COLORADO DISCHARGE PERMIT SYSTEM (CDPS)
FACT SHEET TO PERMIT NUMBER COG070000
GENERAL PERMIT FOR
CONSTRUCTION DEWATERING DISCHARGES

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I. TYPE OF PERMIT

Master General, NPDES, Surface Water and Groundwater, Sixth Renewal, Statewide.

II. SCOPE OF THE GENERAL PERMIT

A. SIC Code:

- 1799 Special Trade Contractors, Not Elsewhere Classified
- 1629 Heavy Construction, Not Elsewhere Classified

B. MAJOR CHANGES FROM LAST PERMIT VERSIONS

The current general permit, which expired on November 30, 2011 and has been administratively extended by the Water Quality Control Division (Division), provides coverage for approximately 300 facilities with Construction Dewatering. This renewed general permit is needed to continue to provide coverage for these established dischargers and for new construction dewatering discharges. The Division conducted a stakeholder process that included a Pre-Public Notice Meeting on May 1, 2013 and submittal of written input. The purpose of this stakeholder outreach was to increase awareness of the renewal process for the general permit, discuss the major areas of review, and obtain input for development of draft permit conditions. The Division considered the stakeholder input received during the meeting, and written input received after the meeting.

Major changes from last renewal include the following:

- Specifically authorizes the discharge of groundwater, surface water, and stormwater that has mixed with the groundwater and/ or surface water that has come into contact with Construction Activities.

- The permit only authorizes the discharge of the source water drawn from the specific area that is identified by the permittee in the application or subsequent notification to the Division.
- The number of undefined outfalls per permit certification will be twenty unless granted by the Division on a case-by case basis. This modification does not limit the number of outfalls that a facility can obtain permit authorization for, but limits the number under a single certification to help ensure that permit certifications, discharge monitoring reports, and administration is manageable
- Discharges cannot be authorized by the permit if the there is a reasonable potential for a pollutant to be present in the source water at a concentration that is greater than a numeric water quality standard of the receiving water. An exception to this limitation is allowed for discharges with a reasonable potential for Benzene, Toluene, Ethylbenzene, and Xylene when the applicant can demonstrate that the construction dewatering source water does not have concentrations of Benzene, Toluene, Ethylbenzene, or Xylene that are greater than the water quality standard of the receiving water. The result of this exception is that a discharge can be authorized as long as it can be shown that treatment is not needed to meet the effluent limitations for Benzene, Toluene, Ethylbenzene, and Xylene.
- A flow limitation is included in the permit, as required by 5 CCR 61.8(2)(i). The acute flow limit will be equal to twice the maximum flow rate provided in the permit application. If the discharge flow rate exceeds the maximum flow rate requested in the application, the permittee is required to submit a notification. As required by 5 CCR 62.5(7), the flow-measuring device must indicate values within ten percent of the actual flow being measured. The method for measuring flow rates authorizes estimates. The method for determining flows must be documented in the discharge log.
- E. coli and Total Coliform limitation will be required for construction dewatering operations that involve replacing or repairing existing sanitary sewer lines, are in proximity to septic disposal systems, and or other sewage disposal conveyances or vessels and the Division has made a qualitative reasonable potential determination that E. coli or Total Coliform will be present in the discharge.
- The pollution control practices implemented to meet the effluent limitations contained in 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 including installation and implementation specifications where applicable. The Division has determined that this new requirement is necessary to ensure compliance with the effluent limitations. The improper implementation of a control practice has the potential to result in failure or in exceedances of effluent limits that would not be identified until samples can be analyzed. For examples, the Division has observed construction dewatering filter bags at permitted faculties operated in excess of maximum flow rates or placed directly in water ways. Such operations would not meet the definition of good engineering, hydrologic and pollution control practices and could result in significant discharges of untreated pollutants do to failure or spills during maintenance.
- The permittee is required to maintain a documented discharge log that includes:
    - Dates and times of when the discharge commences and ends.
    - Prior to the start of any discharge from an undefined discharge outfall(s), the receiving water for the discharge and the location that the outfall will be located at, including the latitude and longitude to the nearest 15 seconds, , general description of the location, and a map showing the discharge locations.
    - A description of the pollutant control practices used during construction dewatering, including:
        - for all filter devices- document the pollutant control filter maximum flow rate that will maintain compliance with the permit effluent limits and a drawing, sketch, and/or written description of the installation and implementation specifications.

- for all settling devices- document the residence time and maximum flow rate that will maintain compliance with the permit effluent limits and a drawing, sketch, and/or written description of the installation and implementation specifications.
- for all other techniques and methods implemented to remove pollutants prior to discharge, such as but not limited to pump in gravel-packs, sump conditions, and well screens- document the technique used and its intended purpose, the maximum flow rate for operation that will maintain compliance with the permit effluent limits, and a drawing, sketch, and/ or written description of the installation and implementation specifications.
- if no treatment has been determined necessary to remove pollutants prior to discharge in order to maintain compliance with the permit effluent limits- a statement identifying that no treatment will be provided.

- Undefined outfalls are only authorized and can be used for reporting discharges at a single outfall at a specific location.
- The method for obtaining flow rates.

Discharges authorized by this permit often occur irregularly. This irregular nature can result in confusion for both the permittee and the Division in determining monitoring frequency and the application of both daily and averaged effluent limitations. A discharge monitoring log is therefore required. This requirement applies to all dischargers but is intended to not result in a significant tracking and record keeping burden for those discharges that are on-going. In addition, the Division has determined that documentation of basic information that identifies how treatment is implemented at a site is necessary to ensure compliance with the effluent limitations. Without documenting basic information such as maximum flow rate, there is no way for facility staff or Division inspectors to ensure they identify the proper implementation and maintenance of BMPs in a manner to prevent failure or in exceedances of effluent limits that would not be identified until samples can be analyzed. The information is also required to enable effective compliance oversight of the permitted facility.

C. Facilities Covered:

This general permit is to authorize discharges of construction dewatering source water associated with construction activities to waters of the State in Colorado. Construction dewatering source water can be groundwater, surface water, or stormwater that has commingled with the groundwater and/ or surface water. The permit only authorizes the discharge from the source water from the specific area(s) that has been identified in the permittee's application, or in subsequent notifications to the Division.

The following discussion outlines the differences between the Construction Dewatering Discharge Permit, the Remediation Activities General Permits, and the Low Risk Discharge Policy for Uncontaminated Groundwater Discharges to Ground. Additional information is included in the specific permit or low risk guidance.

- The Division has had a long standing practice of having a general permit available to provide coverage for Construction Dewatering discharges, as this general permit has been in place since 1983. This permit has and continues to provide administrative efficiencies by providing coverage for many activities across the state while shortening the application and issuance timeline that is needed in comparison to other types of general permits and individual permits. This streamlined approach and the scope of the general permit historically has been, and continues to be, targeted for areas where groundwater is <u>not</u> contaminated. Discharges that have been found to have groundwater

that is contaminated have been required to apply for coverage under another type of permit, either an individual permit or a general permit specifically allowing for coverage of treated contaminated groundwater.

In implementing this permit it has become important to be able to distinguish discharges that are contaminated from those that are not, and the terminology and information used to make that determination has evolved over time. The application for coverage under this general permit has always and continues to require information regarding the potential for groundwater contamination in the vicinity of the project. During the most recent term of the permit, the Division provided guidance regarding how this information can be obtained by the applicant. Recommended sources of information include published information regarding contaminated sites such as Brownfields Sites, leaking underground storage tanks, voluntary clean-up sites, and CERCLA and RCRA corrective action sites, Phase I or Phase II environmental site assessments routinely conducted to support a property transfer, and project specific groundwater monitoring. The general permit terminology used to describe discharges that are ineligible for coverage has evolved over time. For construction dewatering discharges that were evaluated early on in the process, the terminology used was to prohibit "process generated waste waters" and specifically identified sources such as sanitary waste and mine tailings dewatering wastes as ineligible for coverage. In the 1990s there was a focus on excluding sites associated with leaking underground storage tanks at commercial gas stations and the Division created a general permit specifically for remediation of those sources because of the increased frequency of encountering those sources either through construction associated with urban redevelopment and/or remediation of those sources. During the first five permit terms, the Construction Dewatering Permit required analysis of the water to be discharged as part of the permit application. In the current permit that is being renewed through this action, the requirement was refined and a chemical analysis is required on a case-by-case basis once the application is reviewed. The Division encourages data to be submitted with the application when available, and requires data to be submitted following the initial application review in cases where it is needed to finalize a reasonable potential determination.

More recently, the Division has had increased questions regarding naturally occurring pollutants, and whether they are or are not considered contaminants. To better align the general permit with the permitting framework defined through statutes and implementing regulations, this permit renewal defines discharges that are ineligible for coverage as discharges for which "the Division has determined that there is a reasonable potential for a pollutant to be present in the source water at a concentration that is greater than a numeric water quality standard of the receiving water". Within the Clean Water Act framework, both anthropogenic and naturally occurring pollutants that may be present in a discharge are subject to effluent limitations as needed to protect water quality standards. If flexibility is appropriate due to factors such as limits of technology, ambient conditions, and economic impacts, relief can be considered under the water quality standards framework of the Clean Water Act (e.g., modifications or variances to stream standards), in contrast to being within the authority of a permit determination.

The Construction Dewatering Discharge Permit authorizes the discharge of construction dewatering to surface water and/ or groundwater. In general, the permit is intended to authorize discharges for which all pollutants discharged will meet stream standards and technology based requirements without the need of advanced treatment beyond basic filtering (e.g., filter bags), settling (e.g., tanks), or other systems designed to remove suspended solids. Coverage under this permit is not for discharges for which the Division has determined that there is a reasonable potential for a pollutant to be present in the source water at a concentration that is greater than a numeric water quality

standard of the receiving water.

The Division has determined it is appropriate and feasible to authorize discharges under this permit for which a limited set of specific contaminants (i.e., Benzene, Toluene, Ethylbenzene, Xylene, E. coli, and Total Coliform, as discussed below) have the reasonable potential to be present in the source water in excess of the receiving water standards, but for which treatment is not necessary to meet effluent limitations. This allowance expands the number of discharges eligible for coverage without overly complicating the permitting process and adding significant additional terms and conditions. For the remaining discharges that require additional evaluation during the authorization process and additional permit terms and conditions, general permit coverage is still available in most cases under the Remediation Activities Discharge General Permits. By having general permitting options, the Division is able to issue the majority of authorizations for dewatering discharges at construction sites under this permit in a more timely and efficient manner and with fewer terms and conditions.

In this permit renewal, the Division is specially stating that coverage is allowed in situations where the construction dewatering operation is in an area of potential contamination with Benzene, Toluene, Ethylbenzene, and Xylene (BTEX), and the applicant can demonstrate, through submission of data, that the construction dewatering discharge source water can meet the appropriate water quality standards, therefore not necessitating additional treatment for these pollutants, than the construction dewatering operation may be able to be covered under the Construction Dewatering Discharge Permit. The result is that the permit can authorize discharges where the source water has the reasonable potential to contain BTEX in excess of the receiving water standards, but for which the actual exceedance has not occurred. This scenario is occurs for many permitted facilities due to the common occurrence of leaking underground storage tanks at commercial gas stations and other sources of petroleum pollution of soils and groundwater. When construction occurs in proximity to these locations of contamination, there is a potential that the contaminants can be drawn into the source water for a dewatering operation based on many variables that may be difficult to fully evaluate at the time of application, including the actual length of time of the discharge, location of the contaminated groundwater, and groundwater hydrology. By allowing the discharge to be covered under this permit for these reasonably common scenarios, the Division allows flexibility for the operator to simplify permitting under this permit, as compared to a Remediation Activities Discharge General Permit or individual permit. The permittee can make a determination based on their evaluation of the site at the time of the application regarding if they instead wish to seek permit coverage under a Remediation Activities Discharge General Permit which would allow the discharge to continue with treatment if BTEX exceeds the permit limitations.

A similar determination has also been made for E. coli and Total Coliform. The permit authorizes discharges where the source water has the reasonable to contain E.coli or Total Coliform (as appropriate for discharges to surface and groundwater respectively) in excess of the water quality standard, but for which the actual exceedance has not occurred. The Division will likely make a qualitative reasonable potential determination that E. coli or Total Coliform may exceed standards in the source water when the associated construction activity involves replacing or repairing existing sanitary sewer lines, are in proximity to septic disposal systems, and or other sewage disposal conveyances or vessels. In these cases, the potential is based on the possibility for leaks or spills either prior to or during construction. By authorizing discharges with such potential, the permit allows operator to comply with the permit limitations by avoiding sources of E. coli or Total Coliform.

- The Remediation Activities Discharge General Permits authorizes the discharge from Remediation

Activities (e.g., treatment and/or remedial activities of groundwater, alluvial water, stormwater, and/or surface water). The discharges are typically contaminated, or have the reasonable potential to be contaminated, from specific industrial sources that may include former dry cleaners, gasoline stations, industrial manufacturing facilities, or contaminated from an unknown sources. They may also have contamination from naturally occurring constituents at concentrations that trigger water quality based effluent limits for discharges to surface water based on a Reasonable Potential Analysis. The Remediation Activities Discharge General Permits requires influent screening of the groundwater to help the Division characterize the groundwater contamination associated with the discharge.

- The State of Colorado also has a Low Risk Discharge Policy for Uncontaminated Groundwater Discharges to Ground. The Low Risk Policy is intended for discharges of groundwater to land that are not expected to contain pollutants in concentrations that are toxic, or in concentrations that would cause or contribute to a violation of a water quality standard for groundwater. These types of discharges would not have pollutants or pollutant parameters above any water quality standard for the receiving groundwater.

If the construction dewatering operation covers large stretches of land, the applicant may break up the project into areas that may be authorized and permitted under the Construction Dewatering Discharge Permit, areas that can be authorized and permitted under the Remediation Activities Discharge General Permits, and areas that meet the intent of the Low Risk Policy of Uncontaminated Discharges to Land and can operate under the practices and procedures identified in the policy.

C. Limitations on Coverage

There are some discharges from Construction Dewatering operations that cannot be covered under this general permit and must apply for coverage under another general permit or an individual permit. These exclusions are listed in Part I.A.2 of the permit.

E. Application Requirements:

Construction Dewatering operations can apply for coverage under this general permit upon the issuance and effective date of the permit by submitting a complete and accurate application at least 30 days prior to the anticipated discharge. Following review of the application, the Division may request additional information. Upon receipt of the additional information, the Division shall have additional time to issue or deny the authorization to discharge.

Existing facilities with certifications under the administratively extended Construction Dewatering Discharge General Permit (COG-070000) that have submitted renewal applications and qualify for coverage under the new general permit will automatically be transferred. Coverage will be transferred to the new general permit without a lapse of coverage (i.e. discharging without a permit) and without loss of fee payments.

The CDPS general permit for Remediation Activities Discharging to Surface Water and CDPS general permit for Remediation Activities Discharging to Groundwater (COG-316000) authorizes discharges from similar activities as this general permit, but for which Remediation Activities may be conducted. As part of the Division‘s review of an application for coverage under COG-070000, or based on the availability of new information for facilities with existing coverage, the Division will assess the potential for various sources of contamination to be present in the discharge. Water quality based effluent limits may be required based on a

Reasonable Potential Analysis (see Part VI.A.2.g) due to the potential presence of contaminants in the source water. Coverage under COG-070000 will not be authorized by the Division if the discharge meets the limitations in Part I.A.2.a which could potential require that remediation activities be conducted for the discharge based on the need for water quality based effluent limits for the discharge. If the applicant wishes to obtain coverage under one of the Remediation Activities general permits for the discharge, the applicant must submit to the Division a statement requesting that the information received in the Construction Dewatering application be applied towards the Remediation Activities Permit application,

III. RECEIVING STREAM

The Division has identified the stream segments to which the facilities with current certifications under the general permit discharge. The Division expects to continue coverage for these facilities under this general permit since the stream standards and designations are consistent with the limitations on coverage in the permit ((i.e. none of the segments are designated as outstanding waters). The Division will also evaluate discharges to stream segments with established TMDLs, discharges to 303(d) listed waters, and other receiving water information as appropriate. Stream segments will be identified in the permit certification when issued under this permit.

IV. SECTOR DESCRIPTION

A. Industry Description

During construction activities, dewatering of excavation sites or other depressions is often necessary. The presence of water in areas of construction activities is normally the result of either groundwater or surface water intrusion or stormwater runoff from a precipitation event accumulating in the area. Removal of this water from the construction site is often necessary for construction activities to occur, including equipment operation and the integrity of the structure being constructed. Construction dewatering operations share common operational procedures, water treatment processes, and discharge effluent characteristics.

B. Chemical Usage

Construction dewatering operations covered under this general permit typically use passive treatment Best Management Practices to meet the Effluent Limitations and monitoring requirements outlined in the permit certification. Therefore, the use of chemicals is not expected at these facilities. However, for this general permit the Division has required applicants to submit a list of proposed chemicals, including dosage rates, used in the treatment process. Additionally, a MSDS for each chemical proposed for use must be provided so that the Division can determine the appropriate effluent limitations and conditions to include in the permit certification. If the chemicals proposed have constituents of concern, for which numeric permit effluent limitation included in Part I.2. Table B.1. and Table B.2. of the general permit are not sufficient to provide limitations to control the discharge of pollutants or pollutant parameters above any water quality standard for the receiving water, the Division may determine that coverage under the Construction Dewatering general permit is not appropriate. In most cases, coverage under one of the Remediation Activities general permits will likely be applicable for such discharges.

V. COMPLIANCE HISTORY

The Division reviewed DMR data for previously permitted Construction Dewatering operations between the years 2009 and November 2012. DMR data is available prior to this period, but was not entered into a database that would facilitate review and analysis of the data. During this time period, 1,489 sites had active dewatering permits. Of those sites, 1,375 sites had an active discharge and submitted sampling and monitoring data to the Division in the form of Discharge Monitoring Reports (DMR). Of those 1,375 site, 956 sites were in urban areas (approximately 70%), while 416 sites were located in non-urbanized areas (approximately 30%). This review resulted in the following changes being made to the permit and Division practices.

During the period data was reviewed, the Division practice was to make qualitative reasonable potential determination to add BTEX limitations to a permit certification based on the location of the construction dewatering operation being in an urbanized area. Division DMR review indicated that there were few exceedances of the site-specific parameters (specifically, E.coli, Benzene, Toluene, Ethylbenzene, and Xylene (BTEX)) that were included in the permit certifications. Based on this information, the Division has revised its practice to no longer use the location within an Urbanized Area alone to make a qualitative reasonable potential determination for BTEX. However, the Division may still make a qualitative reasonable determination for BTEX based on site-specific information, such as the source water being from a area where contamination (at or near a hazardous waste site, leaking underground storage tank, or additional sources other than what is normally encountered at excavation and construction sites), naturally occurring pollutants potentially exist, or when there is otherwise a potential for pollutants to be added to the source water prior to discharge. These changes in practice are reflected in the permit requirements associated with monitoring and limitations for BTEX.

The Division was adding monitoring and reporting requirements to permit certifications under the previous Construction Dewatering permit for E. coli and Total Coliform if the discharge receiving water was on the 303(d) list as impaired for E. coli. DMR review did not indicate that there was correlation between the presence of E.Coli in the construction dewatering discharge and a stream impairment. The Division will no longer add E. coli or Total Coliform solely based on the construction dewatering discharging to state water that is impaired for E.Coli. However, the Division will add limitations if there is site specific determinations of reasonable potential, as discussed above (Part II.C).

VI. TERMS AND CONDITIONS OF PERMIT

A. Discussion of Effluent Limitations

1. Technology Based Limitations

   a. Federal Effluent Limitation Guidelines – There are no Federal Effluent Limitation Guidelines for this category of discharge.

   b. Regulation 62: Regulations for Effluent Limitations – These Regulations include effluent limitations that apply to all discharges of wastewater to State waters. These regulations are applicable to the discharge from Construction Dewatering.

      i. Total Suspended Solids - The Division's current permit includes numeric technology-based limits for TSS based on Regulation 62. The Division has retained those more stringent requirements in this renewal permit for all dischargers as required by the anti-

backsliding provision in CWA § 402(o). These limitations are the same as those contained in the previous permit and are imposed upon the effective date of this permit.

ii. Oil and Grease – The oil and grease limitations from the Regulations for Effluent Limitations are applied as they are the most stringent limitations. These limitations are the same as those contained in the previous permit and are imposed upon the effective date of this permit.

iii. pH - The pH limitation specified in the Regulations for Effluent Limitations is not the most stringent and thus is not used. pH limitations for discharges to unclassified surface waters are generally 6.0-9.0, per Regulation 62. However, to maintain consistent effluent limitations under the general permit, the permit includes a pH limitation of 6.5-9.0 for all discharges to surface waters.

2. Water Quality Regulations, Policies, and Guidance Documents

a. Antidegradation - As stated in The Basic Standards and Methodologies for Surface Water, Section 31.8, an antidegradation (AD) analysis is required for all discharges to waters designated "reviewable", except in cases where the regulated activity will result in only temporary or short-term changes in water quality. Therefore, short-term and intermittent discharges will be considered a temporary impact and exempted from the AD review. Under this general permit the discharges are considered short term and intermittent and the discharges are exempt from AD review.

b. Antibacksliding – The Division has retained the more stringent TSS numeric effluent limit in this renewal permit for all dischargers as required by the anti-backsliding provision in CWA § 402(o).

b. Determination of Total Maximum Daily Loads (TMDLs) – Upon reissuance of the renewal certifications and for new construction dewatering permit applications under this revised general permit, the Division will assess whether or not any permitted facility discharges to segments for which a TMDL has been completed. The Division has included a provision in the general permit that authorizes the inclusion of additional effluent limits and other terms and conditions in a certification for discharges to segments for which a TMDL has been completed. The determination whether compliance with numeric effluent limitations will be required will be made on a case-by-case basis.

c. Determination of Discharges to 303(d) Listed Waters— Upon reissuance of the renewal certifications and for new construction dewatering permit applications under this revised general permit, the Division will assess whether or not any permitted facility discharges to segments on the 303(d) list of impaired waters. The Division has included a provision in the general permit that authorizes the inclusion of additional effluent limits and other terms and conditions in a certification for discharges to segments that are on the 303(d) list of impaired waters. The determination whether compliance with numeric effluent limitations will be required will be made on a case-by-case basis.

d. Colorado Mixing Zone Regulations – For this general permit, mixing zone regulations will not apply for discharges from Construction Dewatering Activities as all limitations are assigned as end of pipe limits based on the Water Quality Standards and Technology Based Limitations.

The rationale for not applying mixing zone regulations is due to Division resource limitations and the time required to conduct a thorough analysis of the receiving stream and its' assimilative capacity. In addition, this level of analysis is more appropriate for the individual permit process in order to include public notice and comment opportunities. Not applying the mixing zone regulations is consistent with the previous iteration of the permit.

e. Total Phosphorus – as noted in the general permit, the Division will implement effluent limitations and monitoring conditions in the certification in accordance Phosphorus Control Regulations (Regulations, 71, 72, 73, and 74).

f. Reasonable Potential Analysis –An analysis must be performed to determine whether to include WQBELs in the permit. This reasonable potential (RP) analysis is based on the Determination of the Requirement to Include Water Quality Standards-Based Limits in CDPS Permits Based on Reasonable Potential, dated December, 2002. This guidance document utilizes both quantitative and qualitative approaches to establish RP depending on the amount of available data.

g. Intake Credits - –The Division has made the determination that there is not reasonable potential and effluent limitations do not need to be applied for discharges authorized under this permit where all of these conditions exist:

i. The source water (i.e., intake water) for a construction dewatering discharge is composed entirely of in-stream water. Based on the Division's permitting experience, this condition is met when construction activities occur in-stream, and when construction activities occur on a stream bank where water is contiguous with in-stream water. It will not be the Division's standard practice for intake credits to apply under this permit to intake water that is composed of alluvial groundwater that is hydrologically connected to the surface water body, as condition iv below may not be met. For example, the nature of alluvial groundwater dewatering, through the creation of cone of depression may increase soil pollutant delivery, regardless of whether a pollutant is present due to natural or anthropogenic causes. The act of transferring pollutants from dewatered alluvial groundwater to a stream can also change the rate (timing) and loading of the pollutant.

ii. An intake credit is necessary because a pollutant is present in the source water at a concentration that exceeds a water quality standard. For this permit, the Division qualitatively determines that this condition is met for all waterbodies identified as impaired (on the 303(d) list or category 4b) for numeric water quality criteria. The Division also makes this determination on a case-by-case basis where information is included in the permit application to document the pollutant concentration in the intake water.

iii. The proposed point of discharge is to the same waterbody segment as the source water.

iv. The discharge does not increase the pollutant loading or mass, including through introduction of pollutants to the discharge from the construction activities associated with the dewatering discharge. Intake credits do not apply to sediment for this permit, since construction activities can increase sediment loading in the intake water, and as such effluent limits are applied to construction dewatering discharges to limit the amount of sediment authorized in the discharge. Based on the Division's permitting experience other parameters commonly found in the frequently used

control measures for construction dewatering, such as mechanical filtration and passive settling, do not increase pollutant concentrations (e.g., through evaporation). The scope of authorizations allowed under this general permit is limited to the source water and pollutants associated with the source water's contact with construction activities, and does not include other internal waste streams.

v. This does not apply in situations where a TMDL wasteload allocation is applicable to the point source discharge

The Division's application of intake credits in these limited circumstances is consistent with EPA Region VIII policy regarding intake credits which is documented in a memo dated March 2, 1992 and the Division's past practice for these types of construction dewatering discharges. Pollutants for which intake credits are applied are expected to be present and are authorized in the point source discharge.

In addition, for discharges from dewatering projects for bank or in-stream construction activities, report only monitoring requirements will not be applied to the discharge. For these discharges, the Division does not anticipate that additional data obtained from report only monitoring will be needed to support future reasonable potential determinations.

This limited application of intake credits has been determined to be appropriate for discharges authorized under this permit, and is not intended to make a determination for the overall applicability and implementation of intake credits.

3. Pollutants Limited by Water Quality Standards –

a. pH – This parameter is limited by the water quality standards of 6.5-9.0 s.u., as this range is more stringent than the range specified under the Regulations for Effluent Limitations. This limitation is the same as that contained in the previous permit and is imposed effective immediately.

b. E. coli- The Division's Policy Concerning Escherichia coli versus Fecal Coliform establishes a maximum E. coli 30-day geometric mean limit of 2000 colonies/100 ml and also establishes the 7-day geometric mean limit for E. coli as two times the 30-day geometric mean limit; consequently, a 30-day geometric mean limit of 2000 colonies/100 ml and a 7-day geometric mean limit of 4000 colonies/100 ml have resulted.

c. Temperature- The Division decided not to include monitoring for temperature on a permit-wide basis, as facilities generally do not add heat during their processes. However, a case-by-case determination will be made as whether to include monitoring for temperature for facilities that containerize the effluent for extended periods of time causing the potential for temperature to be a pollutant of concern

d. Metals—A case-by-case determination will be made as to whether or not metals are potential pollutants of concern that must be limited and/or monitored to protect the classified uses assigned to the receiving water. The case-by-case determination will be made based on the source water for the construction dewatering activity discharge, chemicals used in the remedial process, concentrations of naturally occurring metals, the potential for the characterization of the source water to change due to locations of contaminant plumes, and data supplied with the permit application used to characterize the potential source water. Concentrations of naturally

occurring metals, and data supplied with the permit application used to characterize the potential source water. The limitations for metals are based upon the water quality standards and will come directly from the basin regulations (Regulations 32-38) and the Basic Standards and Methodologies for Surface Water (Regulation 31). Standards for metals in the basin regulations that are shown as Table Value Standards (TVS) must be derived from equations that depend on the receiving stream hardness or species of fish present. These equations can be found in the basin regulations (Regulations 32-38).

e. Volatile Organic Compounds (VOCs) and Semi-Volatile Organic Compounds (SVOCs)—A case-by-case determination will be made as to whether or not VOCs and/or SVOCs are potential pollutants of concern that must be limited and/or monitored to protect the classified uses assigned to the receiving water. The case-by-case determination will be made based on the chemicals used in the treatment process and data supplied with the permit application used to characterize the potential source water. The limitations for VOCs and SVOCs are based upon the water quality standards that come directly from the Basic Standards and Methodologies for Surface Water (Regulation 31). The numeric effluent limitations implemented are dependent on the beneficial use of the receiving stream.

5. Salinity Regulations – In compliance with the Colorado River Salinity Standards and the Colorado Discharge Permit System Regulations, the permittee shall monitor for total dissolved solids on a monthly basis.

6. Economic Reasonableness Evaluation – Section 25-8-503(8) of the revised (June 1985) Colorado Water Quality Control Act required the Division to "determine whether or not any or all of the water quality standard based effluent limitations are reasonably related to the economic, environmental, public health and energy impacts to the public and affected persons, and are in furtherance of the policies set forth in sections 25-8-192 and 25-8-104."

   The Colorado Discharge Permit System Regulations, Regulation No. 61, further define this requirement under 61.11 and state: "Where economic, environmental, public health and energy impacts to the public and affected persons have been considered in the classifications and standards setting process, permits written to meet the standards may be presumed to have taken into consideration economic factors unless:

   a. A new permit is issued where the discharge was not in existence at the time of the classification and standards rulemaking, or

   b. In the case of a continuing discharge, additional information or factors have emerged that were not anticipated or considered at the time of the classification and standards rulemaking."

   The evaluation for this permit shows that the Water Quality Control Commission, during their proceedings to adopt the basin regulations, considered economic reasonableness.

   Furthermore, no new information has been presented regarding the classifications and standards. Therefore, the water quality standard-based effluent limitations of this permit are determined to be reasonably related to the economic, environmental, public health and energy impacts to the public and affected persons and are in furtherance of the policies set forth in Sections 25-8-102 and 104. If a party that desires coverage under this general permit disagrees with this finding, pursuant to

61.11(b) (ii) of the Colorado Discharge Permit System Regulations, they should submit all pertinent information to the Division during the public notice period.

B. Terms and Conditions Necessary to Assure Compliance

Regulation 61.8(3)(f) includes a requirement for permits to include such terms and conditions as the Division determines to be necessary to ensure compliance with applicable control regulations, water quality standards, and the state and federal Act. The Division has determined that the following conditions are necessary for discharges authorized by this permit.

1) Pollutant Control Practices, Materials Handling and Spill Prevention, and Discharge Log requirements have been added to the permit have been added to the permit (Part I. C.1 and Part I C.2.).

C. Monitoring

Effluent monitoring will be required as shown in the general permit. Monitoring locations will be authorized in the permit certification. Facilities wanting to request a reduction in monitoring frequency must request so through the modification process. The Division will evaluate if a reduction in monitoring frequency can be made in accordance with the Monitoring Policy. Subsequently, upon permit renewal, facilities that have previously been granted a reduction in monitoring frequency will be re-evaluated against the criteria set forth in the Policy to determine if monitoring reductions can continue.

D. Reporting

1) Discharge Monitoring Report – Facilities authorized under this general permit must submit Discharge Monitoring Reports (DMRs) on a monthly basis to the Division. These reports should contain the required summarization of the test results for all parameters and monitoring frequencies shown in Part I.B of the permit. See the permit, Part I.B, C, D and/or E for details on such submission.

2) Special Reports – Special reports are required in the event of an upset, bypass, or other noncompliance. Please refer to Part II.A. of the permit for reporting requirements. Submittal of these reports to the US Environmental Protection Agency Region VIII is no longer required.

E. Spills

Spill requirements apply to materials spilled that result in their presence in the discharge authorized under this permit. Spills that may cause pollution of state waters that are not discharged through an outfall authorized under this general permit are not within the scope of this general permit and are required to be reported in accordance with the Colorado Water Quality Control Act 25-8-601(2), since the Division views these actions as not authorized under the scope of a discharge permit. Additional information regarding reporting of unauthorized spills is contained in the Divisions Guidance for Reporting Spills.

F. Compliance Schedules

Compliance schedules are authorized to be included in certifications as needed. All information and written reports required by a compliance schedule should be directed to the Permits Section for final review unless otherwise stated.

G. Additional Terms and Conditions

Signatory and Certification Requirements – Signatory and certification requirements for reports and submittals are discussed in Part I.E.7. of the permit.

Permit Writer
Maura McGovern
May 14, 2013

VII REFERENCES

A. Colorado Department of Public Health and Environment, Water Quality Control Division Files, for CAAPFs currently authorized under this permit.

B. Basic Standards and Methodologies for Surface Water, Regulation No. 31, Colorado Department of Public Health and Environment, Water Quality Control Commission, effective November 30, 2009.

C. Colorado Discharge Permit System Regulations, Regulation No. 61, Colorado Department of Public Health and Environment, Water Quality Control Commission, effective September 30, 2009.

D. Regulations for Effluent Limitations, Regulation No. 62, Colorado Department of Public Health and Environment, Water Quality Control Commission, effective March 30, 2008.

E. Colorado River Salinity Standards, Regulation No. 39, Colorado Department of Public Health and Environment, Water Quality Control Commission, effective August 30, 1997.

F. Antidegradation Significance Determination for New or Increased Water Quality Impacts, Procedural Guidance, Colorado Department of Public Health and Environment, Water Quality Control Division, effective December 2001.

G. Memorandum Re: First Update to (Antidegradation) Guidance Version 1.0, Colorado Department of Public Health and Environment, Water Quality Control Division, effective April 23, 2002.

H. Determination of the Requirement to Include Water Quality Standards-Based Limits in CDPS Permits Based on Reasonable Potential Procedural Guidance, Colorado Department of Public Health and Environment, Water Quality Control Division, effective December 2002.

I. The Colorado Mixing Zone Implementation Guidance, Colorado Department of Public Health and Environment, Water Quality Control Division, effective April 2002.

J. Baseline Monitoring Frequency, Sample Type, and Reduced Monitoring Frequency Policy for Domestic and Industrial Wastewater Treatment Facilities, Water Quality Control Division Policy WQP-20, May 1, 2007.

K. Policy for Conducting Assessments for Implementation of Temperature Standards in Discharge Permits, Colorado Department Public Health and Environment, Water Quality Control Division Policy Number WQP-23, effective July 3, 2008.

VIII PUBLIC NOTICE COMMENTS

The draft general permit and associated fact sheet were noticed for public comment on May 17, 2013 and the 30 day comment period ended on June 17, 2013. Comments and questions were received from The City of Glendale, Southeast Metro Stormwater Authority (SEMSWA), Industrial Water Permitting and Recycling Consultants, LLC, Colorado Stormwater Council (CSC), City of Longmont, and Public Service Company of Colorado, PSCo (dba Xcel Energy) Summaries of these comments and questions and the Division's responses are provided below and organized by the permit and fact sheet section. The full comments and supporting documents are contained in the permit file and available upon request from the Division's Records Center. Some comments and questions received during the 30 day comment period were outside the scope of the general permit and the Division responded directly to the commenter.

General Comments

Comment 1, City of Longmont

Requested that the terms construction dewatering source water, source water, influent, effluent, discharge, and intake water be consistent throughout the documents, the location that the term is referencing should be clear, and the number of terms that refer to the same location should be minimized.

Response 1— *Part I.A.1 was revised to better clarify references to source water.*

Comment 2, City of Glendale and SEMSWA

Requested that the permit be consistent and complimentary with the State Engineer's Office regulations and that the Construction Dewatering Permit not result in heightened or additional requirements from another State agency

Response 2 *—The Division is not aware of any conflict between the permit and the State Engineer's Office requirements.*

Comment 3, Industrial Water Permitting and Recycling Consultants

Requested clarification on if dilution is considered basic treatment under this permit, assuming uncontaminated water is utilized in the dilution process? The assumption for this inclusion is that no chemicals are added to remove potential pollutants as part of treatment?

Response 3 *— Dilution is a method of treatment and the notification, record keeping, and other permit requirements associated with treatment practices are applicable to this practice.*

Comment 4, Industrial Water Permitting and Recycling Consultants

Requested clarification on if a construction firm or another entity obtain statewide coverage under this permit with one project area identified in the initial application and then modify the permit for subsequent projects? In

support of this approach, could the outfalls be undefined in the certification, but recorded in the associated Discharge Log?

Response 4 —*Statewide coverage under this permit is not available. The permit only authorizes discharges for which the source water is drawn from the specific area(s) identified in the application. It is not feasible for the Division to determine if discharges that could occur for source water and receiving waters statewide would meet the limitations of this permit, and to identify the numeric effluent limitations and monitoring requirements required by 5 CCR 61 for the discharges. The permit does allow for a permittee to apply for undefined outfall locations for the area(s) identified in the application. Note that the number of undefined outfalls per permit certification will be twenty unless more are granted by the Division on a case-by case basis. All the potential receiving streams for the undefined outfall locations must be identified in the application in order for the Division to implement the most protective water quality standards of the potential receiving streams.*

Permit Part I.A.1 Activities Covered

Comment 1, City of Longmont and City of Glendale

Requested clarification on why surface water dewatering discharges are authorized by the general permit, when permit coverage would be applicable, and how 404 permitting relates to the discharge.

Response 1— *The permit authorizes point source discharge that requires CDPS permit coverage in accordance with the 5 CCR 61, and the meet the requirements in I.A for coverage under the permit. This includes when dewatering water is removed from a surface water of the State (i.e., the source water) and then discharged back into any state water from a point source. Permitting of a discharge of dredge or fill material in accordance with section 404 of the Federal Clean Water Act may also be required for the same construction projects for which a point source discharge requiring CDPS permit coverage in accordance with 5 CCR 61 occurs.*

Comment 2, CSC

Commented that the language is more confusing than the current language in the permit and recommend maintaining the current permit language

Response 2*—The intent of the new language is to clarify the types of construction dewatering discharges authorized under the permit. The Division has kept the language as proposed.*

Comment 3, City of Longmont

Requested clarification about what coming into "contact" with construction activity means. It appears that for situations where a stream is dewatered and work is only occurring on the banks that the discharge does not come into contact with "construction activity."

Response 3*— Regulation 5 CCR 61 defines point source discharges for which permit coverage is required, while the permit identifies the types of point source discharges eligible for coverage. Specifically, the permit authorizes point source discharges of pollutants where the potential source of the pollutants is from contact with construction activities and from the source water. If there is not a discharge of pollution requiring a permit in accordance with 5 CCR 61, CDPS permit coverage is not required. Permit coverage is not required for clean water diversions that do not introduce pollutants or otherwise create a point source*

discharge as defined in 5 CCR 61 (e.g., stream is dewatered and work is only occurring on the banks that the discharge does not come into contact with construction activities that can add pollutants).

Permit Part I.A.2 Limitations on Coverage

Comment 1, CSC
Requested clarification on how it is determined whether a discharge is covered under the Construction Dewatering Permit and who determines it?

Response 1*—The Division would not cover a discharge under the Construction Dewatering Permit if it meets any of the conditions outlined in Part I.A.2 of the permit. The language provided in the permit and fact sheet is intended to help the applicant apply for appropriate permit coverage (Construction Dewatering, Remedial Activities, Low Risk Discharge Policy, or other implementing agency). The Division will determine if applications qualify for coverage under the Permit.*

Comment 2, CSC— Part I.A.2.a
Requested clarification on what permit is available for coverage if a discharge is ineligible for coverage under this permit?

Response 2*— Part II.C of the Fact Sheet provides guidance on alternative options for discharges not eligible for coverage under the permit. Individual permits are drafted for a specific discharge(s) based on the application.*

Comment 3, CSC— Part I.A.2.a
Requested clarification on why Benzene, Toluene, Ethylbenzene, and Xylene (BTEX) are provided an exception, from the limitation when naturally occurring pollutants are not?

Comment 4, CSC and City of Longmont — Part I.A.2.a
Requested clarification on why Benzene, Toluene, Ethylbenzene, and Xylene (BTEX) are only contaminants called out specifically for an exemption from the limitation in I.A.2.a? Commented that dischargers should be eligible for this permit if they can show that any pollutant is not in the effluent, even if there is reasonable potential for it to be there.

Response 3 and 4—*The limitations in Part I.A.2.a are intended to allow for a streamlined permitting approach for the majority of construction dewatering discharges. Coverage is not limited based on the reasonable potential for a pollutant to be present, but is limited if there is a reasonable potential for a pollutant to be present in the source water at a concentration that is greater than a numeric water quality standard of the receiving water. The Division general permits for Remediation Activities include additional application requirements, monitoring requirements, and effluent limitations determined necessary for discharges that do not qualify for coverage under this permit.*

The Division revised the fact sheet to better describe why the specific permit terms and conditions were used in this permit renewal. The fact sheet also explains that the BTEX limitations included in the permit and why the limitations on permit coverage differ for BTEX as compared to other pollutants (Part II.C)..

Comment 7, City of Longmont— Part I.A.2.a

Requested that permit coverage eligibility and limitations be based on exceedance of stream standards in the receiving water.

Response 7—*The permit applies water quality standards at the end of pipe and does not account for dilution of pollutants by the receiving water, which would necessitate the calculation and inclusion of facility specific numeric effluent limitation(s) that incorporate mixing. The required data and calculation that would be needed for such an approach would also significantly extend the time to process applications, beyond the current 30 days identified for this permit. In addition, it is the Divisions' determination that facility specific numeric effluent limitation(s) based on dilution should be subject to public notice and comment, and would be inconsistent with the regulations for issuing general permits in 5 CCR 61.9(2)(a)(ii). Facilities desiring such considerations may apply for coverage under an individual permit.*

Comment 8, CSC— Part I.A.2.a
Requested additional explanation of "implementing agencies under Senate Bill 181."

Response 8—*The implementing agencies are identified in 25-8-202(7), C.R.S.and 5 CCR 6113(2) and have the initial responsibility for implementation of water quality standards to protect ground water quality:*

a. Division of Reclamation, Mining and Safety;
b. State Engineer;
c. Oil and Gas Conservation Commission;
d. Hazardous Materials and Waste Management Division;
e. Division of Oil and Public Safety.

Permit Part I.2. Numeric Effluent Limitations and Monitoring Requirements

Comment 1, Xcel Energy —Table B.1
Commented on the 30 day average limit for E.coli of 630 per 100 ml.

Response 1—*The inclusion of 630 per 100 ml limitation was an error and the table has been updated to state "Limit in Certification."*

Comment 2, City of Longmont —Table B.2
Commented that pH monitoring (table B.1 and B.2) should not be limited to in-situ sampling when it can be performed according to EPA approved methods at a lab.

Response 2—*Tables B.1 and B.2. have been updated to reflect the allowance of grab or in-situ sampling method for pH. The Permit requires that sampling is performed 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. 40 CFR Part 136 Table II Sample Collection, Preservation Techniques, and Holding Times requires a maximum holding time for pH as "within fifteen minutes" and therefore in-situ will likely be the sampling method used.*

Comment 3, City of Longmont and Xcel Energy —Tables B.1 and B.2
Requested clarification on the term "sewage conveyance" as discussed in Note 5 and the reference to the sanitary sewer collectors and how the Division will know whether the work is being done in close proximity to a "sewage conveyance" in order to make a reasonable potential determination?

Response 3—*The Division will make this determination based on the nature and location of the activity described in the permit application, and a qualitative determination of the reasonable potential for sewage to contribute pollutants to the discharge that results in the reasonable potential for E. coli or Total Coliform to be present in the source water at a concentration that is greater than a numeric water quality standard of the receiving water.*

Comment 4, CSC —Tables B.1 and B.2
Commented that the effluent limitation list has changed from the original permit and the frequency and number of tests has increased dramatically. Has the Division conducted a cost analysis?

Response 4—*The original permit required a measurement frequency of weekly for all parameters except Total Dissolved Solids and Total Phosphorus which were monthly and had the provision to add "site-specific" limitations on a case-by-case basis. This renewal permit also has a monitoring frequency of weekly for all parameters except Total Dissolved Solids and Total Phosphorus which again are monthly. Instead of referencing "site-specific" limitations the permit lists the specific possible parameters that may be added in the certification and therefore, the frequency and number of tests is not expected to differ for similar discharges under the renewed permit.*

The Division does strive to draft permits that include requirements that comply with regulations while not resulting in unnecessary costs for permittees. The Division has included numeric effluent limit in the permit in accordance with the requirements of 5 CCR 61.8(2), and the Division has determined that the monitoring and reporting requirements are "reasonably required," in accordance with 5 CCR 61.8(4). Where public comment is provided that identifies specific requirements that may be unnecessary or inefficient, the Division will evaluate the comments and make changes to the permit as appropriate. However, the completion of a cost analysis is not required by state statute or regulation for this permit action. Note that in accordance with Colorado Senate Bill 12-073, upon request by an affected party, the Division will consider and give due weight to a cost-benefit that is provided to the Division during the public comment period, paid for by the affected party, and meets the additional conditions contained in the bill and incorporated into C.R.S 25-8-503.5.

Comment 5, Xcel Energy —Notes for Tables B.1 and B.2.
Commented on updating the "sample type" for flow to reflect the language described in the fact sheet.

Response 5—*The language in the Note 1 of the permit has been updated.*

Comment 6, City of Longmont —Notes for Tables B.1 and B.2.
Provide comment that groundwater is variable and actual flows will not be known until dewatering actually begins. If there is a limit on flow there might be overestimation at the time of application. Why would the Division double the maximum estimated flow for the certification and also want the permittee to notify the Division when maximum flow on the application is exceeded?

Response 6— *The permit limitation for flow is set at double the rate identified in the application to reduce the need for permit modifications resulting in variations in flow rate. However, notification is required by the permit when the rate identified in the application is exceeded since the Division's determinations for qualitative reasonable potential are based on that identified flow rate and may need to be reevaluated if the rate changes. This combination of a limitation and notification requirement provides for a reasonable limitation on the variation from the identified flow rate (i.e., double) without requiring a modification.*

Comment 7, City of Longmont
Commented that Selenium (Se) is a naturally occurring contaminant that has a state-wide potential for being in the source water and is very difficult and expensive to treat. What analysis has been done on the previous DMR data for Se? Please provide more detailed discussion about how Se will be evaluated for reasonable potential and also how it will be handled through permit limitations or requirements.

Response 7— *Discharges authorized by this permit may include report-only requirements for Selenium. This will typically only occur to facilitate the collection of additional data when a discharge is to a segment listed on the Division 303(d) list as impaired for selenium. Where there is a reasonable potential for Selenium to be present in the source water at a concentration that is greater than a numeric water quality standard of the receiving water, permit coverage is required under another general permit (i.e., a remediation activities general permit) or under an individual permit. The Division does consider the nature of the pollutant in making a reasonable potential determination. For example for pollutants like benzene that are not naturally occurring, the Division will make a qualitative determination of reasonable potential based on published groundwater contamination information that indicates a pollutant source is in the vicinity of the project, without requiring project specific groundwater sampling data to be submitted to confirm the determination. Additional information can be voluntarily submitted by the applicant to support a no RP decision as appropriate. For Selenium, reasonable potential will typically be evaluated based on site-specific data, or data from nearby facilities that are determined to be representative of the data and a yes RP decision is typically made only where more localized information confirm the presence of the pollutant. Under the previous permit the Division's practice for selenium where there was not site-specific data was to make a qualitative monitor only decision where the receiving water is impaired. The Division's review of this data has shown that selenium exceeded the receiving water quality in 23 of 61 facilities between 2009 and 2012. Although this shows that RP for selenium does occur in areas where the Division had only qualitative impairment information upon which to the base the decision, it also shows that impairment alone does not correlate to an expectation that the discharge will exceed stream standards in the majority of the cases. Therefore, the Division drafted this master general permit with the expectation that effluent limits for selenium determinations would continue to be made based on local site specific data only. This is because there is known water quality problem, however given the nature of selenium, its presence in many ambient waters the and a monitor only decision is made where local data are not available to continue to inform future decisions. The Division acknowledges the challenges associated with treating for selenium; however discharges containing Selenium remain subject to the requirements of 5 CCR 61. requiring that effluent limitations must control all pollutants or pollutant parameters which the Division determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or measurably contribute to an excursion above any water quality standard.*

Comment 8, Industrial Water Permitting and Recycling Consultants, LLC —Permit Tables B.1 and B.2
Requested clarity on the "Limit in the Certification" language for BTEX in Tables B.1 and B.2.and how the limit will be developed. If these are the choices, why not enter them in the tables?

Response 8—*The limitations are based on the classification and beneficial uses of the receiving stream of the discharge. The appropriate numeric effluent limitations can be found in the Water Quality Control Commission Regulations and will vary based on the river basin, therefore "Limitation in Certification" is listed in the tables.*

Permit Part I.C.Terms and Conditions

Comment 1, City of Longmont —Part I.C.2

Commented that material handling and spill prevention should apply to activities that can have an impact on the permitted outfalls. If material handling and spill prevention is concern for entering State waters in general, the requirements should be handled in a different path; especially since dewatering permits will not cover all construction activities.

Response 1— *The Division has removed the section requiring materials handling and spill prevention practices. The Division agrees that the control discharges not authorized by the permit are not appropriate to address in the permit. Due to the low risk of discharges from the permitted outfall being impacted by these practices, the Division has determined it is not necessary to include requirements in the permit.*

Comment 2, City of Longmont, CSC, and City of Glendale —Part I.C.5
Commented that the permit should require that the permittee notify federal agencies, municipalities, counties, drainage districts, or other local agencies regarding any discharges to storm drain systems, conveyances, or other water courses under their jurisdiction.

Response 2— *Requirements for such notifications would be in accordance with the applicable agencies requirements and not under the authority of the Division to require directly in the permit. In addition, not all such agencies require notification. The Division will advise permittees that such notification may be required in the permit application. The Division will evaluate the language referenced and used in other permits at the time of their renewals.*

Comment 3, City of Longmont, —Part I.C.7
Asked if flow estimation methods, as discussed in Part I.C.7, comply with the requirements in the Analytical and Sampling Methods for Monitoring and Reporting section (Part I.E.4) or is an exemption needed in Part I.E.4?

Response 3— *The requirements of Part I.E.4 are not applicable to flow limitations*

Permit Part I.D. Definitions

Comment 1, City of Longmont— Part I.D.7
Commented on the definition of "Good Engineering, Hydrologic and Pollution Control Practices" (Part I.D.7) and that is should have been developed through discussions with other permit stakeholders like the MS4s, Non-Standards, and Construction Contractors. This definition applies to many more permits than just the construction dewatering permit. The definition should be removed until all appropriate stakeholders have been included and the definition has had adequate review for all applicable uses. At minimum, the criteria in the definition should be linked with "or" instead of "and."

Response 1— *The definition is only applicable to the terms and conditions of the permit, and therefore the public process for issuance of this permit was appropriate for seeking stakeholder comment. The Division does not agree that the criteria in the definition should be met when only one criterion is met. The criteria where drafted to be jointly applicable in order to set a standard that would result in appropriate control of pollutants.*

Comment 2, Xcel Energy— Part I.D.26
Suggested changing the definition of "weekly measurement frequency" as follows: "means sample type may be collected at any time during a 7-day period"

Response 2— *This language is applied in all permits and has not been changed in order to maintain constancy with all Division permits.*

Permit Part II

Comment 1, City of Longmont— Part II.B.
Commented that language in Part II.B that is not directly applicable to discharges authorized by the permit should be removed.

Response 1— *This language is applied in all permits for constancy with 5 CCR 61 and between permits, and has not been removed*

Permit Part II.A. Notification Requirements

Comment 1, Xcel Energy —Part II.A.2
Commented that the last paragraph in this section indicates that the Division may require a new or revised permit application, but it seems that a permit modification may be appropriate as well.

Response 1*—The Division agrees with this comment and has added language to this section of the permit to include modification of an existing permit certification and submission of a Modification Form.*

Comment 2, City of Longmont —Part II.A.2
Commented that The Change in Discharge of Wastewater Treatment section (Part II.A.2) should be titled "Change in Discharge" and refer to changes in water quality of the dewatered discharges, not physical alterations or additions to a permitted facility or treatment process. The content should be similar to the language in the previous dewatering permit, which required notification of a change that is likely to result in a new or altered discharge.

Response 2*— This language is applied in all permits for consistency with 5 CCR 61 and between permits, and has not been removed. The limitations included in Part I.A.2 and requirements of Part I.C.3 of the permit were included to ensure permitting remains appropriate for additional changes in the water quality of the dewatering discharge.*

Comment 3, CSC— Part II.A.4.a
Requested clarification as to whom and where in the EPA this information should be submitted to?

Comment 4, Xcel Energy — Part II.A.4.a
Commented that it believes the inclusion of EPA is in error.

Response 3 and 4—*The Division agrees that the inclusion of EPA is in error and the requirement to provide notification to the EPA has been removed.*

Comment 5, City of Longmont— Part II.A.5
Commented that the section seems to apply to operation of a facility rather than dewatering activities and should not be included in this permit.

Response 5—*The section applies to the operation of a facility that has the potential to impact the discharge authorized in the permit certification.*

Comment 6, CSC— Part II.A.6
Asked if the Division is notified 10 days prior to the Bypass and the permittee hears no response from the Division, can the permittee can assume approval on the (11th) day?

Response 6—*The Division requires notification if the permittee knows in advance of the need for a bypass. Bypasses are prohibited unless the conditions outlined in Part II.A.13. Paragraph (a) of the permit are met. No response from the Division does not mean approval of the Bypass.*

Fact Sheet

Comment 1, Xcel Energy — Fact Sheet, Part II.B. 5TH Bullet
Commented that PSCo relies on pump capacity and visual observation to estimate construction dewatering flow rates. PSCo feels this method of estimating flow rates is fairly accurate but verification of the flow rate can be difficult to do. As such compliance with the required accuracy of flow measurement may be difficult to achieve

Response 1— *The Division recognizes this issue, but has included the requirement in the permit in accordance with 5 CCR 62.5(7).*

Comment 2, Xcel Energy — Fact Sheet, Intake Credits
Commented that the Division should not set policy or make assertions regarding intake credits through this permit action. The Division's approach explained in the Fact Sheet would apply intake credits too narrowly. The Division proposes to require a demonstration that the intake water is "composed entirely of in-stream water," and that the discharge "does not increase the pollutant loading or mass, including through introduction of pollutants to the discharge from the construction activities associated with the dewatering discharge."

Response 2—*The Division is not setting policy with the application of intake credits in this general permit. The Division is making a permit- specific determination for intake credits that is applicable only to discharges authorized by the permit. The approach to intake credits discussed in the fact sheet and implemented in the permit is not intended to define the overall applicability of intake credits by the Division. Note that it may be possible that a different application would occur for the same discharges if authorized under an individual permit. The Division believes the application of intake credits is an appropriate decision for this general permit and did not receive any comments regarding the actual permit language associated with intake credits. The Division has revised the Fact Sheet language to clarify that the scope of the decisions and assertions are limited to this permit.*

Comment 3, Xcel Energy — Fact Sheet, Intake Credits
Commented that if there is no addition of a pollutant, there is no discharge, and therefore no discharge permit necessary. The U.S. Supreme Court affirmed that moving water containing no pollutants from on part of a water body to another part of a water body does not constitute "addition" of pollutants. The Division's application of intake credits would apply only where a permit is not necessary, rendering the intake credit provision meaningless.

Response 3—*In addition to pollutants occurring in the surface water that is the source water for a discharge, discharges authorized by this permit have the potential to have pollutants added associated with construction activities such as total suspended solids. Therefore, the discharge authorized by this permit for which intake credits are applied would remain a point source discharge subject to the requirement to obtain permit coverage.*

Comment 4, Xcel Energy — Fact Sheet, Intake Credits
Commented that the Division's support for its restrictive position of intake credits relies entirely on a Memo from EPA Region VIII dated March 2, 1992. The Division's reference to "Region VIII policy" exaggerates the

meaning and effect of the Region VIII 1992 memorandum. Also, the rationale for the position promoted in the 1992 Region VIII memorandum is inconsistent with the current law regarding the definition of a "discharge."

Response4*—The cited memo is referenced in this fact sheet for additional information regarding EPA policy regarding intake credits and to eliminate any potential uncertainty about whether the decision in this permit would or would not be consistent with the EPA Region 8 policy. The Division decision regarding implementation of intake credits is discussed in the fact sheet and is intended to provide the basis for the decision in this case under this general permit. . The Division is making no assertion through this permit action of the applicability of the memo to intake credits applied outside of this permit and has provided additional clarification in the fact sheet.*

Comment 5, Xcel Energy —Fact Sheet, Part VI.A.2.c
The paragraph referenced remediation activities; however it should reference construction dewatering activities.

Response 5—*This reference has been updated.*

Comment 6, Xcel Energy —Fact Sheet, Part VI.A.2.c
Commented that the determination of whether additional effluent limits and other terms and conditions are added to a certification if the discharge is to a segment on the 303 (d) list should be made on a case-by case basis. This section should be revised to include the noted language in Part VI.A.2.b

Response 6—*This section has been updated to include the noted language.*

Comment 7, Xcel Energy —Fact Sheet, Part VI.A.3.d
This section states that metals in the basin regulation that are TVS will be determined based on the hardness of the receiving stream or fish species present. How will these limitations be determined if that data is not available.

Response 7*—If hardness data is not available for the receiving stream it is Division general practice to use the closest downstream hardness data that is available. In some cases the Division may use the hardness of a representative watershed.*

Comment 8, Industrial Water Permitting and Recycling Consultants, LLC —Fact Sheet and General Permit
Commented that the permit is intended to offer coverage for dischargers to surface waters, including discharges to ground waters that are hydrologically connected to nearby surface waters. Other discharges to land, to impoundments, and to wells are under jurisdiction of other state or federal agencies. This statement should be provided in the permit (p5) with details in the Fact Sheet on discharges to land and groundwater under the authorities of separate agencies. The latter could include a fuller discussion of Senate Bill 181 and implementing agencies.

Response 8*—The Division recognizes that some discharges to land, impoundments, and to wells are under jurisdiction of other state and federal agencies. Part I.A.2 of the permit is intended to address this.*

Permit Writer
Maura McGovern
July 22, 2013