COLORADO
Department of Public Health & Environment

May 1, 2026

Corporation Service Company, Registered Agent
BC Brands Partners, LLC
1900 W Littleton Blvd.
Littleton, CO 80120

Certified Mail Number: 7022 3330 0001 8505 1316

RE: Service of Notice of Violation, Number: SO-260501-1

To Whom It May Concern:

BC Brands Partners, LLC is hereby served with the enclosed Notice of Violation ("NOV"). The NOV 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, C.R.S., of the *Colorado Water Quality Control Act* ("Act"). The Division bases the NOV upon findings that BC Brands Partners, LLC violated the Act and/or a discharge permit, as described in the enclosed NOV.

Pursuant to §25-8-603, C.R.S., BC Brands Partners, LLC is required, within 30 calendar days of receipt of this NOV, 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. and 5 CCR 1002-101, to impose a penalty of up to $65,544 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 or the issuance of additional enforcement actions.

Should you or representatives of BC Brands Partners, LLC desire to discuss this matter informally with the Division, or if you have questions regarding the NOV, please do not hesitate to contact me at (303) 692-2290 or william.everett@state.co.us.

Sincerely,

Everett, William

Digitally signed by Everett, William
Date: 2026.05.01 08:12:07 -06'00'

William Everett, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

ec: Laura Wagner, Design Project Manager, BC Brands Partners, LLC
Stephanie Meyers, EPA Region 8
Chris Manley, Larimer County Environmental Health
Janine Hegeman, Town of Windsor MS4
Kateri Salk, Watershed Section & Engineering Program, CDPHE
Kelly Morgan, Compliance & Enforcement Section, CDPHE
Alex Hawley, Grants and Loans Unit, CDPHE
Paul Kim, Engineering Section, CDPHE
Heather Young, Field Services Section, CDPHE
Christine Forney, Permits Section, CDPHE
Eric Mink, Clean Water Enforcement Unit, CDPHE
Veronica Kenkel, Data Management Workgroup, CDPHE
Al Stafford, Clean Water Compliance Unit, CDPHE
Josef Mueller, Clean Water Compliance Unit, CDPHE
Julie Schuyler, Clean Water Compliance Unit, CDPHE

COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION

NUMBER: SO-260501-1

IN THE MATTER OF: **BC BRANDS PARTNERS, LLC**
CDPS GENERAL PERMIT NO. COR400000
CERTIFICATION NO. COR415520
LARIMER 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, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation ("Order"):

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

3. On or about April 19, 2022, BC Brands Partners initiated construction activities related to residential development, located at approximately 40.4410, -104.9812, in the Town of Windsor, Larimer County, Colorado ("Project").

4. On February 1, 2022, the Division received an application from BC Brands Partners for coverage under the Colorado Discharge Permit System ("CDPS") General Permit Number COR400000 for Stormwater Discharges Associated with Construction Activity ("Permit"), for a planned disturbance of 12 acres of land within the Project. The previous version of the Permit became effective on April 1, 2019 ("2019 Permit") and remained in effect until the current version of the Permit was issued. The current version of the Permit became effective on April 1, 2024 and is set to expire on March 31, 2029 ("2024 Permit").

5. On March 9, 2022, the Division provided BC Brands Partners with Certification Number COR415520 ("2022 Certification"), authorizing BC Brands Partners to discharge treated stormwater from areas associated with construction activities at the Project to waters of the State of Colorado, including but not limited to Cache La Poudre River, in accordance with the terms and conditions of the Permit. The 2022 Certification became effective on March 9, 2022 and expired on March 31, 2024.

6. On March 28, 2024, the Division received a renewal application from BC Brands Partners for coverage under the 2024 Permit, for a planned disturbance of 12 acres of land within the Project.

7. On April 4, 2024, the Division provided BC Brands Partners with the latest version of the Certification ("2024 Certification"). The 2024 Certification became effective on April 1, 2024, was modified twice, and remained in effect until BC Brands Partners terminated Permit coverage, effective September 1, 2025.

8. Pursuant to 5 CCR 1002-61, §61.8, BC Brands Partners must comply with all the terms and conditions of the Permit. Violations of the terms and conditions of the Permit may subject BC Brands Partners to civil and criminal liability pursuant to §§25-8-601 through 613, C.R.S.

9. On January 5, 2024 and March 29, 2024, a representative of the Division ("Inspector") conducted an on-site inspection of the Project, pursuant to the Division's authority under §25-8-306, C.R.S. to determine BC Brands Partners' compliance with the Act and the Permit. The Inspector interviewed Project representatives, reviewed the Project's stormwater management system records, and performed a physical inspection of the Project.

ALLEGED VIOLATIONS OF THE 2019 PERMIT

Deficient or Incomplete Stormwater Management Plan

10. Pursuant to Part I.C.1. of the 2019 Permit, BC Brands Partners is required to prepare a Stormwater Management Plan ("SWMP") in accordance with good engineering, hydrologic, and pollution control practices. BC Brands Partners must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete.

11. Pursuant to Part I.C.2. of the 2019 Permit, BC Brands Partners' SWMP must include, among other items not subject of this action, the following elements:

    a. Qualified Stormwater Manager - The SWMP must list individual(s) by title and name who are designated as the Project's stormwater manager(s) responsible for implementing the SWMP in its entirety. This role may be filled by more than one individual.

    b. Spill Prevention and Response Plan - The SWMP must have a spill prevention and response plan. The plan may incorporate by reference any part of a Spill Prevention Control and Countermeasure ("SPCC") plan or a Spill Prevention Plan required by a separate CDPS Permit. The relevant sections of any referenced plans must be available as part of the SWMP.

    c. Other CDPS Permits - The SWMP must list the applicable CDPS Permits associated with the Permitted site and the activities occurring on the Permitted site (e.g. a CDPS Dewatering Permit).

d. Materials Handling – The SWMP must describe and locate all control measures implemented at the Project to minimize impacts from handling significant materials that could contribute pollutants to runoff. These handling procedures can include control measures for pollutants and activities such as, exposed storage of building materials, paints and solvents, landscape materials, fertilizers or chemicals, sanitary waste material, trash and equipment maintenance or fueling procedures.

e. Potential Sources of Pollution - The SWMP must list all potential sources of pollution which may be associated with construction activity from the Project. This shall include, but is not limited to, the following pollutant sources:

i. Disturbed and stored soils;
ii. Vehicle tracking of sediments;
iii. Management of contaminated soils, if known to be present, or if contaminated soils are found during construction;
iv. Loading and unloading operations;
v. Outdoor storage activities (erodible building materials, fertilizers, chemicals, etc.);
vi. Vehicle and equipment maintenance and fueling;
vii. Significant dust or particulate generating processes (e.g. saw cutting material, including dust);
viii. Routine maintenance activities involving fertilizers, pesticides, herbicides, detergents, fuels, solvents, oils, etc.;
ix. On-site waste management practices (waste piles, liquid waste, dumpsters);
x. Concrete truck/equipment washing, including washing of the concrete truck chute and associated fixtures and equipment;
xi. Dedicated asphalt, concrete batch plants and masonry mixing stations;
xii. Non-industrial waste sources such as worker trash and portable toilets.

f. Implementation of Control Measures - The SWMP must include design specifications that contain information on the implementation of the control measure in accordance with good engineering, hydrologic, and pollution control practices; including as applicable, drawings, dimensions, installation information, materials, implementation processes, control measure-specific inspection expectations, and maintenance requirements. The SWMP must include all information required of and relevant to any such control measures located outside the Permitted area, including location, installation specifications, design specifications and maintenance requirements.

g. Site Description – The SWMP must include a site description which includes, at a minimum, the following:

i. The nature of the construction activity at the site;
ii. The proposed schedule for the sequence for major construction activities and the planned implementation of control measures for each phase. (e.g. clearing, grading, utilities, vertical, etc.);
iii. Estimates of the total acreage of the site, and the acreage expected to be disturbed by clearing, excavation, grading, or any other construction activities;
iv. A summary of any existing data and sources used in the development of the construction site plans or SWMP that describe the soil types found in the Permitted area and the erodibility of the identified soil types;

v. A description of the percent cover of native vegetation on the site if the site is undisturbed, or the percent cover of native vegetation in a similar, local undisturbed area or adequate reference area if the site is disturbed. Include the source or methodology for determining the percentage. If the percent cover is not appropriate for the site location (i.e. arid), describe the technique and justification for the identified cover of native vegetation;
vi. A description of any allowable non-stormwater discharges at the site, including those being discharged under a separate CDPS Permit or a division low risk discharge guidance policy, and applicable control measures installed;
vii. A description of the drainage patterns from the site, including a description of the immediate source receiving the discharge and the receiving water(s) of the discharge, if different than the immediate source. If the stormwater discharge is to a municipal separate storm sewer system, include the name of the entity owning the system, the location(s) of the stormwater discharge, and the receiving water(s);
viii. A description of all stream crossings located within the construction site boundary;
ix. A description of the alternate temporary stabilization schedule, if applicable;
x. A description of the alternative diversion criteria as approved by the division, if applicable.

h. Site Map – The SWMP must include a site map which includes, at a minimum, the following:

i. Construction site boundaries;
ii. Flow arrows that depict stormwater flow directions on-site and runoff direction;
iii. All areas of ground disturbance including areas of borrow and fill;
iv. Areas used for storage of soil;
v. Locations of all waste accumulation areas, including areas for liquid, concrete, masonry, and asphalt;
vi. Locations of dedicated asphalt, concrete batch plants and masonry mixing stations;
vii. Locations of all structural control measures;
viii. Locations of all non-structural control measures (e.g. temporary stabilization);
ix. Locations of springs, streams, wetlands, diversions and other state waters, including areas that require pre-existing vegetation be maintained within 50 feet of a receiving water, where determined feasible in accordance with Part I.B.1.a.i(e) of the 2019 Permit;
x. Locations of all stream crossings located within the construction site boundary; and
xi. Locations where alternative temporary stabilization schedules apply.

i. Temporary Stabilization, Final Stabilization and Long Term Stormwater Management – the SWMP must include the following:

i. The SWMP must document the constraints necessitating an alternative temporary stabilization schedule, as referenced in Part I.B.1.a.iii(a) of the 2019 Permit, provide the alternate stabilization schedule, and identify all locations where the alternative schedule is applicable on the site map;
ii. The SWMP must describe and locate the methods used to achieve final stabilization of all disturbed areas at the site, as listed in Part I.B.1.a.iii(b) of the 2019 Permit;
iii. The SWMP must describe the measures used to establish final stabilization through vegetative cover and alternative stabilization method, as referenced in Part I.B.1.a.iii(c) of the 2019 Permit, and describe and locate any temporary control measures in place during the process of final stabilization;

iv. The SWMP must describe and locate any planned permanent control measures to control pollutants in stormwater discharges that will occur after construction operations are completed, including but not limited to, detention/retention ponds, rain gardens, stormwater vaults, etc.

j. Inspection Reports – The SWMP must include documented reports in accordance with Part I.D.5.c. of the 2019 Permit.

12. Pursuant to Part I.C.3. of the 2019 Permit, BC Brands Partners must keep a record of SWMP changes made that include the date and identification of the changes. The SWMP must be amended when the following occurs:

a. A change in design, construction, operation, or maintenance of the site requiring implementation of new or revised control measures;
b. The SWMP proves ineffective in controlling pollutants in stormwater runoff in compliance with the 2019 Permit conditions;
c. Control measures identified in the SWMP are no longer necessary and are removed; and
d. Corrective actions are taken onsite that result in a change to the SWMP.

For SWMP revisions made prior to or following a change(s) onsite, including revisions to sections addressing site conditions and control measures, a notation must be included in the SWMP that identifies the date of the site change, the control measure removed, or modified, the location(s) of those control measures, and any changes to the control measure(s). BC Brands Partners must ensure the site changes are reflected in the SWMP. BC Brands Partners is noncompliant with the 2019 Permit until the SWMP revisions have been made.

13. During the Division's January 5, 2024 inspection, the Inspector reviewed the Project's SWMP and identified the following deficiencies, as described in Paragraph 13(a-f) below:

a. The SWMP did not identify a Qualified Stormwater Manager.

b. The SWMP did not describe the following potential pollutant sources:

i. Loading and unloading operations; and
ii. Dedicated asphalt, concrete batch plant, and masonry mixing stations.

c. The SWMP did not include installation and implementation specifications for the following control measures:

i. "Eco-pans";
ii. Temporary outlet protection;
iii. Masonry mixing stations; and
iv. "Rock socks".

d. The site description included in the SWMP did not include the following:

i. A description of the percent cover of native vegetation on the site pre-disturbance;
ii. A description of any allowable non-stormwater discharges at the site; and
iii. A description of the current drainage patterns from the site, including the Town of Windsor MS4 and the Cache La Poudre River.

e. The site map(s) included with the SWMP was not reflective of the Project conditions at the time of the Division's January 5, 2024 inspection. Specifically, the site map(s) did not adequately identify the following:

   i. All areas of ground disturbance;
   ii. All areas used for storage of soil;
   iii. The locations of all the concrete washout areas;
   iv. The locations of all the masonry mixing stations;
   v. The location of all structural and nonstructural control measures. Specifically, the site map did not identify the following:
      (a) All portable toilets;
      (b) All straw wattle;
      (c) All curb inlet protections; and
      (d) All dumpsters.

f. The SWMP records did not include the revisions made to the SWMP.

14. BC Brands Partners' failure to prepare and maintain a complete and accurate SWMP for the Project, as outlined in Paragraphs 13(a-f), constitutes violations of Parts I.C.1., I.C.2., and I.C.3. of the 2019 Permit.

Failure to Perform Complete Inspections of the Stormwater Management System

15. Pursuant to Part I.B.1.c. of the 2019 Permit, BC Brands Partners must assess the adequacy of control measures at the Project, and the need for changes to those control measures, to ensure continued effective performance. When an inadequate control measure, as defined in Part I.E. of the 2019 Permit, is identified, the following corrective action requirements apply. BC Brands Partners are not in compliance with the 2019 Permit until the inadequate control measure is replaced or corrected and returned to effective operating conditions in compliance with Part I.B.1. of the 2019 Permit and the general requirements in Part I.B.3. of the 2019 Permit.

   a. BC Brands Partners must take all necessary steps to minimize or prevent the discharge of pollutants from the permitted area and manage any stormwater run-on onto the site until a control measure is implemented and made operational and/or an inadequate control measure is replaced or corrected and returned to effective operating condition. If it is infeasible to install or repair the control measure immediately after discovering the deficiency, the following must be documented in the SWMP and kept on record in accordance with the recordkeeping requirements in Part II of the 2019 Permit.

      i. Describe why it is infeasible to initiate the installation or repair immediately; and
      ii. Provide a schedule for installing or repairing the control measure and returning it to an effective operating condition as soon as possible.

16. Pursuant to Part I.D.5.c. of the 2019 Permit, BC Brands Partners must keep a record of all inspections conducted for the Project. Inspection reports must identify any incidents of noncompliance with the terms and conditions of the 2019 Permit. At a minimum, the inspection reports must include:

   a. The inspection date;
   b. Name(s) and title(s) of personnel conducting the inspection;
   c. Weather conditions at the time of inspection;
   d. Phase of construction at the time of inspection;

e. Estimated acreage of disturbance at the time of inspection;
f. Location(s) and identification of control measures requiring routine maintenance;
g. Location(s) and identification of discharges of sediment or other pollutants from the site;
h. Location(s) and identification of inadequate control measures;
i. Location(s) and identification of additional control measures needed that were not in place at the time of inspection;
j. Description of corrective action(s), dates corrective action(s) were completed, including requisite changes to the SWMP, as necessary;
k. Description of the minimum inspection frequency (either in accordance with Part I.D.2, Part I.D.3 or Part I.D.4 of the 2019 Permit) utilized when conducting each inspection;
l. Deviations from the minimum inspection schedule as required in Part I.D.2. of the 2019 Permit. This would include documentation of division approval for an alternate inspection schedule outlined in Part I.D.2.c of the 2019 Permit;
m. After adequate corrective action(s) have been taken, or where a report does not identify any incidents requiring corrective action, the report shall contain a statement as required in Part I.A.3.f. of the 2019 Permit.

17. During the Division's January 5, 2024 inspection, the Inspector reviewed a subset of BC Brands Partners inspection records for the Project, specifically inspections conducted between July 18, 2023 and January 2, 2024, and identified the following deficiencies, as outlined in Paragraph 17a:

    a. Corrective actions identified on the inspection reports were not completed immediately for inadequate control measures. BC Brands Partners did not describe why it was infeasible to initiate the installation or repair immediately, and did not provide a schedule for installing or repairing the control measures as soon as possible. Specifically, the following inspection reports identified corrective actions, which were not completed at the time of the Division's January 5, 2024 inspection:

Date Corrective Action Identified (Date of inspection report)	Corrective Action Completed	Number of Days Until Resolved
July 18, 2023	Open	Unresolved
July 24, 2023	Open	Unresolved
August 1, 2023	Open	Unresolved
August 15, 2023	Open	Unresolved
September 26, 2023	Open	Unresolved
October 10, 2023	Open	Unresolved
October 24, 2023	Open	Unresolved
November 7, 2023	Open	Unresolved
December 5, 2023	Open	Unresolved

18. BC Brands Partners' failure to identify and discuss delayed corrective actions in accordance with the requirements of the 2019 Permit, as outlined in Paragraph 17a, constitutes violations of Part I.B.1.c. of the 2019 Permit.

Failure to Install, Maintain, or Properly Select Control Measures

19. Pursuant to I.B.1. of the 2019 Permit, BC Brands Partners must implement control measures to minimize the discharge from all potential pollutant sources at the Project. Control measures must be installed prior to the commencement of activities that may contribute pollutants to stormwater discharges. Control measures must be selected, designed, installed, and maintained in accordance with good engineering, hydrologic, and pollution control practices. Control measures implemented at the Project must be designed to prevent pollution or degradation of state waters.

20. Pursuant to Part I.B.1.a. of the 2019 Permit, BC Brands Partners must implement structural and/or non-structural control measures that effectively minimize erosion, sediment transport, and the release of other pollutants related to construction activity.

21. Pursuant to Part I.B.1.a.i(a) of the 2019 Permit, BC Brands Partners must implement structural and/or non-structural vehicle tracking controls to minimize vehicle tracking of sediment from disturbed areas.

22. Pursuant to Part I.B.1.a.i(b) of the 2019 Permit, BC Brands Partners must ensure that stormwater runoff from all disturbed areas and soil storage areas flow to at least one control measure to minimize sediment in the discharge. The control measure(s) must contain or filter flow in order to prevent the bypass of stormwater flow without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (i.e. sheet flow or concentrated flow).

23. Pursuant to Part I.B.1.a.ii(b) of the 2019 Permit, BC Brands Partners must implement control measures designed for concrete washout waste and ensure washing activities and masonry operations do not contribute pollutants to stormwater runoff, or receiving waters.

24. Pursuant to Part I.B.1.b. of the 2019 Permit, BC Brands Partners must ensure that all control measures remain in effective operating condition and are protected from activities that would reduce their effectiveness. Control measures must be maintained in accordance with good engineering, hydrologic, and pollution control practices.

25. Pursuant to Part I.B.1.c. of the 2019 Permit, BC Brands Partners must assess the adequacy of control measures and the need for changes to those control measures, to ensure continued effective performance. When an inadequate control measure is identified (i.e., a new or replacement control measure is necessary), BC Brands Partners must take all necessary steps to minimize or prevent the discharge of pollutants until a control measure is implemented and made operational or an inadequate control measure is replaced or returned to effective operating condition. If it is infeasible to install or repair the control measure immediately after discovering the deficiency, BC Brands Partners must document why it is infeasible to initiate the installation or repair immediately and provide a schedule for returning the control measure to effective operating condition as soon as possible.

26. Pursuant to Part I.B.3.d. of the 2019 Permit, BC Brands Partners must ensure all construction site wastes must be properly managed to prevent potential pollution of state waters.

27. Pursuant to Part I.C.1.b. of the 2019 Permit, BC Brands Partners must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete. The Division may review the SWMP.

28. During the Division's January 5, 2024 inspection, the Inspector identified the following deficiencies related to control measure selection, design, installation, implementation, and/or maintenance at the Project, as described in Paragraph 28(a-r) below:

    a. No control measures were implemented to manage areas of disturbance in multiple Project locations. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

        i. Along the eastern perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the Eagle Crossing Regional Detention Basin ("regional detention basin"), ultimately discharging to the Cache La Poudre River.

        ii. Along the southern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor Municipal Separate Storm Sewer System ("MS4") inlets, ultimately discharging to the Cache La Poudre River.

        iii. Along the northern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

        iv. Along the west side of Grand Stand Drive, in the northern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

        v. Along the west side of Grand Stand Drive, in the southern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

        vi. Along the west side of Grand Stand Drive, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

        vii. Along the east side of Grand Stand Drive, in the northern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location

flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

viii. Near the parking lot, in the northeast corner of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

b. Concrete washout waste was not managed in accordance with Project SWMP specifications. Specifically, concrete washout waste was observed on the ground outside of containment in multiple Project locations. Project SWMP specifications required the implementation of concrete washout waste areas to contain concrete washout and waste from being discharged to the ground, and concrete washout areas must be installed prior to concrete placement on site. As a result of these deficiencies, there was an increased potential for polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Along the eastern perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

ii. Within the parking lot, in the central eastern area of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iii. Along the southern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iv. Along the northern and western perimeters of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

v. Along the west side of Grand Stand Drive, in the northern area of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

vi. Within the parking lot, in the north western area of the Project. Additional control measures were implemented down gradient from this location; however, these control

measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

vii. Near the concrete washout area, in the north western area of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

viii. Near the parking lot, in the southwest area of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

ix. North of the planned park and west of Grand Stand Drive, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

c. The concrete washout area, located in the north western area of the Project, was not maintained in accordance with Project SWMP specifications. Specifically, concrete waste in the washout area had accumulated to its capacity. Project SWMP specifications required concrete waste in the washout area to be removed to maintain its functionality, typically when it's filled to two-thirds of its capacity. As a result of this deficiency, there was an increased potential for polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

d. No control measures were implemented to manage masonry waste near the masonry mixing station, located north of the planned park, in the central area of the Project. Specifically, the masonry mixing station did not implement secondary containment. As a result of this deficiency, there was an increased potential for polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

e. Sediment control logs implemented in multiple Project locations were not installed and/or maintained in accordance with Project SWMP specifications. Specifically, sediment control logs were not trenched, were flattened and/or had holes and were in need of replacement, and in some locations sediment had accumulated to greater than one-half the height of the

sediment control log. Project SWMP specifications required sediment control logs to be trenched into the ground to a depth of approximately one-third the diameter of the log, to repair or replace sediment control logs upon the discovery of a failure, and to remove sediment accumulation before the depth is one-half the height of the sediment control log. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Along the eastern perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

ii. At the outlet structure along the eastern perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

iii. Along the western perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

f. Temporary outlet protection implemented at the culvert outfall along the eastern perimeter of the Project was not installed in accordance with good engineering, hydrologic, and pollution control practices. Specifically, the riprap was not keyed in around the entire perimeter of the apron to a minimum depth of six inches, and the diameter of rock and length of the riprap apron were not sufficient for the designed discharge flows. In accordance with widely accepted industry standards, including the Mile High Flood District, Urban Storm Drainage Criteria Manual, Volume 3 ("USDCM Vol. 3"), riprap rock must be keyed in around the entire perimeter of the culvert apron to a minimum depth of six inches for stability and the diameter of rock and length of the riprap apron must be sufficient in size and length for the designed discharge flows. As a result of this deficiency, there was an increased potential for sediment and polluted stormwater to discharge offsite. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

g. Rock socks implemented as inlet protection in multiple Project locations were not installed and/or maintained in accordance with the Project SWMP specifications and/or with good engineering, hydrologic, and pollution control practices. Specifically, rock socks were flattened and/or broken open and were in need of replacement; concrete blocks were not installed between the rock socks and the inlet opening; and rock socks did not have adequate overlap between the curb and ends of the rock socks. In accordance with widely accepted industry standards, including the USDCM Vol. 3, rock socks must be repaired or replaced upon discovery of failure. Project SWMP specifications required concrete blocks to be installed in a single row between the rock socks and the inlet opening and required rock socks to have a minimum of one foot of overlap between the curb and ends of the rock socks. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Two inlets within the parking lot, in the central eastern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

ii. An inlet located along the western perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iii. An inlet located along the west side of Grand Stand Drive, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iv. An inlet located along the east side of Grand Stand Drive, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

h. Asphalt waste was observed on the ground outside of containment in multiple Project locations. As a result of these deficiencies, there was an increased potential for polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Within the parking lot, in the central eastern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed for the removal of dissolved pollutants associated with asphalt waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

ii. Along the southern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed for the removal of dissolved pollutants associated with asphalt waste. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

i. Trash and debris was not managed in accordance with Project SWMP specifications. Specifically, trash and debris was observed on the ground outside of containment throughout the Project. Project SWMP specifications required trash and debris at the site be cleaned up daily. As a result of these deficiencies, there was an increased potential for trash and debris to discharge offsite and/or impair the effectiveness of other stormwater control measures. These deficiencies were observed at the following Project locations:

i. Along the eastern perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

ii. Along the southern, western, and northern perimeters of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed to capture trash and construction debris. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iii. Throughout the interior of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed to capture trash and construction debris. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

j. Hydraulic fluid and/or petroleum product stains were observed on the ground in multiple Project locations, contrary to Project SWMP specifications. Project SWMP specifications required spills be immediately contained and cleaned up. As a result of these deficiencies, there was an increased potential for polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Within the parking lot, in the central eastern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed for the removal of dissolved pollutants associated with hydraulic fluid and/or petroleum products. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

ii. Along Grand Stand Drive, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed for the removal of dissolved pollutants associated hydraulic fluid and/or petroleum products. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iii. Within the parking lot, in the northeast corner of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed for the removal of dissolved pollutants associated with hydraulic fluid and/or petroleum products. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

k. Rock socks implemented as curb check dams along curb lines along Steeplechase Drive, in the southeast area of the Project, were not installed in accordance with Project SWMP specifications. Specifically, rock socks were installed parallel to the curb line. Project SWMP specifications for rock socks installed along curb lines required rock socks to be installed perpendicular to curb line, approximately 30 degrees from perpendicular in the opposite direction of flow. As a result of this deficiency, there was an increased potential for sediment and polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part

of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

l. No control measures were implemented to provide vehicle tracking control at multiple Project ingress/egress locations. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

   i. Along the northern perimeter, in the northwest corner of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

   ii. Along Grand Stand Drive, in the northern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

   iii. Along Grand Stand Drive, in the southern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

   iv. Along Grand Stand Drive, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

m. Portable toilets in multiple Project locations were not installed in accordance with Project SWMP specifications. Specifically, portable toilets were not secured to the ground. Project SWMP specifications required that portable toilets be securely anchored to the ground. As a result of these deficiencies, there was an increased potential for polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

   i. Near the parking lot in the northwest area of the Project. Additional control measures were implemented down gradient from the location; however, these control measures were not designed for the removal of pollutants associated with sanitary waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

   ii. Near the parking lot in the central western area of the Project. Additional control measures were implemented down gradient from the location; however, these control

measures were not designed for the removal of pollutants associated with sanitary waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iii. Near the parking lot in the southeast area of the Project. Additional control measures were implemented down gradient from the location; however, these control measures were not designed for the removal of pollutants associated with sanitary waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

n. No control measures were implemented for inlet protection at the mouth of an inlet located along the east side of the parking lot in the northwest area of the Project, contrary to Project SWMP specifications. Project SWMP specifications required inlet protection to be installed promptly after inlet construction or paving is complete. As a result of this deficiency, there was an increased potential for sediment and polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

o. No control measures were implemented for the storage of potentially hazardous materials, located north of the planned park, in the central area of the Project, contrary to Project SWMP specifications. Specifically, 55-gallon drums were stored outside, without secondary containment. Project SWMP specifications required paints, solvents, pesticides, fuels and oils, other hazardous materials or building materials that have the potential to contaminate stormwater to be stored indoors or under cover whenever possible, or in areas with secondary containment. As a result of this deficiency, there was an increased potential for polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from the location; however, these control measures were not designed for the removal of pollutants associated with hazardous materials. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

p. Silt fence implemented in multiple Project locations was not installed and/or maintained in accordance with Project SWMP specifications. Specifically, sediment buildup upstream of the silt fence had accumulated to greater than six inches in depth; silt fence was torn and/or had holes in the fabric; silt fence stakes were broken; and silt fence had collapsed. Project SWMP specifications required sediment accumulated behind silt fence to be removed, typically before it reaches a depth of six inches, silt fence to be inspected for tears and holes, and silt fence to be repaired by replacing the damaged section with a new section. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Behind the inlet located along the east side of the parking lot in the northwest area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow through the inlet, to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

ii. Along the east side of the parking lot in the central west area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iii. Along the east side of the parking lot in the southwest area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

q. The dumpsters located along Grand Stand Drive, in the central area of the Project, were not installed in accordance with Project SWMP specifications. Specifically, the dumpsters were placed on streets, near storm drains, and in curb lines. Project SWMP specifications required dumpsters to be located away from streets, gutters, watercourses, and storm drains. As a result of these deficiencies, there was an increased potential for trash and debris to discharge offsite and/or impair the effectiveness of other stormwater control measures. Additional control measures were implemented down gradient from this location; however, the control measures were not designed to capture trash and construction debris. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

r. Sediment deposits observed on paved surfaces in multiple Project locations were not maintained in accordance with Project SWMP specifications. Project SWMP specifications required to keep public and private roadways clear of accumulated sediment and to shovel or sweep sediment from the street. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Within the parking lot in the central east area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

ii. Along the southern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iii. Along the western perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iv. Along the northern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

v. Along Grand Stand Drive, in the northern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

vi. Along Grand Stand Drive, in the southern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

vii. Along Grand Stand Drive, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

viii. Within the parking lot in the northeast corner of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

29. BC Brands Partners failed to implement, select, design, install, and/or maintain control measures in accordance with the SWMP and good engineering, hydrologic, and pollution control practices to minimize discharge of pollutants from all potential pollutant sources at the Project, as described in Paragraph 29(a-r) above.

30. BC Brands Partners' failure to properly implement the provisions of the Project's SWMP constitutes violations of Part I.C.1.b. of the 2019 Permit.

31. BC Brands Partners' failure to implement, select, design, install, and maintain control measures at the Project constitutes violations of Parts I.B.1., I.B.1.a., I.B.1.a.i(a), I.B.1.a.i(b), I.B.1.a.ii(b), I.B.1.b., I.B.1.c., and I.B.3.d. of the 2019 Permit.

ALLEGED VIOLATIONS OF THE 2024 PERMIT

Failure to Perform Complete Inspections of the Stormwater Management System

32. Pursuant to Part I.B.1.c. of the 2024 Permit, BC Brands Partners must assess the adequacy of control measures at the Project, and the need for changes to those control measures, to ensure continued effective performance. When an inadequate control measure, as defined in Part I.E. of the 2024 Permit, is identified, the following corrective action requirements apply. BC Brands Partners are not in compliance with the 2024 Permit until the inadequate control measure is replaced or corrected and returned to effective operating condition in compliance with Part I.B.1. of the 2024 Permit and the general requirements in Part I.B.3. of the 2024 Permit.

    a. BC Brands Partners must take all necessary steps to minimize or prevent the discharge of pollutants from the permitted area and manage any stormwater run-on onto the site until a control measure is implemented and made operational and/or an inadequate control measure is replaced or corrected and returned to effective operating condition. If it is infeasible to install or repair the control measure immediately after discovering the deficiency, the following must be documented in the SWMP and kept on record in accordance with the recordkeeping requirements in Part II of the 2024 Permit.

        i. Describe why it is infeasible to initiate the installation or repair immediately; and
        ii. Provide a schedule for installing or repairing the control measure and returning it to an effective operating condition as soon as possible.

33. Pursuant to Part I.D.5.c. of the 2024 Permit, BC Brands Partners must keep a record of all inspections conducted for each permitted site. Inspection reports must identify any incidents of noncompliance with the terms and conditions of the 2024 Permit. All inspection reports must be signed and dated in accordance with Parts I.D.5.c.xiii. and I.D.5.c.xiv. of the 2024 Permit. Inspection records must be retained in accordance with Part II.J. of the 2024 Permit. At a minimum, the inspection reports must include:

    a. The inspection date;
    b. Name(s) and title(s) of personnel conducting the inspection;
    c. Weather conditions at the time of inspection;
    d. Phase of construction at the time of inspection;
    e. Estimated acreage of disturbance at the time of inspection;
    f. Location(s) and identification of control measures requiring routine maintenance;
    g. Location(s) and identification of discharges of sediment or other pollutants from the site;
    h. Locations and identification of inadequate control measures;
    i. Location(s) and identification of additional control measures needed that were not in place at the time of inspection;
    j. Description of corrective action(s), dates corrective action(s) were completed, including requisite changes to the SWMP, as necessary;
    k. Description of the minimum inspection frequency (either in accordance with Part I.D.2, Part I.D.3 or Part I.D.4 of the 2024 Permit) utilized when conducting each inspection;
    l. Deviations from the minimum inspection schedule as required in Part I.D.2. of the 2024 Permit. This would include documentation of division approval for an alternate inspection schedule outlined in Part I.D.2.c of the 2024 Permit;

m. After adequate corrective action(s) have been taken, or where a report does not identify any incidents requiring corrective action, the report must contain the following statement and provide the date of the statement:

"I verify that, to the best of my knowledge and belief, that if any corrective action items were identified during the inspection, those corrective actions are complete, and the site is currently in compliance with the permit."; and

n. Inspection reports must be signed by the individual(s) designated as a Qualified Stormwater Manager, as defined in Part I.E. of the 2024 Permit.

34. During the Division's March 29, 2024 inspection, the Inspector reviewed a subset of BC Brands Partners inspection records for the Project, specifically inspections conducted between January 16, 2024 and March 27, 2024, and identified the following deficiencies, as outlined in Paragraph 34a:

a. Corrective actions identified on the inspection reports were not completed immediately for inadequate control measures. BC Brands Partners did not describe why it was infeasible to initiate the installation or repair immediately, and did not provide a schedule for installing or repairing the control measures as soon as possible. Specifically, the following inspection reports identified corrective actions with delayed completion dates:

Date Corrective Action Identified (Date of inspection report)	Date Corrective Action Completed	Number of Days Until Resolved
January 30, 2024	February 6, 2024	7
February 13, 2024	February 16, 2024	3
February 27, 2024	February 29, 2024	2
March 13, 2024	March 18, 2024	5
March 27, 2024	March 29, 2024	2

35. BC Brands Partners' failure to identify and discuss delayed corrective actions in accordance with the requirements of the 2024 Permit, as outlined in Paragraph 34a constitutes violations of Part I.B.1.c. of the 2024 Permit.

Failure to Install, Maintain, or Properly Select Control Measures

36. Pursuant to Part I.B.1. of the 2024 Permit, BC Brands Partners must implement control measures to minimize the discharge from all potential pollutant sources at the Project. Control measures used to meet effluent limitations must be installed prior to commencement of construction activities and prior to each phase of construction that introduces new potential pollutant sources. Control measures must be selected, designed, installed, and maintained in accordance with good engineering, hydrologic, and pollution control practices. Control measures implemented at the Project must be designed to prevent pollution or degradation of state waters.

37. Pursuant to Part I.B.1.a. of the 2024 Permit, BC Brands Partners must implement structural and/or non-structural control measures that effectively minimize erosion, sediment transport, and the release of other pollutants related to construction activity.

38. Pursuant to Part I.B.1.a.i(a) of the 2024 Permit, BC Brands Partners must implement structural and/or non-structural vehicle tracking controls to minimize vehicle tracking of sediment from disturbed areas.

39. Pursuant to Part I.B.1.a.i(b) of the 2024 Permit, BC Brands Partners must ensure that stormwater runoff from all disturbed areas and soil storage areas must utilize or flow to one or more control measures to minimize erosion or sediment in the discharge. The control measures must be selected, designed, installed, and adequately sized in accordance with good engineering, hydrologic, and pollution control practices for the intended application. The control measure(s) must contain or filter flows in order to prevent the bypass of flows without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (e.g. sheet flow or concentrated flow).

40. Pursuant to Part I.B.1.a.ii(c) of the 2024 Permit, BC Brands Partners must implement control measures designed for concrete washout waste, masonry operations, stucco waste, vehicle/equipment washing, and external building washdown. This includes washout waste discharged to the ground as authorized under the 2024 Permit and washout waste from concrete trucks and masonry operations contained on site. BC Brands Partners must ensure washing activities do not contribute pollutants to stormwater runoff or receiving waters.

41. Pursuant to Part I.B.1.b. of the 2024 Permit, BC Brands Partners must ensure that all control measures remain in effective operating condition and are protected from activities that would reduce their effectiveness. Control measures must be maintained in accordance with good engineering, hydrologic, and pollution control practices.

42. Pursuant to Part I.B.1.c. of the 2024 Permit, BC Brands Partners must assess the adequacy of control measures at the Project and the need for changes to those control measures, to ensure continued effective performance. When an inadequate control measure is identified (i.e., a new or replacement control measure is necessary), BC Brands Partners must take all necessary steps to minimize or prevent the discharge of pollutants until a control measure is implemented and made operational or an inadequate control measure is replace or returned to effective operating condition. If it is infeasible to install or repair the control measure immediately after discovering the deficiency, BC Brands Partners must document why it is infeasible to initiate the installation or repair immediately and provide a schedule for returning the control measure to effective operating condition as soon as possible.

43. Pursuant to Part I.B.3.e. of the 2024 Permit, BC Brands Partners must ensure that all construction site waste is properly managed to prevent potential pollution of state waters. The 2024 Permit does not authorize on-site waste disposal.

44. Pursuant to Part I.C.1.b. of the 2024 Permit, BC Brands Partners must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete.

45. During the Division's March 29, 2024 inspection, the Inspector identified the following deficiencies related to control measure selection, design, installation, implementation, and/or maintenance at the Project, as described in Paragraph 45(a-o) below:

    a. No control measures were implemented to provide temporary stabilization in multiple Project locations. Specifically, areas inspected during the January 5, 2024 inspection were disturbed and showed no change in condition at the time of the March 29, 2024 inspection. Additionally, a Project representative confirmed during the inspection that BC Brands Partners had not performed work in these areas for longer than 14 days. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. North of the outlet structure, along the eastern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

ii. South of the outlet structure, along the eastern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

b. Sediment control logs implemented in multiple Project locations were not maintained in accordance with Project SWMP specifications. Specifically, sediment control logs had holes and were in need of replacement. Project SWMP specifications required sediment control logs to be repaired or replaced upon the discovery of a failure. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Along the eastern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

ii. Along the western perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

c. Temporary outlet protection implemented at the culvert outfall along the eastern perimeter of the Project was not installed and/or maintained in accordance with Project SWMP specifications or in accordance with good engineering, hydrologic, and pollution control practices. Specifically, the riprap did not extend 11.16 feet past the outfall point along the entire width of the outlet structure, riprap was displaced, and sediment had accumulated throughout the riprap. Project SWMP specifications required riprap to be extended 11.16 feet in length past the outfall point along the entire width of the outlet structure. In accordance with widely accepted industry standards, including the USDCM Vol. 3, riprap rocks that are damaged or displaced must be repaired or replaced as necessary and accumulated sediment must be removed. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

d. No control measures were implemented to manage areas of disturbance in multiple Project locations. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Near the outlet structure, along the eastern perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

ii. Along Steeplechase Drive, west of the southern site entrance to the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iii. Along the west side of Grand Stand Drive, in the northern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iv. Near the parking lot, in the central eastern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

e. Sediment deposits observed on paved surfaces in multiple Project locations were not maintained in accordance with Project SWMP specifications. Project SWMP specifications required to keep public and private roadways clear of accumulated sediment and to shovel or sweep sediment from the street. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Along Steeplechase Drive, at the southern site entrance to the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

ii. Along Aladar Drive, along the northern perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iii. Along Grand Stand Drive, in the northern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iv. Along Grand Stand Drive, in the southern area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

v. Along the sidewalk on the east side of the parking lot, in the central west area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

f. Concrete washout waste was not managed in accordance with Project SWMP specifications. Specifically, concrete washout waste was observed on the ground outside of containment in multiple Project locations. Project SWMP specifications required the implementation of concrete washout waste areas to contain concrete washout and waste from being discharged to the ground and for concrete washout areas to be installed prior to concrete placement on site. As a result of these deficiencies, there was an increased potential for polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

i. Along the western perimeter of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

ii. Within the parking lot on the west side of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iii. North of the planned park, in the central area of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

iv. East and west of Grand Stand Drive, in the south-central area of the Project. Additional control measures were implemented down gradient from this location;

however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

v. Within the staging yard, in the southeast area of the Project. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

g. Trash and debris was not managed in accordance with Project SWMP specifications. Specifically, trash and debris was observed on the ground outside of containment throughout the Project. Project SWMP specifications required trash and debris at the site be cleaned up daily. As a result of these deficiencies, there was an increased potential for trash and debris to discharge offsite and/or impair the effectiveness of other stormwater control measures. These deficiencies were observed at the following Project locations:

i. Near the outlet structure along the eastern perimeter of the Project. No additional control measures were implemented down gradient from this location. Stormwater runoff from this location flowed east via sheet flow to the regional detention basin, ultimately discharging to the Cache La Poudre River.

ii. Along the western perimeter of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed to capture trash and construction debris. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

iii. Throughout the interior of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were not designed to capture trash and construction debris. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

h. Portable toilets implemented west of Grand Stand Drive, in the north-central area of the Project, were not installed in accordance with Project SWMP specifications. Specifically, portable toilets were not secured to the ground. Project SWMP specifications required that portable toilets be securely anchored to the ground. As a result of this deficiency, there was an increased potential for polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from the location; however, these control measures were not designed for the removal of pollutants associated with sanitary waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

i. The dumpsters located along Grand Stand Drive, in the central area of the Project, were not installed in accordance with Project SWMP specifications. Specifically, the dumpsters were placed on streets, near storm drains, and in curb lines. Project SWMP specifications required dumpsters to be located away from streets, gutters, watercourses, and storm drains. As a result of these deficiencies, there was an increased potential for trash and debris to discharge

offsite and/or impair the effectiveness of other stormwater control measures. Additional control measures were implemented down gradient from this location; however, the control measures were not designed to capture trash and construction debris. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

j. Vehicle tracking controls implemented in multiple Project locations, were not installed and/or maintained in accordance with Project SWMP specifications. Specifically, vehicle tracking control pads did not extend all the way to the paved surface and left an area of disturbance between the vehicle tracking control and the paved surface, and vehicle tracking control pads were compacted and had excess sediment accumulated, reducing their effectiveness. Project SWMP specifications required vehicle tracking controls to be a minimum of 50 feet and extend all the way to the sidewalk or other paved surface, and for excess sediment to be removed or replaced with fresh aggregate as necessary. As a result of these deficiencies, there was an increased potential for sediment and polluted stormwater to discharge offsite. These deficiencies were observed at the following Project locations:

    i. West of Grand Stand Drive, in the south-central area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

    ii. At the entrance to the staging yard, in the southeast area of the Project. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet flow to Town of Windsor MS4 inlets, ultimately discharging to the Cache La Poudre River.

k. The concrete washout area, located north of the planned park, in the central area of the Project, was not maintained in accordance with Project SWMP specifications. Specifically, concrete waste in the washout area had accumulated to its capacity. Project SWMP specifications required concrete waste in the washout area to be removed to maintain its functionality, typically when it's filled to two-thirds of its capacity. As a result of this deficiency, there was an increased potential for polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

l. No control measures were implemented to manage masonry waste from the masonry mixing station, located within the planned park, in the central area of the Project. Specifically, the masonry mixing station did not implement secondary containment. As a result of this deficiency, there was an increased potential for polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, these control measures were not designed for the removal of dissolved pollutants associated with concrete washout waste. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

m. Petroleum product stains observed on the ground along Grand Stand Drive, in the south-central area of the Project, were not managed in accordance with Project SWMP specifications. Project SWMP specifications required spills be immediately contained and cleaned up. As a result of this deficiency, there was an increased potential for polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, the control measures were not designed for the removal of dissolved pollutants associated with petroleum products. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

n. Sediment control logs implemented as inlet protection at the inlet within the staging yard, in the southeast area of the Project, were not installed in accordance with Project SWMP specifications. Specifically, the sediment control logs were not trenched into the ground and were undermined. Project SWMP specifications required sediment control logs be trenched into the ground approximately one-third of the diameter of the log. As a result of this deficiency, sediment had bypassed the sediment control log and there was an increased potential for sediment and polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

o. No control measures were implemented to manage the material stockpile located within the parking lot in the east-central area of the Project, contrary to Project SWMP specifications. Specifically, the stockpile was installed on a paved surface and stockpile perimeter controls were not implemented. According to Project SWMP specifications, stockpiles cannot be placed in streets or paved areas, and control measures must be implemented around the perimeter of the stockpile. As a result of this deficiency, there was an increased potential for sediment and polluted stormwater to discharge offsite. Additional control measures were implemented down gradient from this location; however, the control measures were implemented as part of a treatment train, reliant on effective upgradient control measures. Stormwater runoff from this location flowed via sheet and channelized flow to onsite inlets, discharging to the regional detention basin, and ultimately discharging to the Cache La Poudre River.

46. BC Brands Partners failed to implement, select, design, install, and/or maintain control measures in accordance with the SWMP and good engineering, hydrologic, and pollution control practices to minimize discharge of pollutants from all potential pollutant sources at the Project, as described in Paragraph 45(a-o) above.

47. BC Brands Partners' failure to properly implement the provisions of the Project's SWMP constitutes violations of Part I.C.1.b. of the 2024 Permit.

48. BC Brands Partners' failure to implement, select, design, install, and maintain control measures at the Project constitutes violations of Parts I.B.1., I.B.1.a., I.B1.a.i(a), I.B.1.a.i(b), I.B.1.a.ii(c), I.B.1.b., I.B.1.c., and I.B.3.e. of the 2024 Permit.

NOTICE OF VIOLATION

49. Based on the foregoing Findings of Fact and Conclusions of Law, BC Brands Partners is hereby notified that the Division has determined that the BC Brands Partners have violated the following sections of the 2019 Permit and 2024 Permit.

Part I.B.1. of the 2019 Permit, which states in part, "The permittee must implement control measures to minimize the discharge of pollutants from all potential pollutant sources at the site. Control measures must be installed prior to commencement of construction activities. Control measures must be selected, designed, installed and maintained in accordance with good engineering, hydrologic and pollution control practices. Control measures implemented at the site must be designed to prevent pollution or degradation of state waters."

Part I.B.1. of the 2024 Permit, which states in part, "The permittee must implement control measures to minimize the discharge of pollutants from all potential pollutant sources at the site which, if applicable, includes run-on. Control measures used to meet effluent limitations must be installed prior to commencement of construction activities and prior to each phase of construction that introduces new potential pollutant sources. Control measures must be selected, designed, installed and maintained in accordance with good engineering, hydrologic and pollution control practices. Control measures implemented at the site must be designed to prevent pollution or degradation of state waters."

Part I.B.1.a. of the 2019 Permit, which states in part, "The permittee must implement structural and/or nonstructural control measures that effectively minimize erosion, sediment transport, and release of other pollutants related to construction activity."

Part I.B.1.a. of the 2024 Permit, which states in part, "The permittee must implement structural and/or nonstructural control measures that effectively minimize erosion, sediment transport, and release of other pollutants related to construction activity."

Part I.B.1.a.i(a) of the 2019 Permit, which states in part, "Structural and nonstructural vehicle tracking controls shall be implemented to minimize vehicle tracking of sediment from disturbed areas…"

Part I.B.1.a.i(a) of the 2024 Permit, which states in part, "Structural and nonstructural vehicle tracking controls shall be implemented to minimize vehicle tracking of sediment from disturbed areas…"

Part I.B.1.a.i(b) of the 2019 Permit, which states in part, "The permittee must ensure that stormwater runoff from all disturbed areas and soil storage areas flow to at least one control measure to minimize sediment in the discharge. The control measure(s) must contain or filter flows in order to prevent the bypass of flows without treatment and must be appropriate for stormwater runoff from disturbed areas and for the expected flow rate, duration, and flow conditions (i.e. sheet flow or concentrated flow)."

Part I.B.1.a.i(b) of the 2024 Permit, which states in part, "Stormwater runoff from all disturbed areas and soil storage areas must utilize or flow to one or more control measures to minimize erosion or sediment in the discharge."

Part I.B.1.a.ii(b) of the 2019 Permit, which states in part, "Control measures designed for concrete washout waste must be implemented. This includes washout waste discharged to the ground as authorized under this permit and washout waste from concrete trucks and masonry operations contained on site…"

Part I.B.1.a.ii(c) of the 2024 Permit, which states in part, "Control measures designed for concrete washout waste, masonry operations, stucco waste, vehicle/equipment washing, and external building washdown must be implemented. This includes washout waste discharged to the ground as authorized under this Permit and washout waste from concrete trucks and masonry operations contained on site. The Permittee must ensure the washing activities do not contribute pollutants to stormwater runoff, or receiving waters."

Part I.B.1.b. of the 2019 Permit, which states in part, "The permittee must ensure that all control measures remain in effective operating condition and are protected from activities that would reduce their effectiveness. Control measures must be maintained in accordance with good engineering, hydrologic, and pollution control practices."

Part I.B.1.b. of the 2024 Permit, which states in part, "The permittee must ensure that all control measures remain in effective operating condition and are protected from activities that would reduce their effectiveness. Control measures must be maintained in accordance with good engineering, hydrologic, and pollution control practices."

Part I.B.1.c. of the 2019 Permit, which states in part, "The permittee must assess the adequacy of control measures at the site, and the need for changes to those control measures, to ensure continued effective performance. When an inadequate control measure…is identified…the following corrective action requirements apply. The permittee is in noncompliance with the permit until the inadequate control measure is replaced or corrected and returned to effective operating condition…"

Part I.B.1.c. of the 2024 Permit, which states in part, "The permittee must assess the adequacy of control measures at the site, and the need for changes to those control measures, to ensure continued effective performance."

Part I.B.3.d. of the 2019 Permit, which states in part, "All construction site wastes must be properly managed to prevent potential pollution of state waters. This Permit does not authorize on-site waste disposal."

Part I.B.3.e. of the 2024 Permit, which states in part, "All construction site wastes must be properly managed to prevent potential pollution of state waters. This Permit does not authorize on-site waste disposal."

Part I.C.1. of the 2019 Permit, which states in part, "A SWMP shall be developed for each construction site covered by the Permit. The SWMP must be prepared in accordance with good engineering, hydrologic, and pollution control practices. The permittee must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete. The Division may review the SWMP."

Part I.C.1.b. of the 2019 Permit, which states in part, "The permittee must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization. The Division may review the SWMP."

Part I.C.1.b. of the 2024 Permit, which states in part, "The permittee must implement the provisions of the plan as written and updated, from commencement of construction activity until final stabilization is complete. The Division may review the plan."

Part I.C.2. of the 2019 Permit, which states in part, "The SWMP, at a minimum, must include the following elements…"

Part I.C.3. of the 2019 Permit, which states in part, "Permittees must keep a record of SWMP changes made that includes the date and identification of the changes..."

NOTICES AND SUBMITTALS

50. For all documents, plans, records, reports, and replies required to be submitted by this Order, BC Brands Partners shall submit an original **OR** an electronic copy to the Division at the following address:

    Original copies shall be mailed to:
    William Everett
    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) 692-2290

    Electronic copies shall be emailed to:
    Email: william.everett@state.co.us

51. 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

52. Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11, BC Brands Partners are 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.

53. 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). An incomplete hearing request shall be considered invalid. 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

54. Be advised, in accord with §25-8-610, C.R.S., any person who knowingly makes any material false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this article 8 or who falsifies, tampers with, or knowingly render inaccurate any monitoring device or method required to be maintained under this article 8 commits a class 2 misdemeanor.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

55. BC Brands Partners is also advised that any person who violates any provision of the Act, §§25-8-101 to 1008, 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 $65,544 per day for each violation that 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

56. Pursuant to §25-8-601, C.R.S., BC Brands Partners 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

57. 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.

58. For further clarification of BC Brands Partners' rights and obligations under this Order, BC Brands Partners is advised to consult the Act, §§25-8-101 to 1008, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 1st day of May, 2026.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Kelly Morgan Digitally signed by Kelly Morgan Date: 2026.05.01 09:16:41 -06'00'

Kelly Morgan
Clean Water Compliance and Enforcement Section Manager
WATER QUALITY CONTROL DIVISION