



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

March 5, 2012

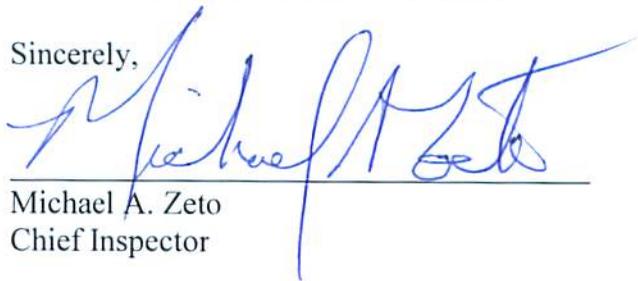
Allen Bell
A.B.E., LLC
Rabel Development, LLC
Milton Holdings, LLC
5521 Ohio River Road
Pt. Pleasant, WV 25550

CERTIFIED RETURN RECEIPT REQUESTED
91 7199 9991 7030 8828 8741
RE: Violation of Chapter 22, Article 11
of the WV State Code

Dear Mr. Bell:

Enclosed is revised CONSENT ORDER NUMBER 7528 dated March 5, 2012. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Environmental Enforcement unit in response to A.B.E. LLC, Rabel Development LLC, and Milton Holdings LLC violating Chapter 22, Article 11 of the WV State Code at its facility located near Milton and South Charleston, Cabell and Kanawha Counties, West Virginia. This revision is based upon your recent meeting with David C. Simmons, Enforcement Hearing Officer. This administrative settlement is being offered on behalf of the director of the Division of Water and Waste Management.

Please review, sign and return the original copy of the revised ORDER to me within five (5) working days of receipt. Subsequently, WVDEP will initiate the public notice process.

Sincerely,

Michael A. Zeto
Chief Inspector

Enclosure

cc: Scott G. Mandirola, Director, DWWM (via e-mail)
Yogesh Patel, Asst. Director, DWWM/Permits
Joseph M. Hickman, Assistant Chief Inspector, EE/WW (via e-mail)
Jeremy Bandy, Assistant Chief Inspector, EE (via e-mail)
David C. Simmons, Enforcement Hearing Officer, EE (via e-mail)
Laura McGee, Environmental Resources Specialist, EE (via e-mail)
Cynthia Musser, Environmental Inspector Supervisor, EE/WW (via e-mail)
Jason Chambers, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS, EE (via e-mail)

Promoting a healthy environment.



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
Fax: (304) 926-0463

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Allen Bell
A.B.E., LLC
Rabel Development, LLC
Milton Holdings, LLC
5521 Ohio River Road
Pt. Pleasant, WV 25550

DATE: March 5, 2012

ORDER NO.: 7528

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Allen Bell (hereinafter "Allen Bell").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Allen Bell (A.B.E., LLC) operates a land disturbance associated with construction activity, referred to as Milton Residential Development Access, located in Milton, Cabell County, West Virginia. Allen Bell was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR103046 on April 17, 2007.
2. On November 30, 2010, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and its WV/NPDES permit were observed and documented:
 - a. G.4.e.2.A.ii.j.-Permittee allowed sediment laden water to leave the site without going through an appropriate control.

Promoting a healthy environment.

- b. G.4.c.-Permittee failed to modify the approved Stormwater Pollution Protection Plan (SWPPP) to include additional land disturbance off the permitted boundary prior to the commencement of that activity.
- c. 47CSR2-3.2.a-Permittee created or contributed to Conditions Not Allowable in State Waters by causing or allowing distinctly visible settleable solids in the stream.

As a result of the aforementioned violations, Notices of Violation (NOVs) No. I10-06-015-JCC through I-10-06-017-JCC were issued to Allen Bell (A.B.E., LLC).

- 3. Allen Bell (A.B.E., LLC) operates a land disturbance associated with construction activity, referred to as Milton Apartments Phase 2 located in Milton, Cabell County, West Virginia. Allen Bell was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR105499 on April 19, 2011.
- 4. On May 17, 2011, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of its WV/NPDES permit were observed and documented:
 - a. D.1.-Permittee failed to operate and maintain all erosion control devices, including silt fence, diversions, and ditch checks.
 - b. G.4.e.2.A.ii.j.-Permittee allowed sediment laden water to leave the site without going through an appropriate device.
 - c. G.4.e.2.A.i.d.-Permittee failed to seed and stabilize all temporary diversions immediately and prior to becoming functional.
 - d. G.4.e.2.A.i.-Permittee failed to temporary seed and mulch all areas where construction activities ceased for more than seven (7) days.
 - e. G.4.e.2.A.i.-Permittee failed to immediately reseed and mulch all areas where the seed failed to adequately germinate within thirty (30) days of initial seeding and mulching.
 - f. G.4.e.2.A.ii.f.-Because the Permittee did not use measures to divert runoff away from fill slopes, the Permittee failed to protect the slopes.
 - g. G.4.e.2.C.i.-Permittee failed to properly dispose of all solid waste in accordance with 33CSR1-7.1.f by openly burning solid waste on-site.

As a result of the aforementioned violations, Notices of Violation (NOVs) No. I11-06-024-JCC through I11-06-030-JCC were issued to Allen Bell (A.B.E., LLC).

- 5. On September 29, 2011, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of its WV/NPDES permit were observed and documented:
 - a. G.4.e.2.A.ii.g.-By removing silt fence along the receiving stream to the right of the entrance road, the Permittee eliminated a sediment trapping structure prior to the contributing drainage area being stabilized.
 - b. D.1.-Permittee failed to properly operate and maintain erosion control devices, including silt fence and drop inlet protections.
 - c. G.4.e.1.E.-Permittee failed to install stone access entrances and exits to reduce sediment tracking onto public and private roads.

- d. C.15.-Permittee failed to post an outlet marker at all permitted outlets from the construction site.
- e. G.4.c.-Permittee failed to modify the approved SWPPP to include additional land disturbance off the permitted boundary prior to the commencement of that activity.
- f. G.4.a.-Permittee failed to retain a copy of the SWPPP and/or Groundwater Protection Plan (GPP) on-site and available for review.
- g. G.4.e.2.C.i.-Permittee failed to properly dispose of all solid waste in accordance with 33CSR1-7.1.f by openly burning solid waste on-site.
- h. G.4.e.2.A.i.d.-Permittee failed to seed and stabilize all temporary diversions immediately and prior to becoming functional.

As a result of the aforementioned violations, Notices of Violation (NOVs) No. I11-06-037-JCC through I11-06-044-JCC were issued to Allen Bell (A.B.E., LLC).

- 6. On October 31, 2011, Allen Bell (A.B.E., LLC) was issued Order No. 7469. The Order required Allen Bell to cease & desist further land development activity until a valid WV/NPDES permit for Storm Water Associated with Construction Activities, in the form of a modification to include the increased land disturbance, was obtained.
- 7. On November 29, 2011, Allen Bell (A.B.E., LLC) was issued Modification approval A, increasing the land disturbance from 2.4 acres to 4.4 acres.
- 8. Allen Bell (Milton Holdings, LLC) operates a land disturbance associated with construction activity, referred to as Rose Terrace Health and Rehabilitation Center located in Milton, Cabell County, West Virginia. Allen Bell was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR105240 on October 26, 2010.
- 9. On November 30, 2010, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and its WV/NPDES permit were observed and documented:
 - a. B-Permittee did not comply with the approved SWPPP by failing to properly install the sediment basin, temporary and clean water diversions throughout the site, and check dams.
 - b. G.4.b.5.-Permittee failed to display a public notice sign near the entrance of the construction site for the duration of the project.
 - c. G.4.e.2.A.i.d.-Permittee failed to seed and stabilize all temporary diversions immediately and prior to becoming functional.
 - d. G.4.e.2.A.ii.c.-Permittee failed to provide inlet and outlet protection for sediment control structures.
 - e. C.15.-Permittee failed to post an outlet marker at all permitted outlets from the construction site.
 - f. G.4.e.2.A.ii.j.-Permittee allowed sediment laden water to leave the site without first going through an appropriate control.
 - g. 47CSR2-3.2.a-Permittee created or contributed to Conditions Not Allowable in State Waters by causing or allowing distinctly visible settleable solids in the stream.

As a result of the aforementioned violations, Notices of Violation (NOVs) No. I11-06-006-JCC through I11-06-007-JCC, I11-06-009-JCC, as well as I11-06-011-JCC through I11-06-014-JCC were issued to Allen Bell (Milton Holdings, LLC).

10. On May 17, 2011, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of its WV/NPDES permit were observed and documented:
 - a. D.1.-Permittee failed to properly operate and maintain all erosion control devices, including the sediment basin, riser, and controls around the soil stockpile.
 - b. G.4.e.2.D.-Permittee failed to inspect all erosion control devices at least once every seven (7) calendar days and within 24 hours after any storm event of 0.5 inches or greater.
 - c. B-Permittee failed to comply with the approved SWPPP by not properly installing diversions along the front of the site and the access road.
 - d. G.4.e.2.A.i.-Permittee failed to temporary seed and mulch all areas where construction activities ceased for more than seven (7) days, including areas behind the buildings, slopes around the front of the site, the sediment basin, and the soil stockpiles.
 - e. G.4.e.2.C.i.-Permittee failed to dispose of all solid waste in accordance with 33CSR1-7.1.f by openly burning solid waste on-site.
 - f. G.4.e.2.A.ii.j.-Permittee allowed sediment laden water to leave the site without first going through an appropriate control. This violation occurred in the left rear portion of the site, as well as around the front, due to a lack of perimeter controls between Rose Terrace and Milton Apartments.
 - g. G.4.e.2.A.ii.c.-Permittee failed to provide inlet and outlet protection for all sediment control structures.

As a result of the aforementioned violations, Notices of Violation (NOVs) No. I11-06-017-JCC through I11-06-023-JCC, were issued to Allen Bell (Milton Holdings, LLC).

11. On September 29, 2011, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of its WV/NPDES permit were observed and documented:
 - a. B-Permittee failed to comply with the approved SWPPP, because it did not install diversions and ditch checks along the entrance road.
 - b. D.1.-Permittee failed to properly operate and maintain all erosion control devices, including the riser in the sediment basin.
 - c. G.4.e.2.A.ii.c.-Permittee failed to provide inlet and outlet protection for all sediment control structures, including the sediment basin, sediment trap, and all drop inlets.
 - d. C.15.-Permittee failed to post an outlet marker at all permitted outlets from the construction site.
 - e. G.4.e.2.A.ii.j.-Permittee allowed sediment laden water to leave the site without first going through an appropriate control. This violation occurred due to the improper riser in the sediment basin and the lack of perimeter controls between Rose Terrace and Milton Apartments Phase 2.

- f. G.2.-Permittee caused or allowed a non-stormwater discharge from the site, because concrete curing compound washed out in the discharge from the sediment basin.

As a result of the aforementioned violations, Notices of Violation (NOVs) No. I11-06-031-JCC through I11-06-036-JCC, were issued to Allen Bell (Milton Holdings, LLC).

12. Allen Bell (Rabel Development, LLC) operates a land disturbance associated with construction activity, referred to as The Ridges Section IV & V located near South Charleston, Kanawha County, West Virginia. Allen Bell was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR105172 on October 1, 2010.
13. On November 9, 2010, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of its WV/NPDES permit were observed and documented:
 - a. G.4.e.2.A.ii.g.-By filling sediment traps shown on the approved Plan, the Permittee eliminated sediment trapping structures prior to the contributing drainage area being stabilized.

As a result of the aforementioned violations, Notices of Violation (NOVs) No. I10-20-012-JCC was issued to Allen Bell (Rabel Development, LLC).

14. On May 18, 2011, Allen Bell (Rabel Development, LLC) was issued Modification approval A, which includes additional land disturbance for Section V.
15. On September 12, 2011, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of its WV/NPDES permit were observed and documented:
 - a. D.1.-Permittee failed to properly operate and maintain all erosion control devices, including silt fence in several areas throughout the project.
 - b. B.-Permittee did not comply with the approved SWPPP by failing to properly install silt fence in several locations and sediment traps and drop inlet protections throughout the site.
 - c. G.4.b.5.-Permittee failed to display a public notice sign near the entrance to the construction site for the duration of the project.
 - d. G.4.e.2.A.ii.j.-Permittee allowed sediment laden water to leave the site without first going through an appropriate control. This violation occurred due to the lack of sediment traps, holes in the drop inlets with no protections, and improperly maintained silt fence.
 - e. G.4.e.2.C.i.-Permittee failed to dispose of solid waste in accordance with 33CSR1-7.1.f by openly burning solid waste on-site.
 - f. G.4.e.2.D.-Permittee failed to inspect all erosion control devices at least once every seven (7) calendar days and within 24 hours after any storm even of 0.5 inches or greater.

16. On March 1, 2012, WVDEP personnel and representatives of Allen Bell met to discuss the terms and conditions of this Order.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Allen Bell shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permits and pertinent laws and rules.
2. Within twenty (20) days of the effective date of this Order, Allen Bell shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Allen Bell will achieve compliance with all terms and conditions of its WV/NPDES permits and pertinent laws and rules. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
SW Regional Environmental Enforcement Office
PO Box 662
Teays, WV 25569**

A copy of this plan shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Allen Bell's Legislative Rule and permit violations, Allen Bell shall be assessed a civil administrative penalty of eighty thousand five hundred thirty dollars (\$80,530) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall be mailed to:**

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Allen Bell hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Allen Bell agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Allen Bell does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Allen Bell other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Allen Bell shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Allen Bell becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Allen Bell intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Allen Bell (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Allen Bell of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Allen Bell to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Allen Bell, its successors and assigns.

7. This Order shall terminate upon Allen Bell's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



A.B.E., LLC
Rabel Development, LLC
Milton Holdings, LLC
Allen Bell

3-8-12

Date

Public Notice begin:

Date

Public Notice end:

Date

Scott G. Mandirola, Director
Division of Water and Waste Management

Date

revised September 2011

RECEIVED

MAR 13 2012

ENVIRONMENTAL
ENFORCEMENT

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Allen Bell

Receiving Stream:

Treatment System Design Maximum Flow:

N/A

MGD

Treatment System Actual Average Flow:

N/A

MGD

(if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#													
			2a, 4b, 9f, 10f, 15d, 11e	2b, 5e	2c, 9g	4a, 5b, 10a, 11b, 15a	4c, 5h, 9c	4d, 10d	4e	4f	4g, 5g, 10e, 15e	5a, 13a	5c	5d, 9e, 11d	5f	
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1	1
b)	Toxicity of Pollutant	0 to 3	1	0	1	1	1	1	1	1	1	1	1	1	0	0
c)	Sensitivity of the Environment	0 to 3	1	0	1	1	1	1	1	1	1	1	1	1	0	0
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1	1
e)	Actual Exposure and Effects thereon	0 to 3	1	0	1	1	1	1	1	1	1	1	1	1	0	0
Average Potential for Harm Factor			1	0.4	1	1	1	1	1	1	1	1	1	1	0.4	0.4
2)	Extent of Deviation Factor	Factor Range														
	Degree of Non-Compliance	1 to 3	2	3	3	2	3	2	2	2	2	3	2	2	1	2

Potential for Harm Factors:

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2a, 4b, 9f, 10f, 15d, 11e	Minor	Moderate	\$1,500	6	\$9,000
2b, 5e	Minor	Major	\$1,700	2	\$3,400
2c, 9g	Minor	Major	\$2,000	2	\$4,000
4a, 5b, 10a, 11b, 15a	Minor	Moderate	\$1,500	5	\$7,500
4c, 5h, 9c	Minor	Major	\$2,000	3	\$6,000
4d, 10d	Minor	Moderate	\$1,500	2	\$3,000
4e	Minor	Moderate	\$1,500	1	\$1,500
4f	Minor	Moderate	\$1,500	1	\$1,500
4g, 5g, 10e, 15e	Minor	Major	\$2,000	4	\$8,000
5a, 13a	Minor	Moderate	\$1,500	2	\$3,000
5c	Minor	Moderate	\$1,500	1	\$1,500
5d, 9e, 11d	Minor	Minor	\$400	3	\$1,200
5f	Minor	Moderate	\$1,200	1	\$1,200
9a, 10c, 11a, 15b	Minor	Moderate	\$1,500	4	\$6,000
9d, 10g, 11c	Minor	Moderate	\$1,500	3	\$4,500
9b, 15c	Minor	Minor	\$400	2	\$800
10b, 15f	Minor	Minor	\$400	2	\$800
11f	Minor	Moderate	\$1,500	1	\$1,500
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$64,400

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	20		\$12,880
6.2.b.4 - Compliance/noncompliance history -	25		\$16,100
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$6,440)
6.2.b.3 - Cooperation with the Secretary		10	(\$6,440)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$16,130
Penalty =			\$80,530

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments:	

Milton Residential Development Access



- Sediment laden water leaving the site through the storm drain system and discharging to Lee Creek.



- Additional land disturbance observed that is off the permitted boundary.



- Additional land disturbance observed that is off the permitted boundary.



- Distinctly visible settleable solids observed in Lee Creek.

Milton Apartments Phase 2



- Front slopes eroding. Erosion needs repaired and slopes reseeded.



- Silt fence down in several area at the toe of the front slopes.



- Silt fence down in several area at the toe of the front slopes. Erosion needs repaired and slopes reseeded.



- Silt fence down in several area at the toe of the front slopes. Erosion needs repaired and slopes reseeded.



- Front slopes eroding. Erosion needs repaired and slopes reseeded.



- Silt fence not being maintained.



- Erosion noted below silt fence, in area of existing apartments.



- Disturbed areas have not been temporary seeded and mulched.



- Erosion noted over the slopes, from the flat bench. No measures in place to protect fill slopes.



- Erosion noted over the slopes, from the flat bench. No measures in place to protect fill slopes.



- Diversion have not been properly installed or stabilized prior to becoming functional. Ditch checks not properly installed or maintained.



- Diversion washing out in some places from erosion on the slope above it.



- Diversion have not been properly installed or stabilized prior to becoming functional. Ditch checks not properly installed or maintained.



- Diversion washing out in some places from erosion on the slope above it. Erosion and diversion needs repaired throughout site.



- Diversion eroding around ditch check behind the soil/rock stockpile.



- No controls around soil/rock stockpile, allowing sediment laden water to leave the site through the un-stabilized diversion without going through a proper control.



- Diversion next to the active apartment construction, at the cul-de-sac, is eroding and needs repaired and stabilized.



- No controls behind the existing apartments. Slopes need to be reseeded.



- Sediment laden water coming from the site and entering the drop inlet in the existing parking lot, discharging to Lee Creek.



- Erosion above first bench needs repaired and area stabilized.



- Slopes below the Rose Terrace construction have eroded and need repaired and stabilized.



- Runoff from the entrance to Rose Terrace is eroding the head of the diversion along the left side of the site.



- Erosion from manhole installation needs repaired and area stabilized. This leads to a diversion below.



- Diversion not properly installed or stabilized prior to becoming functional. Ditch checks not properly installed.



- Erosion from manhole installation needs repaired and area stabilized. This leads to a diversion below. Diversion not properly installed or stabilized and checks not properly installed.



- Diversion not properly installed or stabilized and checks not properly installed or maintained. Diversion conveys sediment laden water offsite without going through a control.



- Silt fence down in several locations. Slope needs to be reseeded.



- Sediment laden water leaving the site without first going through a control, impacting an adjacent offsite pond.



- No controls in place to protect fill slopes. Slopes have eroded and need repaired and stabilized.



- Large portion of the site has been left idle for greater than 7 days without temporary stabilization.



- Evidence of solid waste being burned onsite. No controls around the adjacent soil stockpile.



- Existing drop inlets near construction activities need proper protections installed.



- Silt fence along stream removed prematurely.



- Construction debris needs to be cleaned up and properly disposed.



- Area shown is off the permitted boundary.



- Area shown is off the permitted boundary.



- Area shown is off the permitted boundary.



- Silt fence at the end of the right side has not been properly installed.



- Evidence observed of solid waste burning on-site.



- Erosion on the left side of the project needs repaired and stabilized.



- Diversion on the left side of the site has been seeded and mulched but lacks adequate stabilization prior to becoming functional.



- Erosion of the slope above the diversion on the left side of the site needs repaired and stabilized.



- Erosion of the slope above the diversion on the left side of the site needs repaired and stabilized.



- Sediment trap inlet has not been properly stabilized. Outlet marker has not been posted.



- End of the diversion on the left side of the project has not been seeded and mulched or stabilized.



- End of the diversion on the left side of the project has not been seeded and mulched or stabilized.

Rose Terrace Health and Rehabilitation Center



- Riser not properly installed.



- Inlet protection in the sediment basin not properly installed. Erosion noted around it needs repaired and basin stabilized.



- Sediment basin has eroded, including the bottom. Erosion needs repaired and basin stabilized.



- No controls in place around soil stockpiles. Stockpiles also need seeded and mulched.



- Evidence observed on solid waste burning. Burning must cease and all materials be legally disposed.



- Evidence observed on solid waste burning. Burning must cease and all materials be legally disposed.



- Slopes and flat area behind the buildings need seeded and mulched.



- Evidence of sediment laden water leaving the site without first going through a control was observed in the left rear portion of the site.



- Sediment laden water runoff from the left rear portion of the site is flowing down the slope, causing erosion, into an eroded ditch near the apartment construction.



- Sediment laden water runoff from the left rear portion of the site is flowing down the slope, causing erosion, into an eroded ditch near the apartment construction.



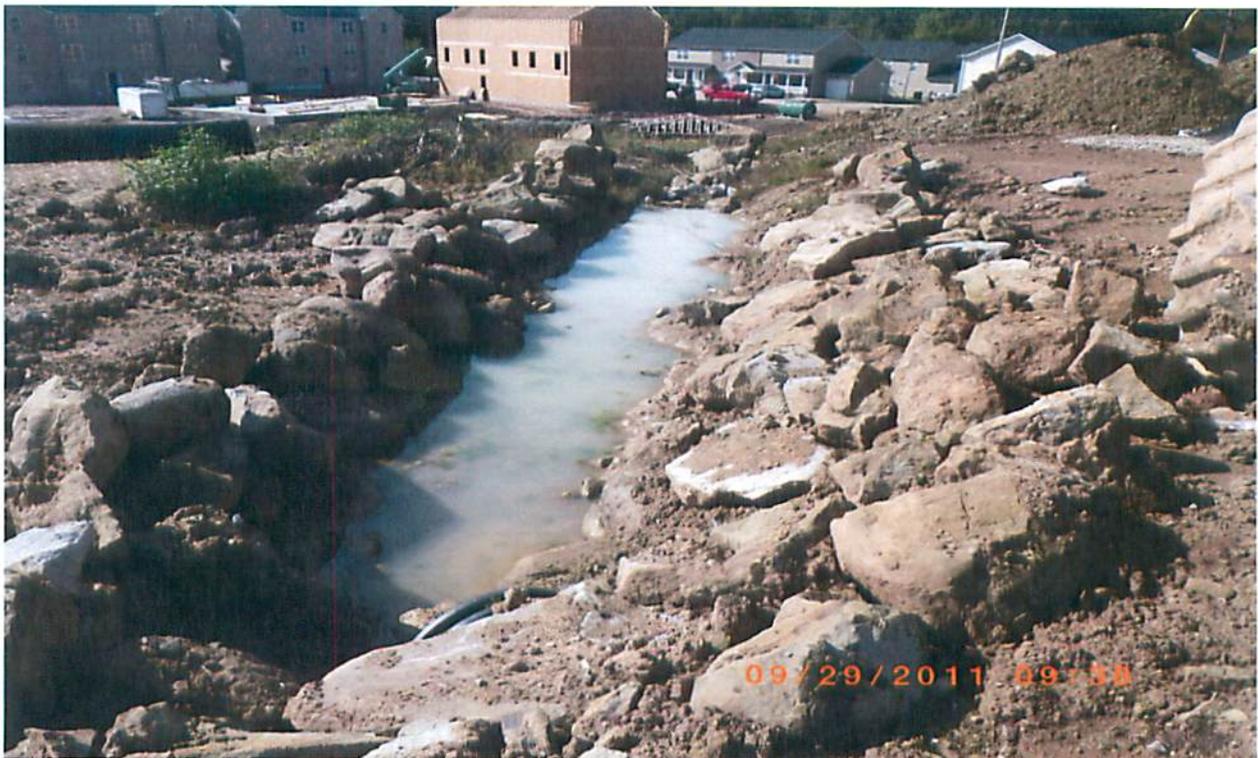
- Area behind the buildings needs to be seeded and mulched.



- No perimeter controls in place around the majority of the site, between Rose Terrace and Milton Apartments II.



- No perimeter controls in place around the majority of the site, between Rose Terrace and Milton Apartments II.



- Evidence observed of concrete curing compound being washed out in the discharge of the sediment basin.



- The riser has not been properly installed.



- Inlets to sediment basin have not been properly stabilized.



- Drop inlets not protected throughout the site.



- Inlet to the sediment trap at the left rear corner of the site needs to be stabilized. The discharge from this site is eroding the slope below, within the Milton Apartments Phase 2 site.



- Erosion of the slope noted below the sediment trap shown in the above photo.



- Drop inlets not protected throughout the site.

The Ridges IV & V



- Sediment traps removed despite drainage area lacking adequate stabilization.



- Sediment traps removed despite drainage area lacking adequate stabilization.



- Evidence of solid waste being burned at the end of Phase 5.



- No controls around the land disturbance at the end of Phase 5.



- Sediment laden water leaving the site without going through an appropriate control, as the end of Phase 5.



- Sediment traps have not been installed throughout the site.



- No drop inlet protections in place throughout the site.



- Several drop inlets have had holes put in the sides, which allows sediment laden water to enter and discharge from the site without first going through a appropriate BMP.



- Several drop inlets have had holes put in the sides, which allows sediment laden water to enter and discharge from the site without first going through an appropriate BMP.



- Sediment traps have not been installed throughout the site. Evidence of concrete washout leaving the site shown to the left of the rock outlet.



- Silt fence not properly maintained in numerous locations throughout the site.



- Silt fence not installed around several active home construction lots.



- Silt fence not properly installed or maintained in several locations throughout the site.



- Sediment traps not installed throughout the site.



- Silt fence not properly installed or maintained in numerous locations throughout the site.



- Several drop inlets have had holes put in the sides, which allows sediment laden water to enter and discharge from the site without first going through a appropriate BMP.



- Silt fence not installed around several active home construction lots.



- Open burning of solid waste observed while on-site.