waters constitutes violations of §25-8-601(2) C.R.S. and Part II.A.3. of the Permit.

Deficient Facility Inspections and Records

47. Pursuant to Part I.J.1. of the Permit, Prowers Aggregate is required to conduct and document quarterly inspections of the Facility.

48. Pursuant to Part I.J.2. of the Permit, each of Prowers Aggregate's Facility inspections shall include, among others not subject to this action, the following:

    a. Observations of the presence of illicit discharges or other non-permitted discharges.
    b. An assessment of all control measures used to comply with the effluent limits contained in this permit, noting all of the following:
        i. Effectiveness of control measures inspected;
        ii. Locations of control measures that need repair;
        iii. Reason maintenance or repair is needed and a schedule for maintenance or repair;
        iv. Locations where additional or different control measures are needed and the rationale for the additional or different control measures.

49. Pursuant to Part I.J.3. of the Permit, Prowers Aggregate is required to document the findings for each inspection in an inspection report or checklist. Prowers Aggregate is required to ensure each inspection report documents the observations, verifications and assessments required by Part I.J.2. of the Permit and to include, among others not subject to this action, the following:

    a. The inspection date and time;
    b. Locations inspected;
    c. Weather information and a description of any discharges occurring at the time of inspection;
    d. A statement that, in the judgment of 1) the person conducting the Facility inspection, and 2) the person described in Part I.F.4. of the Permit, the Facility is either in compliance or out of compliance with the terms and conditions of the Permit, with respect to Part I.J.2. of the Permit.
    e. A summary report and schedule of implementation of the corrective actions that Prowers

Aggregate has taken or plans to take if the Facility inspection indicates that the Facility is out of compliance.

50. Pursuant to Part I.K.1. of the Permit, if any of the following conditions occur at the Facility, Prowers Aggregate must review and revise the selection, design, installation, and implementation of Facility control measures to ensure that the condition is eliminated and will not be repeated in the future:

    a. An unauthorized release or discharge (e.g. spill, leak, or discharge of non-stormwater not authorized by the Permit) occurs;
    b. Facility control measures are not stringent enough for the discharge to meet applicable water quality standards;
    c. Modifications to the Facility control measures are necessary to meet the practice-based effluent limits in the Permit; or
    d. Prowers Aggregate finds in a Facility inspection that the Facility control measures are not properly selected, designed, installed, operated, or maintained.

51. Pursuant to Part I.K.2. of the Permit, if any of the following conditions occur, Prowers Aggregate must review the selection, design, installation, and implementation of Facility control measures to determine the appropriate modifications necessary to attain the effluent limits in the Permit:

    a. Construction or change in design, operation, or maintenance at the Facility significantly changes the nature of pollutants discharged into stormwater from the facility, or significantly increased the quantity of pollutants discharged; or
    b. The average of quarterly sampling results exceeds an applicable benchmark.

52. During the Inspection, the Inspector reviewed Prowers Aggregate's inspection records from January 15, 2018 and June 1, 2018 and identified the following deficiencies:

    a. The inspection records did not include the inspection time, weather information, or a statement of whether or not the Facility was in compliance.

    b. The inspection form listed specific control measures, some of which were not implemented at the Facility at the time of inspection. Additionally, the inspection form did not include all control measures implemented at the Facility at the time of inspection.

    c. The inspection records did not include observations related to illicit discharges of process water into the Roadside Ditch (refer to paragraphs 13, 14, and 15) or the buildup of sediment within the roadside ditch observed by the Inspector (refer to paragraph 16).

53. During the Inspection, Prowers Aggregate had no record of corrective action reports, despite the Facility's inspection records identifying maintenance activities were required.

54. Prowers Aggregate's failure to generate complete and accurate inspection reports, as outlined in paragraph 52 above, constitutes violations of Parts I.J.2. and I.J.3. of the Permit.

55. Prowers Aggregate's failure to generate or maintain corrective action reports, as outlined in paragraph 53 above, constitutes a violation of Part I.K.3. of the Permit.

Deficient and/or Incomplete Stormwater Management Plan

56. Pursuant to Part I.L. of the Permit, following Permit reissuance, Prowers Aggregate was required to update the existing Facility SWMP to comply with the Permit within 180-days of the Certification effective date.

57. Pursuant to Part I.L.1. of the Permit, Prowers Aggregate is required to develop, implement, and maintain a SWMP for the Facility. The SWMP shall be prepared in accordance with good engineering, hydrologic, and pollution control practices. Prowers Aggregate must modify the SWMP to reflect current site conditions.

58. Pursuant to Part I.L.2. of the Permit, Prowers Aggregate is required to complete a SWMP prior to submitting the Permit application for authorization to discharge. Prowers Aggregate must implement the SWMP when the Facility begins industrial activities, which includes the installation of control measures.

59. Pursuant to Part I.M.2. of the Permit, Prowers Aggregate's Facility description associated with the SWMP must include, among others not subject of this action, the following:

    a. The general layout of the Facility including mining areas, re-vegetated areas, buildings, raw material storage areas, and the flow of goods and materials through the Facility.

60. Pursuant to Part I.M.3. of the Permit, Prowers Aggregate's Facility map(s) associated with the SWMP shall include, among others not subject of this action, the following:

    a. The locations of all facility stormwater conveyances including ditches, pipes, and swales.
    b. The locations of stormwater inlets and outfalls, with a unique identification code for each outfall and indicating whether one or more outfalls are "substantially identical" under Part I.H. of the Permit; and an approximate outline of the areas draining to each outfall.
    c. The directions of stormwater flow, indicated by arrows.
    d. The areas where mining and processing activities are currently or have previously been conducted, where such activities are exposed to precipitation. This includes all areas of soil disturbance and reclamation/re-vegetation.
    e. The locations of all actual or potential pollutant sources (including sediment) associated with mining and processing activities, including but not limited to those identified in the Facility Inventory and Assessment of Pollutant Sources and the following:

        i. Vehicle fueling areas;
        ii. Fertilizer or chemical storage areas;
        iii. Areas used for storage or disposal of overburden, materials, soils, or wastes;
        iv. Areas used for mineral milling and processing;
        v. All access and haul roads, and;
        vi. All asphalt or concrete batch plants, or areas used for recycling or asphalt or concrete.

    f. The location of all structural and applicable non-structural control measures used to meet the effluent limits required by the Permit.
    g. The locations where significant spills or leaks identified under Part I.L.4.b. of the Permit have occurred.
    h. The locations of all stormwater monitoring points applicable to the Facility (visual monitoring, benchmark monitoring, water quality-based monitoring).

i. The date the Facility site map was prepared and/or amended.

61. Pursuant to Part I.M.4. of the Permit, Prowers Aggregate's Facility inventory and assessment of pollutant sources associated with the SWMP shall include, among others not subject of this action, the following:

a. Inventory of Facility activities and equipment - The inventory shall identify all areas (except interior areas that are not exposed to precipitation) associated with industrial activities that have been, or may potentially be, sources of pollutants that contribute, or have the potential to contribute, any pollutants to stormwater, including but not limited to the following:

i. Loading and unloading of materials, including solids and liquids;
ii. Outdoor storage of materials or products, including solids and liquids;
iii. Outdoor manufacturing and processing;
iv. On-site dust or particulate generating processes, including dust collection devices and vents;
v. On-site waste treatment, storage, or disposal, including waste ponds and solid waste management units;
vi. Vehicle and equipment fueling, maintenance and/or cleaning (includes washing);
vii. Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by-products used or created by the Facility;
viii. Roofs or other surfaces exposed to air emissions from a manufacturing building or process area;
ix. Roofs and associated surfaces composed of galvanized materials that may be mobilized by stormwater (e.g. roofs, ducts, heating/air conditioning equipment, gutters, and downspouts).

b. Inventory of materials - The inventory of materials shall list materials that contribute, or have the potential to contribute, pollutants to stormwater, including but not limited to the following:

i. The types of materials handled at the facility that may be exposed to precipitation or runoff and could result in stormwater pollution.
ii. The types of materials handled at the facility that may leak or spill, and be exposed to precipitation or runoff and result in stormwater pollution.
iii. A narrative description of any potential sources of pollutants from past activities, materials and spills that could contribute pollutants to stormwater discharges, and the corresponding outfall(s) that would be affected by such spills and leaks. The description shall include the method and location of any on-site storage or disposal; and documentation of all significant spills and leaks of oil or toxic or hazardous pollutants that occurred at exposed areas, or that drained to a stormwater conveyance, in the 3 years prior to the SWMP preparation date.

c. Assessment of potential pollutant sources - The assessment of potential pollutant sources shall provide a short narrative or tabulation describing the potential of a pollutant to be present in stormwater discharges for each facility activity, equipment and material identified above. The permittee shall update this narrative when data become available to verify the presence or absence of these pollutants. Potential pollutant sources include:

i. Loading and unloading operations;
ii. Outdoor storage of chemicals or equipment;
iii. Crushing facilities or significant dust and particulate generating activities;
iv. On site waste disposal practices;
v. Stockpiles of overburden, raw material, intermediate products, byproducts, finished products or waste products;
vi. Asphalt or concrete batch plants or areas used for recycling of asphalt or concrete;
vii. Routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, oils, etc.;
viii. Haul roads, and;
ix. Disturbed and re-vegetated areas.

62. Pursuant to Part I.M.5. of the Permit, Prowers Aggregate shall document the location, installation date, type, and implementation specifications of each non-structural and structural control measure implemented at the Facility. Documentation must include those control measures implemented for stormwater run-on that commingles with any discharges covered under the Permit. The implementation specifications must be retained with the SWMP.

63. Pursuant to Part I.M.6. of the Permit, Prowers Aggregate is required to document the schedules, procedures, and evaluation results for the following subset of practice-based effluent limitations:

a. Good housekeeping - A schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks, and containers.
b. Maintenance - Preventative maintenance schedules for industrial equipment and systems, control measures, and any back-up practices in place should a runoff event occur while a control measure is offline.
c. Spill Prevention and Response Procedures - Procedures for preventing, responding to, and reporting spills and leaks. The permittee may reference other plans (e.g. a Spill Prevention Control and Countermeasure plan) otherwise required by a permit for the Facility, provided that a copy of the other plan is kept onsite with the SWMP, and made available for review.
d. Employee Training - A schedule for all types of training required by the Permit, content of the training, and log of the dates on which specific employees received training.
e. Non-Stormwater Discharges - Documentation of the stormwater conveyance system evaluation for the presence of non-stormwater discharges not authorized by the Permit, or any other Permit, and elimination of all unauthorized discharges. Documentation must include the following:

i. The date of any evaluation;
ii. A description of the evaluation criteria used;
iii. A list of the outfalls or onsite drainage points that were directly observed during the evaluation;
iv. The different types of non-stormwater discharge(s) and source locations, and;
v. The action(s) taken, such as a list of control measures used to eliminate unauthorized discharge(s), if any were identified.

64. Pursuant to Part I.M.8. of the Permit, Prowers Aggregate is required to document monitoring procedures for Benchmark Monitoring, Water Quality Standards monitoring, and additional monitoring as required by the Permit. For each type of monitoring, Prowers Aggregate's procedures must identify the following:

a. Locations where samples are collected, and outfall identification by its unique identifying

number;
b. Staff responsible for conducting stormwater sampling;
c. Procedures for sample collection and handling, including any deviations from sampling within the first 30 minutes of a measureable storm event;
d. For any parameters requiring analysis, the name of the parameter, the holding times and preservatives, the analytical methods used, and the laboratory quantitation levels;
e. Procedures for sending samples to a laboratory, as applicable;
f. Monitoring schedules, including any deviations from the monitoring schedule for alternate monitoring periods for climates with irregular stormwater runoff;
g. The numeric control values (benchmarks, TMDL-related requirements, or other requirements) applicable to discharges from each outfall.

65. Pursuant to Part I.M.8.d., if Prowers Aggregate invokes the Monitoring Exceptions for Inactive and Unstaffed Sites and for Completed and Finally Stabilized Areas, must include in the SWMP the signed and certified documentation to support this claim.

66. Pursuant to Part I.M.8.e., if Prowers Aggregate uses the substantially identical outfall monitoring exemption, Prowers Aggregate must document the following in the SWMP:

a. Location of each of the substantially identical outfalls, and the outfall sampled;
b. Description of the general industrial activities conducted in the drainage area of each outfall;
c. Description of the control measures implemented in the drainage area of each outfall;
d. Description of the exposed materials located in the drainage area of each outfall that are likely to be significant contributors of pollutants to stormwater discharges;
e. Impervious surfaces in the drainage area that could affect the percolation of stormwater runoff into the ground (e.g. asphalt, crushed rock, grass, etc.);
f. Why Prowers Aggregate expects the outfalls to discharge substantially identical effluents.

67. During the Inspection, the Inspector reviewed Prowers Aggregate's Facility SWMP and identified the following deficiencies, as described in paragraphs 67 (a-h) below:

a. The SWMP was dated April 2014 and had not been updated as required by the Permit.

b. The Facility description did not include the general layout of the Facility, including mining areas, re-vegetated areas, buildings, raw material storage areas, and the flow of goods and materials through the Facility.

c. The Facility map included with the SWMP did not identify the following required items:

i. The locations of all Facility stormwater conveyances including ditches, pipes and swales;
ii. The locations of stormwater inlets and outfalls, including the identification code for each outfall (e.g. Outfall 001A) and including identification of substantially identical outfalls;
iii. The directions of stormwater flow, indicated by arrows;
iv. The areas where mining and processing activities are currently or have previously been conducted, including all areas of soil disturbance and reclamation/re-vegetation;
v. The locations of all actual or potential pollutant sources;
vi. The location of all structural and applicable non-structural control measures used to

meet the effluent limits required by the Permit;
vii. The location(s) where significant spills or leaks have occurred;
viii. The location(s) of Outfall 002A;
ix. The date that the Facility site map was prepared and/or maintained.

d. The inventory and assessment of pollutant sources included with the SWMP was deficient. Specifically, the SWMP narrative included a general description of activities and associated potential pollutant sources, but did not include the potential for a pollutant to be present in stormwater discharge for all activities, equipment, and materials, such as, but not limited to, the wash plant, fuel tanks, stockpiles, and fuel tank identified at the Facility during the Inspection.

e. The SWMP did not include the location, installation date, and type of each nonstructural and structural control measure implemented at the Facility to meet the effluent limitations in the Permit and the Certification. Specifically, the SWMP only discussed the use of sediment basins and sediment control logs, however the sediment basins were not used as a structural control measure for stormwater and sediment control logs were not implemented at the Facility at the time of Inspection. In addition, the inspector observed earthen dikes, swales, and temporary stream crossings, however these control measures were not included in the narrative of the SWMP.

f. The SWMP did not include installation and implementation specifications for each control measure implemented at the Facility. Specifically, the SWMP did not include specifications for earthen dikes, swales, and temporary stream crossings observed by the Inspector.

g. The SWMP did not include all required schedules, procedures, and evaluation results. Specifically, the SWMP did not include the following:

i. Preventative maintenance schedules for industrial equipment and systems, control measures, and any back-up practices in place should a runoff event occur while a control measure is offline;
ii. Spill prevention and response procedures, including procedures for preventing, responding to, and reporting spills and leaks;
iii. A schedule for all types of training required by the Permit, the content of the training, and a log of the dates on which specific employees received training;
iv. Documentation of the stormwater conveyance system evaluation for the presence of non-stormwater discharges not authorized by the Permit or the Certification and the elimination of all discharges.

h. The SWMP did not include the following procedures for performing monitoring activities:

i. Locations where samples are collected, and outfall identification;
ii. Staff responsible for conducting stormwater sampling;
iii. Procedures for sample collection and handling, including any deviations from sampling within the first 30 minutes of a measurable storm event;
iv. The name of the parameter, the holding times, preservatives, the analytical methods used, and the laboratory quantitation levels;
v. Procedures for sending samples to a laboratory;
vi. Monitoring schedules, including any deviations from the monitoring schedule;
vii. The numeric control values applicable to discharges;
viii. Signed and certified documentation to support claims of monitoring exceptions for

inactive and unstaffed sites or for completed and finally stabilized areas; and,

ix. Documentation for substantially identical outfall monitoring exceptions.

68. Prowers Aggregate's failure to prepare and maintain a complete and accurate SWMP, as described in paragraph 67 above, constitutes violations of Parts I.L., I.L.1., I.L.2., I.M.2., I.M.3., I.M.4., I.M.5., I.M.6., and I.M.8. of the Permit.

Late and/or Incomplete Annual Reports

69. Pursuant to Part I.N.2. of the Permit, Prowers Aggregate is required to submit an annual report to the Division for the reporting period of January 1st through December 31st. The annual report shall be submitted so that it is received no later than February 28th of the following year. The annual report must include the following:

a. Name of permittee, address, phone number
b. Permit certification number
c. Facility name and physical address
d. Contact person name, title and phone number
e. Summary of inspection dates
f. Summary of visual monitoring
g. Corrective action documentation

70. Division records establish Prowers Aggregate's 2017 annual report for the Facility, due on February 28, 2018, was received on April 30, 2018, 61 days late.

71. Division records establish Prowers Aggregate's 2017 annual report did not include a summary of visual monitoring.

72. Prowers Aggregate's failure to submit a timely and complete annual report constitutes violations of Part I.N.2. of the Permit.

Failure to Install, Maintain, or Properly Select Control Measures and Failure to Properly Operate and Maintain Facility

73. Pursuant to Part I.C.2. of the Permit, Prowers Aggregate is required to adhere to all practice based effluent limitations included in the Permit.

74. Pursuant to Part I.G. of the Permit, all control measures used by the permittee to meet the effluent limitations contained the Permit must be selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic, and pollution control practices, and the manufacturer's specifications, when applicable.

75. Pursuant to Part I.B.1. of the Permit, Prowers Aggregate is required to properly operate and maintain all facilities and systems of treatment and control which are installed or used at the Facility to achieve compliance with the conditions of the Permit. Proper operation and maintenance includes effective performance.

76. During the Inspection, the Inspector identified the following deficiencies related to control measure selection, design, installation, implementation and/or maintenance at the Facility, as described in paragraph 76 (a-c) below:

a. Temporary stream crossings implemented to cross an irrigation ditch in the center of the Facility were not installed in accordance with good engineering, hydrologic, or pollution control practices. Specifically, the sides of the crossings consisted of un-compacted soil without riprap armoring. In accordance with widely accepted industry standards and guidance, including the Urban Drainage and Flood Control District ("UDFCD"), riprap must be utilized on the banks of culvert-type stream crossings to prevent erosion of banks into the stream. As a result of this deficiency, there was an increased potential for pollutants to discharge offsite via outfall 002A to the Arkansas River. No additional control measures were implemented down gradient of these locations.

b. No control measures were implemented alongside or within the Roadside Ditch, despite Permit requirements to stabilize exposed areas and manage runoff using structural and/or nonstructural control measures to minimize onsite erosion and sedimentation and a resulting discharge of pollutants. As a result of these deficiencies, sedimentation alongside and within the roadside ditch was observed. As a result of these deficiencies, there was a high potential for polluted stormwater to discharge offsite. No additional control measures were implemented down gradient of the Roadside Ditch and stormwater flows within the Roadside Ditch discharged directly to the Arkansas River.

c. Three sediment ponds used to settle out sediment and recycle wash plant wastewater back to the wash plant portion of the Facility were completely full of sediment, causing them to overflow and discharge to the Roadside Ditch. No additional or back-up control measures or treatment processes were implemented down gradient of the sediment ponds and the wash plant wastewater discharged directly to the Roadside Ditch, eventually discharging to the Arkansas River.

77. Prowers Aggregate's failure to properly install or implement control measures to protect stormwater quality at the Facility constitutes violations of Parts I.C.2. and I.G. of the Permit.

78. Prowers Aggregate's failure to properly operate and maintain all facilities and systems of treatment and control to achieve compliance constitutes violations of Part I.B.1. of the Permit.

NOTICE OF VIOLATION

79. Based on the foregoing Findings of Fact and Conclusions of Law, Prowers Aggregate is hereby notified that the Division has determined that Prowers Aggregate has violated the following sections of the Colorado Water Quality Control Act, it's implementing permit regulations, the Permit and the Certification.

Section 25-8-501(1), C.R.S., which states "No person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the division for such discharge, and no person shall discharge into a ditch or man-made conveyance for the purpose of evading the requirement to obtain a permit under this article..."

5 CCR 1002-61, §61.3(1)(a), which states in part "No person shall discharge any pollutant into any state water from a point source without first having obtained a permit from the Division for such discharge..."

Section 25-8-601(2), C.R.S., which states in part "Any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution

of the water of the state contrary to the provisions of this article, as soon as he has knowledge thereof, shall notify the division of such discharge."

Part I.C.2.a.ix. of the Permit, which states "The permittee must eliminate non-stormwater discharges not authorized by this or any other CDPS permit, or conducted in accordance with a Division Low Risk Guidance document.

Part I.C. of the Permit and the Certification, which states in part "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.5; the Colorado Discharge Permit System Regulations, Section 61.8(2), 5 CCR 1002-61; and the effluent limitation guidelines...the permitted discharge shall not contain effluent parameter concentrations that exceed the effluent limitations identified in this Part, and specified in the permit certification."

Part I.E.4. of the Permit, which states in part "All sampling shall be performed by the permittee according to specified methods in 40 C.F.R. Part 136; method approved by EPA pursuant to 40 C.F.R. 136; or methods approved by the Division in the absence of a method..."

Part I.I.1. of the Permit, which states in part "Once each quarter for the entire permit term, the permittee must collect a stormwater sample from each outfall...and conduct a visual assessment of each of these samples...The permittee must document the visual assessment results and maintain this documentation onsite with the facility SWMP..."

Part I.C.1. of the Permit and the Certification, which states in part "The permittee shall monitor effluent consistent with the requirements identified in Tables C.1.1 through C.1.6 and specified in the permit certification..."

Part II.A.3. of the Permit, which states in part "The permittee shall report the following circumstances orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, and shall mail the Division a written report containing the information requested in Part II.A.4.(a) within five (5) working days after becoming aware of the following circumstances: i) circumstances leading to any noncompliance which may endanger health or the environment regardless of the cause of the incident..."

Part I.J.2. of the Permit, which states in part "Each inspection shall include..."

Part I.J.3. of the Permit, which states in part "The permittee shall document the findings for each inspection in an inspection report or checklist, and keep the record onsite with the facility SWMP. The permittee shall ensure each inspection report documents the observations, verifications and assessments required in Part I.J.2., and additionally includes..."

Part I.K.3. of the Permit, which states in part "The permittee must document discovery of any condition listed in Parts I.K.1. and I.K.2. above, within 5 days as describe below, and submit the documentation in an annual report as required in Part I.N, and retain a copy onsite with the facility SWMP."

Part I.L. of the Permit, which states in part "An existing permittee authorized under the previous versions of this permit shall modify the existing SWMP to comply with the requirements of this permit within 180-days of the facility permit certification effective date."

Part I.L.1. of the Permit, which states "The permittee must develop, implement, and maintain a SWMP for each facility authorized by this permit. The SWMP shall be prepared in accordance

with good engineering, hydrologic, and pollution control practices. The permittee must modify the SWMP to reflect current site conditions."

Part I.L.2. of the Permit, which states in part "The permittee must implement the SWMP when the facility begins industrial activities, which includes installation of control measures."

Part I.M.2. of the Permit, which states in part "The facility description shall include..."

Part I.M.3. of the Permit, which states in part "The SWMP shall include a legible site map(s), showing the entire facility, and vicinity as appropriate, identifying..."

Part I.M.4. of the Permit, which states in part "The facility inventory and assessment shall include the following:"

Part I.M.5. of the Permit, which states in part "The permittee shall document the location, installation date, type, and implementation specifications of each non-structural and structural control measure implemented at the facility to meet the effluent limitations contained in this permit."

Part I.M.6. of the Permit, which states in part "The permittee shall document the schedules, procedures, and evaluation results for the following subset of practice-based effluent limitations."

Part I.M.8. of the Permit, which states in part "The permittee shall document monitoring procedures, and maintain such procedures and other documentation with the SWMP, as follows.."

Part I.N.2. of the Permit, which states in part "The permittee shall submit an annual report to the Division for the reporting period January 1 through December 31...the annual report shall include..."

Part I.C.2. of the Permit, which states in part "Practice Based Effluent Limitations..."

Part I.G. of the Permit, which states in part "All control measures used by the permittee to meet the effluent limitations contained in this permit must be selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic, and pollution control practices, and the manufacturer's specifications, when applicable.

Part I.B.1. of the Permit, which states in part "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee as necessary to achieve compliance with the conditions of this permit."

REQUIRED CORRECTIVE ACTION

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

80. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, C.R.S., its implementing regulations promulgated thereto and the Permit and Certification.

Furthermore, the Division hereby orders Prowers Aggregate to comply with the following specific terms

and conditions of this Order:

81. Within 30 calendar days of receipt of this Order, Prowers Aggregate shall review the requirements of the Permit and the Certification with its staff responsible for ensuring compliance with the terms and conditions of the Permit and the Certification. The review shall focus on, but no be limited to; 1) the effluent limitations imposed by the Permit and the Certification, 2) the effluent monitoring requirements of the Permit and the Certification, 3) the record keeping requirements of the Permit, 4) the reporting requirements of the Permit, and 5) the noncompliance notification procedures required by the Permit. Within 45 calendar days of receipt of this Order, Prowers Aggregate shall submit a written plan outlining Prowers Aggregate's actions to ensure compliance with the terms and conditions of the Permit and the Certification. The plan shall include, but not be limited to: 1) mechanisms to ensure effluent monitoring is conducted in accordance with the Permit and the Certification, 2) mechanisms to ensure accurate and complete DMRs are submitted to the Division by no later than the 28th day of the month following the end of the reporting period, and 3) annual reports are submitted to the Division by no later than the 28th day of the February each year.

Process Water Corrective Actions

82. Prowers Aggregate shall immediately initiate efforts to ensure that no unauthorized discharge of process wastewater will occur from the Facility.

83. Within 30 calendar days of receipt of this Order, Prowers Aggregate shall provide summary of any discharges from the Facility that occurred between July 11, 2016 and the date of this Order. The summary shall include the location of the discharge(s), date of the discharge(s), duration of the discharge(s), estimated volume of the discharge(s), quality/type of discharge(s), and any other relevant documentation. Prowers Aggregate shall indicate what mitigation efforts were implemented in response to each of the discharge(s).

84. Within 7 calendar days of receipt of this Order, Prowers Aggregate shall develop and implement an inspection, record-keeping, and response program to visually monitor for and eliminate potential sources of unauthorized pollutant discharges from the Facility. The implementation and inspection program shall be documented by maintaining a records log ("monitoring log") that contains: 1) the date, time, and location of each visual monitoring event, 2) the name of the individual performing each visual monitoring event, 3) an indication of whether or not an unauthorized discharge was observed during each visual monitoring event, and 4) any other pertinent information regarding the object or event being inspected. This inspection and record-keeping shall be conducted for each of the following objects/events and time schedules:

    a. Perform weekly inspections of all stormwater run-on diversion devices, runoff diversion structures, and devices channeling process wastewater to impoundments or settling basins.
    b. Perform weekly inspections of process wastewater impoundments or settling basins. These inspections shall include an evaluation of the structural integrity of all impoundment/settling basin perimeter berms. If the process wastewater level/volume cannot be determined, the inspection report shall include an explanation of why this cannot be determined.
    c. Perform inspections of objects identified in paragraphs 84a and 84b above after each measurable precipitation event.
    d. Inspections shall include all applicable objects and events outlined in paragraphs 84a and 84b above, but are not limited to those objects and events. Any other objects or events that may contribute to pollutants from the Facility being discharged to waters of the state shall be included in the inspection process.

85. Prowers Aggregate shall correct any deficiencies found as a result of the weekly inspections outlined in paragraph 84 in order to prevent the unauthorized discharge of pollutants from the Facility into surface water. The corrections shall be documented in the monitoring log outlined in paragraph 84. These corrections shall be implemented as soon as possible, but no later than 14 days after such a deficiency has been identified, unless factors preventing correction within 14 days have been documented.

86. Prowers Aggregate shall sample and monitor any unauthorized discharges from the Facility. All sampling and monitoring results of unauthorized discharges and/or spills shall be recorded in a monthly discharge log ("discharge log"). All samples shall be analyzed for the following:

Parameter	Units	Sample Type
Flow	MGD	In-Situ
pH	s.u.	Grab
Total Suspended Solids	mg/l	Grab
Oil and Grease	mg/l	Grab

The discharge log shall also include the following:

a. The date, exact location, and time of discharge;
b. The date, type, exact location, and time of sampling or measurements;
c. The individual(s) who performed the sampling or measurements;
d. The date(s) the analyses were performed;
e. The individual(s) who performed the analyses;
f. The analytical techniques or methods use;
g. The results of such analyses; and
h. Any other observations, which may result in an impact on the quality or quantity of the discharge.

87. The inspection and monitoring programs described in paragraphs 84, 85, and 86 shall be implemented and maintained until Prowers Aggregate and the Division complete the application process and the Facility is covered by a CDPS permit for all discharges from the Facility.

88. In the event that an unauthorized discharge is no longer occurring at the Facility, Prowers Aggregate shall, within 30 calendar days of this Order, submit photographs and a written certification that the unauthorized discharge point(s) discussed in paragraphs 12-16 of this Order no longer have the potential to discharge process water and that there are no unauthorized discharges occurring at the Facility.

Stormwater Corrective Actions

89. Prowers Aggregate shall immediately evaluate the Facility's SWMP and implement necessary measures to ensure the SWMP contains all of the elements required by the Permit and is effective in managing pollutant discharges from the Facility. Within 30 calendar days of receipt of this Order, Prowers Aggregate shall submit a copy of the newly revised SWMP to the Division, as well as a written certification to the Division stating that a complete, effective, and up-to-date SWMP has been fully developed and implemented and maintained at the Facility.

90. Prowers Aggregate shall immediately begin conducting inspections of the Facility's stormwater management system pursuant to the provisions outlined in the Permit. Within 30 calendar days of receipt of this Order, Prowers Aggregate shall submit a written certification to the Division stating

that all inspections are being conducted and documented in accordance with the terms and conditions of the Permit.

91. Prowers Aggregate shall immediately implement necessary measures to ensure that control measures are in place to control pollutant discharges from the Facility and to meet all practice-based effluent limitations and requirements of the Permit and the Certification. This includes ensuring that all disturbed areas at the Facility are stabilized and/or protected with a system/series of erosion and sediment control practices and that all control measures at the Facility are selected, designed, installed, implemented, and maintained following good engineering, hydrologic, and pollution control practices. Within 30 calendar days of receipt of this Order, Prowers Aggregate shall evaluate and modify all control measures at the Facility to ensure the control measures meet the installation and implementation requirements specified in the Facility's complete and up-to-date SWMP. Within 45 calendar days of receipt of this Order, Prowers Aggregate shall submit photographs to the Division documenting the current conditions at the Facility as well as photographs of all control measures implemented to manage stormwater discharge(s) at the Facility. The photographs shall include photos of the following, at a minimum: 1) all sediment ponds implemented at the Facility, 2) all diversion ditches/swales implemented at the Facility, 3) all berms or control measures implemented on the northern perimeter of the Facility, and 4) Outfall 002A.

NOTICES AND SUBMITTALS

92. For all documents, plans, records, reports and replies required to be submitted by this Order, the Prowers Aggregate shall submit an original and an electronic copy to the Division at the following address:

    Andrea Beebout
    Colorado Department of Public Health and Environment
    Water Quality Control Division
    Mail Code: WQCD-CWE-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530
    Telephone: (303) 692-6498
    Email: andrea.beebout@state.co.us

93. For any person submitting documents, plans, records and reports pursuant to this Order, that person shall make the following certification with each submittal:

    "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

94. Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11 Prowers Aggregate is required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than 30 calendar days after receipt of this action.

95. Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than 30 calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

96. Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

97. Prowers Aggregate is also advised that any person who violates any provision of the Colorado Water Quality Control Act ("Act"), §§25-8-101 to 803, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S, and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

98. Pursuant to §25-8-601, C.R.S., Prowers Aggregate is further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

EFFECT OF ORDER

99. Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

100. For further clarification of Prowers Aggregate's rights and obligations under this Order Prowers Aggregate is advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 10th day of January, 2019.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Nathan Moore
Clean Water Compliance and Enforcement Section Manager
WATER QUALITY CONTROL DIVISION

Google Earth Pro

File Edit View Tools Add Help

ATTACHMENT A

Search

vers Aggregate, Lamar, CO, USA | Search

ex: 37 25' 19.1"N, 122 05' 06"W

Get Directions History

A Prowers Aggregate
Lamar, CO 81052
★★★★☆ 7 reviews

Sign in

6/2017

N

Active pumping from pond into roadside ditch.

Google Earth

1988

Imagery Date: 6/12/2017 lat 38.098931° lon -102.585865° elev 3607 ft eye alt 4384 ft

Places

Layers

Google Earth Pro

File Edit View Tools Add Help

ATTACHMENT A

Search

vers Aggregate, Lamar, CO, USA | Search

ex: 37 25' 19.1"N, 122 05' 06"W

Get Directions History

A Prowers Aggregate
Lamar, CO 81052
★★★★☆ 7 reviews

Sign in

6/2017

Flow path of roadside ditch towards Arkansas River. Sediment laden water can be seen in roadside ditch to left of arrow.

1988

Imagery Date: 6/12/2017 lat 38.100550° lon -102.585692° elev 3607 ft eye alt 4963 ft

Google Earth

Places

Layers

Google Earth Pro

File Edit View Tools Add Help

ATTACHMENT A

Search

vers Aggregate, Lamar, CO, USA | Search

ex: 37 25' 19.1"N, 122 05' 06"W

Get Directions History

A Prowers Aggregate
Lamar, CO 81052
★★★★☆ 7 reviews

Sign in

6/2017

N

Arkansas River

Arrow show flow path of sediment laden process water towards Arkansas River

Places

Layers

1988

Imagery Date: 6/12/2017 lat 38.105256° lon -102.585400° elev 3603 ft eye alt 4963 ft

Google Earth

Google Earth Pro

File Edit View Tools Add Help

ATTACHMENT A

Search

vers Aggregate, Lamar, CO, USA | Search

ex: 37 25' 19.1"N, 122 05' 06"W

Get Directions History

A Prowers Aggregate
Lamar, CO 81052
★★★★☆ 7 reviews

Sign in

6/2017
1988 2017

Arkansas River

Discharge of sediment laden process water to Arkansas River

Flow path of sediment laden process water to Arkansas River.

Places

Layers

1988

Imagery Date: 6/12/2017 lat 38.105934° lon -102.584734° elev 3599 ft eye alt 4091 ft

Google Earth

ATTACHMENT B

STATE OF COLORADO

Campbell - CDPHE, Joseph <joseph.campbell@state.co.us>

Fwd: Pics of Ark. R.

6 messages

Ramsay - DNR, Jim <jim.ramsay@state.co.us> Fri, Jun 8, 2018 at 3:10 PM
To: Maura McGovern - CDPHE <maura.mcgovern@state.co.us>, Joseph Campbell - CDPHE <joseph.campbell@state.co.us>, Paul Foutz <paul.foutz@state.co.us>

Hello:
The forwarded e-mail shows two pictures of the Arkansas River at Lamar. The first picture shows the river about 1 mile above the Prowers Aggregate Operators gravel pit. As you can see, the water is clear. The second shows the river about 2 miles below the gravel operation. As you can see, the water is very dirty....about the color of chocolate milk.

CPW has concerns regarding fish health. This section of river is critical habitat for state endangered suckermouth minnows.

Thank you for your assistance,

Jim R.

Jim Ramsay
Aquatic Biologist
S.E. Region Aquatic Section
COLORADO
Parks and Wildlife
Department of Natural Resources
P 719.336.6607 | F 719.336.6623 | C 719.940.0263
2500 S. Main St. Lamar, CO 81052
jim.ramsay@state.co.us | www.cpw.state.co.us

---------- Forwarded message ----------
From: **Jim Ramsay - DNR** <jim.ramsay@state.co.us>
Date: Thu, May 31, 2018 at 4:55 PM
Subject: Pics of Ark. R.
To: melynda.may@state.co.us

Sent from my iPhone

2 attachments

IMG_0615.JPG
1770K

ATTACHMENT B

IMG_0613.JPG
1523K

McGovern - CDPHE, Maura <maura.mcgovern@state.co.us> Mon, Jun 11, 2018 at 11:16 AM
To: "Ramsay - DNR, Jim" <jim.ramsay@state.co.us>
Cc: Joseph Campbell - CDPHE <joseph.campbell@state.co.us>, Paul Foutz <paul.foutz@state.co.us>

The water quality control division will plan on conducting a compliance inspection at this facility. Due to schedules I will not be able to make it out there until July 11th or 12th. Right now I have those days set aside.
If you have any other information or concerns please let me know.

Thank you.

Maura
[Quoted text hidden]
--
Maura McGovern
Workgroup Leader
Clean Water Compliance Unit
COLORADO
Water Quality Control Division
Department of Public Health & Environment

P 303.692.3392 I www.coloradowaterpermits.com
4300 Cherry Creek South Drive, Glendale CO 80246
maura.mcgovern@state.co.us I www.colorado.gov/cdphe/wqcd.

Joseph Campbell - CDPHE <joseph.campbell@state.co.us> Tue, Jun 12, 2018 at 10:37 AM
To: "McGovern, Maura" <maura.mcgovern@state.co.us>

[Quoted text hidden]
--

Joe Campbell
Environmental Protection Specialist
Clean Water Compliance Unit
Water Quality Control Division

ATTACHMENT B

COLORADO
Department of Public Health & Environment

P 303.692.2356
4300 Cherry Creek Drive South, Denver, CO 80246-1530
joseph.campbell@state.co.us | www.coloradowaterpermits.com

2 attachments

IMG_0615.JPG
1770K

IMG_0613.JPG
1523K

McGovern - CDPHE, Maura <maura.mcgovern@state.co.us> Tue, Jun 12, 2018 at 11:42 AM
To: "Ramsay - DNR, Jim" <jim.ramsay@state.co.us>, "May - DNR, Melynda" <melynda.may@state.co.us>
Cc: Joseph Campbell - CDPHE <joseph.campbell@state.co.us>, Paul Foutz <paul.foutz@state.co.us>, Nathan Moore - CDPHE <nathan.moore@state.co.us>

Good afternoon,

Due to the severity of the site conditions and the downstream critical habitat for state endangered suckermouth minnows - the Water Quality Control Division will inspect this facility this Friday.

Joe Campbell, included on the email, will be the inspector.

If you have any questions or more information on the facility please contact him.

Thank you,

Maura
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Melynda May - DNR <melynda.may@state.co.us> Tue, Jun 12, 2018 at 11:48 AM
To: "McGovern - CDPHE, Maura" <maura.mcgovern@state.co.us>
Cc: Joseph Campbell - CDPHE <joseph.campbell@state.co.us>, Nathan Moore - CDPHE <nathan.moore@state.co.us>, Paul Foutz <paul.foutz@state.co.us>, "Ramsay - DNR, Jim" <jim.ramsay@state.co.us>

Thank you Maura and Joe!
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ATTACHMENT B

--
Mindi May
Water Quality Coordinator
COLORADO
Parks and Wildlife
Department of Natural Resources
P 303.291.7124 | F 303.291.7456| C 303.809.4684
6060 Broadway, Denver CO 80216
melynda.may@state.co.us | www.cpw.state.co.us

Foutz - DNR, Paul <paul.foutz@state.co.us> Wed, Jun 13, 2018 at 10:09 AM
To: "McGovern - CDPHE, Maura" <maura.mcgovern@state.co.us>
Cc: "Ramsay - DNR, Jim" <jim.ramsay@state.co.us>, "May - DNR, Melynda" <melynda.may@state.co.us>, Joseph Campbell - CDPHE <joseph.campbell@state.co.us>, Nathan Moore - CDPHE <nathan.moore@state.co.us>

Thank you for making this a priority!

Paul Foutz
Native Aquatic Species Biologist
Southeast Region
COLORADO
Parks and Wildlife
Department of Natural Resources
P 719.227.5217 | F 719.227.5297 | C 719.482.5697
4255 Sinton Road, Colorado Springs, CO 80907
paul.foutz@state.co.us | cpw.state.co.us

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SAND AND GRAVEL MINING AND PROCESSING INSPECTION REPORT

West Farm Pit

Permittee: Prowers Aggregate Operators, LLC
Cert#: COR501574
Legally Responsible Person: Karl Nyquist
Title: Manager
Facility: West Farm Pit
Inspector: Joe Campbell
Address: 9485 CR HH 5, Prowers County, Colorado 81052
MS4/County: Prowers County
Receiving Water: Arkansas River
Outfalls: 001-A, 002-A
Inspection Began: 6/15/2018 9:15 AM
Inspection Completed: 6/15/2018 1:40 PM
Persons Present: Ron Peterson (Prowers), Joe Campbell (WQCD), Jim Ramsay (CPW)

The purpose of division inspections is to evaluate and document compliance with the Colorado Discharge Permit System (CDPS) General Permit for Discharges From Sand and Gravel Mining and Processing (And Other Nonmetallic Minerals Except Fuels) (the permit). This report is the result of a "point in time" inspection and therefore only documents this facility's conditions, as they existed at the time of the inspection. Division inspection oversight does not pre-empt nor supersede the authority of local agencies to prohibit, restrict, or control discharges of sand and gravel mining and processing to municipal storm drain systems or other stormwater conveyances within their jurisdiction.

During the inspection closing conference the division inspector reviewed all alleged inspection findings with the facility representative(s). The inspector communicated the division's expectation that the facility representative initiate corrective actions immediately for all alleged inspection findings, in accordance with the provisions of the CDPS General Permit for Sand and Gravel Mining and Processing (And Other Nonmetallic Minerals Except Fuels).

RECORDS REVIEW

Note 1: The permit certification effective date was January 1, 2017. The date industrial activities covered under this permit began at the site was April 1, 2014. The permittee is discharging from 3 outfalls as described in Note 7. This information was provided to the inspector by Ron Peterson.

Note 2: In a communication with the permittee prior to the inspection, the division inspector requested a duplicate copy of the following documents be provided to division personnel during the inspection: monitoring records, visual assessment documentation, inspection reports, corrective action reports, the stormwater management plan, and annual reports. This was provided to the inspector on June 15, 2018.

Note 3: On May 18, 2018, the division received a notification from Colorado Parks and Wildlife that highly turbid/muddy water being discharged to the Arkansas River from the Prowers Aggregate sand and gravel operation (Photograph 18).

Note 4: It was observed during the field portion of the inspection that process water from sand and gravel washing and stormwater from haul roads and stockpiles was directed to a roadside ditch that flows to the north and directly to the Arkansas River (at Latitude 38.105872°, Longitude -102.584633°). During the inspection, it was evident that sediment had accumulated along the entirety of the ditch leading to the Arkansas River, further indicating process water from sand and gravel washing has discharged at this unpermitted second outfall location. Ron Peterson with Prowers Aggregate stated that the unauthorized discharge of process water and associated sediment occurred in 2018 and was due to a breach of the

sediment ponds that were utilized to recycle the wash plant water. He stated that the well pump used to augment the use of recycled wash water was left on overnight causing the sediment ponds to become overwhelmed which caused a breach in the side of the pond to the roadside ditch leading to the Arkansas River. He also noted that the settling ponds were full and currently being mucked out, which was evident at the time of the inspection. The division inspector observed that wash water is conveyed in the ditch to the Arkansas River. Additionally, the amount and depth of sediment observed during the division inspection illustrated that this discharge was occurring prior to the time stated by Ron Peterson as sediment piles from cleaning out of the ditch were evident at the end of the ditch near the Arkansas River (Photographs 11 and 12).

Note 5: According to Part II.A.3 of the permit the permittee was required to submit a noncompliance notification for the unauthorized discharge in Note 4. An oral 24-hour and five-day written report of noncompliance is necessary when the permittee does not or is unable to comply with any discharge limitations or standards specified in the permit. The division did not receive a noncompliance notification for the unauthorized discharge.

1. A copy of the discharge monitoring reports (DMRs) for process water discharge effluent limitations were retained on site. The division inspector reviewed the records from 1/1/2017 to 3/31/2018 and found them to be inadequate for the following reasons:

It was noted during the records review portion of the inspection that samples were only being collected once a quarter and reported on the quarterly DMRs. Per the facilities certification, sampling for Manganese, Selenium, Total Recoverable Uranium, pH, TSS, and Oil and Grease (visual) is required twice per month. Additionally, there were exceedances of TSS in the 2nd and 3rd Quarters 2017 and 1st Quarter 2018 at Outfall 001.

a) Sampling and monitoring must be conducted consistent with minimum frequencies and sample types required by Part I.C of the permit and the permit certification.

The division expects the permittee to monitor the effluent for the parameters listed in the permit certification at the frequency and sample types specified in permit certification.

b) The permitted discharge shall not contain effluent parameter concentrations that exceed the limitations specified in the permit certification and Part I.C of the permit.

The division expects the permitted discharge to not contain parameter concentrations that exceed the limitations in the permit and the permit certification.

c) The Discharge Monitoring Report forms shall be filled out accurately and completely in accordance with requirements of this permit and the instructions on the forms.

The division expects the permittee fill out the Discharge Monitoring Report forms accurately and completely, and to modify inaccurate or incomplete forms.

2. Stormwater discharge visual monitoring has not been conducted. According to Ron Peterson, with Prowers Aggregate Operators, no stormwater discharges have occurred at the designated stormwater outfall since the renewed permit became effective on 1/1/2017.

3. A copy of the discharge monitoring reports for stormwater water quality standards monitoring were retained on site. The division inspector reviewed the records from 1/1/2017 and 3/31/2018 and found

them to be adequate. According to Ron Peterson, stormwater discharge water quality standards monitoring has not been conducted, as no stormwater discharges have occurred at the designated stormwater outfalls since the renewed permit became effective on 1/1/2017.

4. The division inspector reviewed the sampling methods used on site and found them to be inadequate for the following reasons:

Analysis for pH has been performed at the lab, and the time between sampling and analysis has been greater than 15 minutes, as confirmed by Ron Peterson. The specified methods of 40 C.F.R Part 136 requires pH to be analyzed within 15 minutes for the maximum hold time.

Sampling shall be performed by the permittee according to specified methods in 40 C.F.R. Part 136; methods approved by EPA pursuant to 40 C.F.R. Part 136; or methods approved by the division in the absence of a method specified in or approved pursuant to 40 C.F.R. Part 136.

The division expects the permittee to perform sampling in accordance with the approved methods.

5. A copy of the inspection reports were retained on site. The division inspector reviewed a subset of inspection records between January 15, 2018 and June 1, 2018. The inspection records were found to be inadequate for the following reasons:

The inspection records did not include the inspection time, weather information, or a statement of whether or not the site is incompliance. Additionally, the inspection form only had specific control measures, some of which were not present at the site, of what was inspected. It did not include locations of all control measures or all locations inspected at the facility. The records also indicated that no maintenance was needed during any of the inspections conducted, with the exception of the inspection conducted on March 15, 2018. However, it was noted during the inspection that large amounts of sediment were in the drainage swale on the eastern portion of the facility and was in need of maintenance and additional control measures (see field finding #3).

a. Inspections must be performed and/or documented as required by Part I.J.2 and I.J.3 of the permit.

   Each inspection report shall include:
   - The inspection date and time;
   - Locations inspected;
   - Weather information and a description of any discharges occurring at the time of the inspection;
   - A statement that, in the judgment of 1) the person conducting the site inspection, and 2) the person described in Part I.F.4 (Reporting and Recordkeeping), the site is either in compliance or out of compliance with the terms and conditions of this permit, with respect to Part I.J.2 (Inspection Scope);
   - A summary report and a schedule of implementation of the corrective actions that the permittee has taken or plans to take if the site inspection indicates that the site is out of compliance;

   The division expects the permittee to conduct and document inspections as required by the permit.

6. A copy of the corrective action reports were not retained on site. However, it was noted during the inspection that large amounts of sediment were in the drainage swale on the eastern portion of the

facility and was in need of maintenance and additional control measures (see field finding #3). Due to this, site condition corrective actions and reports should have been completed as identified below:

a. Corrective actions associated with maintaining control measures must be conducted with due diligence, as soon as possible after the need is discovered, to achieve the effluent limits required by this permit.

   In accordance with Part I.G.2, the permittee must maintain all control measures (structural and non-structural) used to achieve the effluent limits required by this permit in effective operating condition. For this permit, maintenance includes preventative and routine maintenance, modification, repair, replacement, or installation of new control measures.

   The division expects the permittee to maintain control measures in effective operating condition, within the prescribed timeframe, as required by the permit.

b. The permittee shall document corrective actions associated with maintaining control measures, and shall revise the facility stormwater management plan to reflect replacement or installation of new control measures.

   Within five days of discovery of any condition that must be eliminated or that requires review and modification per Parts I.K.1 and I.K.2, the permittee must document the following information:

   - Identification of the condition triggering the need for corrective action review;
   - Description of the problem identified;
   - Date the problem was identified;
   - Summary of corrective action taken or to be taken (or, for triggering events identified in Part I.K.2 where the permittee determines that corrective action is not necessary, the basis for this determination);
   - Notice of whether SWMP modifications are required as a result of this discovery or corrective action;
   - Date corrective action initiated; and
   - Date corrective action completed or expected to be completed.

   The division expects the permittee to document corrective actions as required by the permit.

7. A copy of the stormwater management plan was retained on site. The division inspector reviewed the plan and found it to be inadequate for the following reasons:

a) The facility description section did not adequately describe the components listed below as required by Part I.M.2 of the permit.

- The general layout of the facility including mining areas, revegetated areas, buildings, raw material storage areas, and the flow of goods and materials through the facility.

The division expects the permittee to update the site description section of the stormwater management plan to include all items required by the permit.

b) The facility map(s) associated with the stormwater management plan did not identify items described below as required by Part I.M.3 of the permit.

- The locations of all facility stormwater conveyances including ditches, pipes, and swales.
- The locations of stormwater inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall No. 001, No.002, etc.), and indicating whether one or more outfalls

are “substantially identical” under Part I.H (General Monitoring Requirements); and an approximate outline of the areas draining to each outfall.

- The directions of stormwater flow indicated by arrows;
- The areas where mining and processing activities are currently or have previously been conducted, where such activities are exposed to precipitation. This includes all areas of soil disturbance and reclamation/revegetation.
- The locations of all actual or potential pollutant sources (including sediment) associated with mining and processing activities, including but not limited to those identified in the Facility Inventory and Assessment of Pollutant Sources (below) and the following:
    - Vehicle fueling areas;
    - Fertilizer or chemical storage areas;
    - Areas used for storage or disposal of overburden, materials, soils or wastes;
    - Areas used for mineral milling and processing;
    - All access and haul roads; and
    - All asphalt or concrete batch plants, or areas used for recycling of asphalt or concrete.
- The location of all structural and applicable non-structural control measures used to meet the effluent limits required by this permit.
- The locations where significant spills or leaks identified under Part I.L.4.b have occurred.
- The locations of all stormwater monitoring points applicable to the facility (visual monitoring; benchmark monitoring, water quality-based monitoring).
- The date that the facility site map was prepared and/or amended.

The division expects the permittee to update the site map(s) to include all items required by the permit.

c) The facility inventory and assessment of pollutant sources associated with the stormwater management plan did not identify items described below as required by Part I.M.4 of the permit.

The stormwater management plan must include an inventory and assessment of all pollutant sources and an inventory of all materials that contribute or have the potential to contribute pollutants to stormwater. The stormwater management plan narrative had a general description of activities and potential pollutant sources but no short narrative or tabulation describing the potential of a pollutant to be present in stormwater discharge for each facility activity, equipment and material identified at the site.

The facility inventory and assessment shall include the following:

- The inventory of facility activities and equipment shall identify all areas (except interior areas that are not exposed to precipitation) associated with industrial activities that have been, or may potentially be, sources of pollutants, that contribute, or have the potential to contribute, any pollutants to stormwater, including but not limited to the following:
    - Loading and unloading of materials, including solids and liquids.
    - Outdoor storage of materials or products, including solids and liquids.
    - Outdoor manufacturing and processing.
    - On-site dust or particulate generating processes, including dust collection devices and vents.
    - On-site waste treatment, storage, or disposal, including waste ponds and solid waste management units.

- Vehicle and equipment fueling, maintenance, and/or cleaning (includes washing).
- Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility.
- Roofs or other surfaces exposed to air emissions from a manufacturing building or a process area.
- Roofs and associated surfaces composed of galvanized materials that may be mobilized by stormwater (e.g., roofs, ducts, heating/air conditioning equipment, gutters and downspouts).

- The inventory of materials shall list materials that contribute, or have the potential to contribute, pollutants to stormwater, including but not limited to the following:
  - The types of materials handled at the facility that may be exposed to precipitation or runoff and could result in stormwater pollution.
  - The types of materials handled at the facility that may leak or spill, and be exposed to precipitation or runoff and result in stormwater pollution.
  - A narrative description of any potential sources of pollutants from past activities, materials and spills that could contribute pollutants to stormwater discharges, and the corresponding outfall(s) that would be affected by such spills and leaks. The description shall include the method and location of any on-site storage or disposal; and documentation of all significant spills and leaks of oil or toxic or hazardous pollutants that occurred at exposed areas, or that drained to a stormwater conveyance, in the 3 years prior to the SWMP preparation date.
- The assessment of potential pollutant sources shall provide a short narrative or tabulation describing the potential of a pollutant to be present in stormwater discharges for each facility activity, equipment and material identified above, including but not limited to the following:
  - Loading and unloading operations;
  - Outdoor storage of chemicals or equipment;
  - Crushing facilities or significant dust and particulate generating activities;
  - On site waste disposal practices;
  - Stockpiles of overburden, raw material, intermediate products, byproducts, finished products or waste products;
  - Asphalt or concrete batch plants or areas used for recycling of asphalt or concrete;
  - Routine maintenance activities involving fertilizers, pesticides, detergents, fuels, solvents, oils, etc.;
  - Haul roads; and
  - Disturbed and revegetated areas.

The division expects the permittee to update the facility inventory and assessment of pollutant sources to include all items required by the permit.

d) The stormwater management plan did not include the location, installation date, and type of each nonstructural and structural control measure implemented at the facility to achieve meet the effluent limitations, as required by Part I.M.5 of the permit.

The stormwater management plan only discussed the use of structural control measures at the facility to be sediment basins and sediment control logs. However, the sediment basins were not utilized for stormwater at the facility they were utilized for process water relating to the wash plant and sediment control logs were not implemented on site during the inspection. It was noted during

the inspection that earthen dikes and swales and temporary stream crossings were utilized at the facility however these were not included in the narrative of the stormwater management plan.

The division expects the permittee to update the description of control measures to include all items required by the permit.

e) The stormwater management plan did not include the installation and implementation specifications for each control measure used by the permittee to meet the effluent limitations contained in this permit, as required by Part I.M.6 of the permit.

The stormwater management plan did not include installation and implementation specifications for the earthen dikes and swales and temporary stream crossings implemented at the facility.

The division expects the permittee to update the control measures specifications to include all items required by the permit.

f) The stormwater management plan did not include the following schedules, procedures, and evaluation results, as required by Part I.M.6 of the permit.

- To document maintenance, the stormwater management plan shall contain preventative maintenance schedules for industrial equipment and systems; control measures; and any back-up practices in place should a runoff event occur while a control measure is off-line, in accordance with Part I.C.2.a.iii of the permit.
- To document spill prevention and response procedures, the stormwater management plan shall contain procedures for preventing, responding to, and reporting spills and leaks in accordance with Part I.C.2.a.iv of the permit.
- To document employee training, the stormwater management plan shall contain a schedule for all types of training required by this permit, content of the training, and log of the dates on which specific employees received training, in accordance with Part I.C.2.a.viii of the permit.
- To document non stormwater discharges, the stormwater management plan shall contain documentation of the stormwater conveyance system evaluation for the presence of non-stormwater discharges not authorized in Part.I.A.1.c, and the elimination of all unauthorized discharges, including the following information:
    - The date of any evaluation;
    - A description of the evaluation criteria used;
    - A list of the outfalls or onsite drainage points that were directly observed during the evaluation;
    - The different types of non-stormwater discharge(s) and source locations; and
    - The action(s) taken, such as a list of control measures used to eliminate unauthorized discharge(s), if any were identified.

The division expects the permittee to update the stormwater management plan to include all additional control measure documentation required by the permit.

g) The stormwater management plan did not include the following requirements for procedures for performing any applicable types of monitoring, as required by Part I.M.8 of the permit.

- Locations where samples are collected, and outfall identification by its unique identifying number;
- Staff responsible for conducting stormwater sampling;
- Procedures for sample collection and handling, including any deviations from sampling within the first 30 minutes of a measurable storm event;

- For any parameters requiring analysis, the name of the parameter, the holding times and preservatives, the analytical methods used, and the laboratory quantitation levels;
- Procedures for sending samples to a laboratory, as applicable;
- Monitoring schedules, including any deviations from the monitoring schedule for alternate monitoring periods for climates with irregular stormwater runoff (see Part I.H.5);
- The numeric control values (benchmarks, TMDL-related requirements, or other requirements) applicable to discharges from each outfall.
- Permittees that invoke the Monitoring Exceptions for Inactive and Unstaffed Sites and for Completed and Finally Stabilized Areas, must include in the SWMP the signed and certified documentation to support this claim.
- Permittees that use the substantially identical outfall monitoring exception (Part I.H.1) must document the following:
    - Location of each of the substantially identical outfalls, and the outfall sampled;
    - Description of the general industrial activities conducted in the drainage area of each outfall;
    - Description of the control measures implemented in the drainage area of each outfall;
    - Description of the exposed materials located in the drainage area of each outfall that are likely to be significant contributors of pollutants to stormwater discharges;
    - Impervious surfaces in the drainage area that could affect the percolation of stormwater runoff into the ground (e.g., asphalt, crushed rock, grass, etc.);
    - Why the permittee expects the outfalls to discharge substantially identical effluents.

The division expects the permittee to update the inspection procedures portion of the stormwater management plan to include all items required by the permit.

8. The inspector reviewed a subset of annual reports between 2016 and 2017. The annual reports were found to be inadequate for the following reasons:

The 2017 annual report, due February 28, 2018, was received by the division 61 days late on April 30, 2018. Additionally, the 2017 annual report stated that the facility does not have water quality standards monitoring for stormwater. However, the certification requires water quality standards monitoring for stormwater. Also, a summary of the visual monitoring was not attached.

a) Annual reports must be completed for the reporting period from January 1 to December 31 and submitted by the permittee to the division no later than February 28 of the following reporting period.

The division expects the permittee to submit annual reports to the division no later than February 28 following the monitoring period.

b) The annual reports did not include the following requirements, as required by Part I.N.2 of the permit.

- Summary of visual monitoring

The division expects the permittee to update the annual reports to include all items required by the permit.

SITE INSPECTION

Note 6: As required by Part I.C.2 of the permit, the permittee must adhere to all practice based effluent limitations included in the permit.

As required by Part I.G of the permit, all control measures used by the permittee to meet the effluent limitations contained in this permit must be:

- Selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic and pollution control practices.
- Consistent with the installation and implementation specifications identified in the stormwater management plan.

Note 7: The findings identified below provide specific observations of field deficiencies. It remains the permittee's responsibility to ensure that all permit requirements, terms, and conditions are met for the entire construction site.

Note 8: **Process water discharge drainage path and outfall:** Process water from the main pit at the facility is discharge to an irrigation ditch on the northeast corner of the facility that flows to the Arkansas River (Outfall 001)

Stormwater discharge drainage path and outfall: Stormwater at the facility flows from haul roads to an irrigation ditch in the center of the facility that flows to the Arkansas River (Outfall 002)

Unauthorized Process Water and Stormwater path and outfall: Both process water from the facility wash plant and stormwater from haul roads and stockpiles flows to an unprotected drainage swale on the western portion of the facility. The drainage swale flows north to the Arkansas River.

1. The temporary stream crossings utilized across the irrigation ditch consisted of uncompact soil without riprap armoring (refer to photographs 1 - 2).

   - Finding: Control measures used by the permittee to meet the effluent limitations were not installed in accordance with good engineering hydrologic and pollution control practices and/or the manufacturer's specifications (refer to Part I.G of the permit).
     - In accordance with industry standards and good engineering, hydrologic, and pollution control practices, the installation and implementation specifications for temporary stream crossings developed by Urban Drainage and Flood Control District directs that D50-12" type riprap be utilized on the banks of culvert type stream crossings.
   - Location: Irrigation ditch in center of facility
   - Pollutant Source: Sediment from disturbed areas
   - Down Gradient Control Measures: Additional control measures were not implemented down gradient of this location.
   - Result: There was a potential discharge of pollutants to a water of the state as identified in Note 5, stormwater drainage path and outfall (Outfall 002-A).

2. Control measures were not implemented along the roadside ditch (refer to photographs 3 - 8).

   - Finding: The permittee did not stabilize exposed areas and manage runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants (refer to Part I.C.2.a of the permit).
     - The permittee must stabilize exposed areas and manage runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants. Among other actions taken to meet this effluent limit, flow velocity dissipation devices must be placed at discharge locations and within outfall channels where necessary to minimize erosion and/or settle out pollutants.
   - Location: Eastern roadside ditch near the wash plant
   - Pollutant Source: Sediment from disturbed areas
   - Down Gradient Control Measures: Additional control measures were not implemented down gradient of this location.
   - Result: There was an actual discharge of pollutants to a water of the state as identified in Note 5, unauthorized stormwater drainage path and outfall.

3. Wash water and sediment breached the sediment ponds and sediment was evident in the roadside ditch that extended to the Arkansas River (refer to photographs 3 - 13).

   - Finding: The permittee did not eliminate non-stormwater discharges not authorized by this or any other CDPS permit, or conducted in accordance with a Division Low Risk Guidance document (refer to Part I.C.2.a of the permit).
   - Location: Western roadside ditch near wash plant
   - Pollutant Source: Wash plant water and sediment
   - Down Gradient Control Measures: Additional control measures were not implemented down gradient of this location.
   - Result: There was an actual discharge of pollutants to a water of the state as identified in Note 5, unauthorized process water drainage path and outfall.

4. **T**hree sediment ponds utilized to settle out sediment from the wash plant process were completely full of sediment and not maintained causing the ponds to overflow and discharge to the a roadside ditch leading to the Arkansas River (refer to photographs 14 - 17).

   - Finding: The permittee did not properly operate and maintain all facilities and systems of treatment and control which were installed or used by the permittee as necessary to achieve compliance with the conditions of this permit (refer to Part I.B.1 of the permit).
   - Location: Wash plant
   - Pollutant Source: Wash plant water and sediment
   - Down Gradient Control Measures: Additional control measures were not implemented down gradient of this location.
   - Result: There was an actual discharge of pollutants to a water of the state as identified in Note 5, unauthorized process water drainage path and outfall.

CONCLUSION

The division expects the permittee to design and implement control measures as required by the permit and make the following corrections:

- The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee as necessary to achieve compliance with the conditions of the permit.
- The permitted discharge shall not contain effluent parameter concentrations that exceed the effluent limitations identified in the permit or specified in the certification.
- The permittee shall monitor the effluent consistent with the requirements specified in the permit and in the certification, as applicable to the permitted feature.
- The permittee must minimize the exposure of pollutant sources associated with manufacturing, processing, and material storage areas to rain, snow, snowmelt, and runoff.
- The permittee must minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop plans for effective response to such potential spills.
- The permittee must eliminate non-stormwater discharges not authorized by this or any other CDPS permit, or conducted in accordance with a Division Low Risk Guidance document.
- All control measures used by the permittee to meet the effluent limitations contained in this permit must be selected, designed, installed, implemented, and maintained in accordance with good engineering, hydrologic and pollution control practices.
- Once each quarter for the entire permit term, the permittee must collect a stormwater sample from each outfall as applicable and conduct a visual assessment of each of these samples.
- The permittee must develop, implement, and maintain a stormwater management plan for each facility authorized by the permit.

Photograph 1: Uncompacted and unstablized stream crossing

Photograph 2: Uncompacted and unstablized stream crossing

Photograph 3: Control measures not implemented along roadside ditch. Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 4: Control measures not implemented along roadside ditch. Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 5: Control measures not implemented along roadside ditch. Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 6: Control measures not implemented along roadside ditch. Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 7: Control measures not implemented along roadside ditch. Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 8: Control measures not implemented along roadside ditch. Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 9: Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 10: Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 11: Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 12: Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River.

Photograph 13: Unauthorized process water and stormwater discharge location with a discharge of sediment to the Arkansas River. Note the discoloration from sediment on the vegetation. Latitude 38.105872°, Longitude -102.584633°

Photograph 14: Process water sediment ponds full of sediment and not maintained

Photograph 15: Process water sediment ponds full of sediment and not maintained

Photograph 16: Process water sediment ponds full of sediment and not maintained

Photograph 17: Process water sediment ponds full of sediment and not maintained

Photograph 18: CPW photograph of the turbid water in the Arkansas River below Prowers aggregate, May 2018