

Section 5. Field Process and Enforcement

Overview of Section 5

5.0

Section 5 addresses the following steps in the GESC Permit Process:

Select a GESC Manager; review the GESC Field Manual and ensure that the Permittees and their representatives, including field personnel, understand the GESC Permit requirements.

Section 5.1, **The GESC Manager**, discusses the role of the Permittee(s)' GESC Manager, who serves as the on-site contact person with SEMSWA inspectors and is responsible for ongoing compliance with the GESC Permit.

Section 5.2, **Understanding the Requirements of the GESC Plan**, describes the requirements of the Permittee(s) prior to the Preconstruction Meeting, including selecting the GESC Manager, thoroughly reviewing the GESC Field Manual, GESC Plan, GESC Plan Standard Notes and Details, and related plans and permits for the project as well as the benefits of the Permittee(s)' diligence in implementing the GESC Plan throughout construction.

Section Highlight – Implementing the GESC Plan is a Dynamic Process

Implementing the GESC Plan is a dynamic, not static, process. The Permittee(s) are responsible for adapting the original GESC Plan so as to effectively reduce erosion and sediment and comply with any modifications to the Plan as required by SEMSWA.

Install the Initial BMPs as shown on the accepted GESC Drawings and schedule a Preconstruction Meeting with SEMSWA.

Section 5.3, **Preparation for the Preconstruction Meeting**, summarizes the activities to occur prior to the meeting which includes the installation of Initial BMPs. Other than the installation of the Initial BMPs, no other construction shall start prior to the Preconstruction Meeting.

Attend the on site Preconstruction Meeting, designate the GESC Manager, confirm an understanding of the GESC Permit requirements, review the Initial BMPs, and make any corrections required.

Section 5.4, **Preconstruction Meeting**, describes who shall attend the Preconstruction Meeting and summarizes the general meeting agenda.

Pick up the executed GESC Permit.

Section 5.5, **The Executed GESC Permit**, provides guidance for picking up the GESC Permit from SEMSWA.

Ensure that the Interim and Final BMPs are installed at the appropriate times in accordance with the accepted GESC Drawings and GESC Manual.

Section 5.6, **Installation of Interim and Final BMPs**, discusses the general schedule for installing Interim and Final BMPs.

**Overview of
Section 5 ,
continued**

Ensure that the mandatory inspections by SEMSWA are scheduled by Permittee(s) and completed and that corrections requested by SEMSWA during these or any inspections are made.

*Section 5.7, **Permittee GESC Inspections**, discusses the required inspections which must be completed by the Permittee.*

*Section 5.8, **SEMSWAGESC Inspection Process**, discusses Inspections related to the SEMSWA GESC Permitting Program and identifies steps in the construction process that require mandatory inspections and acceptance before work may proceed.*

*Section 5.9, **Violations and Enforcement**, provides a description of the two levels of violations and the associated Stop Work Order.*

Section Highlight – Stop Work Order

Permittee(s) committing any Level I Violations listed in Section 5.9.3 may receive a Stop Work Order and have the GESC Permit revoked. A Stop Work Order requires that the Permittee(s) do the following before resuming work on the site:

- ◆ *Correct the deficient practices that precipitated the Stop Work Order.*
- ◆ *Apply for a reinstatement of the GESC Permit and pay the GESC Permit reinstatement fee at SEMSWA.*
- ◆ *Schedule a site inspection with SEMSWA.*
- ◆ *Obtain a Release of Stop Work Form after approval of the corrected work from a SEMSWA Inspector.*



Use of the Collateral when there is a Default by the Permittee(s).

*Section 5.10, **Revocation of Collateral for Default by Permittee(s)**, procedures are described where SEMSWA revokes the developer's Collateral and uses the funds to complete the GESC requirements.*

The GESC Manager

5.1

5.1.1 Responsibilities of the GESC Manager. As the Permittee(s)' focus shifts from preparing the GESC Plans and applying for the GESC Permit to constructing the project, the first task is to select a GESC Manager. The GESC Manager is the Permittee(s)' contact person with SEMSWA for all matters pertaining to the GESC Plan and Permit. The GESC Manager may be an employee of the Owner or Contractor, but shall have the authority to act on behalf of the Permittee(s) to ensure that the site remains in compliance with the GESC Permit; however, the Permittee(s) shall remain the legally responsible party. The GESC Manager shall respond to requests made by SEMSWA staff and have any deficiencies in the work corrected.

The GESC Manager and Alternate GESC Manager shall be named at the on site Preconstruction Meeting discussed in Section 5.4.

5.1.2 Alternate GESC Manager. An Alternate GESC Manager who is able to serve in the same capacity as the GESC Manager shall also be selected. The Alternate shall be the contact person if the GESC Manager is not available. The GESC Manager shall inform the Alternate GESC Manager of any absences, fill the Alternate in on the status of the GESC Plan implementation, and ensure that the Alternate GESC Manager assumes the GESC Manager's responsibilities during any absence.

5.1.3 Availability of the GESC Manager. The GESC Manager shall be on site as necessary to ensure the GESC requirements are being implemented, and (along with the Alternate GESC Manager) shall provide SEMSWA with a 24-hour emergency contact number. In the event the GESC Manager (or Alternate GESC Manager) cannot be reached within 24 hours, a violation may be issued.

5.1.4 Changing the GESC Manager or Alternate. Notification in writing shall be provided to SEMSWA if the GESC Manager or Alternate leaves



the company or the Permittee(s) intend to change personnel. A field meeting with the SEMSWA Inspector and new GESC Manager or Alternate shall be scheduled within 7 days of the change to discuss site conditions and responsibilities of the GESC Manager.

The GESC Manager shall always be available on site or by phone for communications with the SEMSWA Inspector.

***Understanding
the Requirements
of the GESC Plan***

5.2

5.2.1 Implementing the GESC Plan in the Field. Constructing the project and implementing the GESC Plan in the field is a challenging part of the GESC Permit Process. The GESC Plan will not be effective unless the required measures are properly installed and maintained by the Permittee(s).

5.2.2 Diligence Pays Off. It is to the Permittee(s) advantage to be diligent in controlling erosion from its start and implementing a GESC Plan effectively. This can save both time and money by reducing the need for re-grading, repair, clean-up, and rework, and avoids re-inspection fees and delays associated with Stop Work Orders (see Section 5.9).

As an example, the presence of gully erosion on a construction site (described in Section 4.2) means that inadequate measures have been taken to control the early stages of erosion. Gully erosion is costly to repair. However, Permittee(s) that work to stabilize graded areas quickly through surface roughening, mulching or reseeding, and deal with rill erosion as it develops, will likely prevent gully erosion from occurring. This saves time and money in the long run.

The Permittee(s)' lack of effort in controlling erosion and sediment can increase the cost of construction due to the following additional obligations:

- ◆ *Frequent removal of sediment from basins and from behind silt fences and sediment control devices.*
- ◆ *Clean-up of accumulated sediments from off-site areas.*
- ◆ *Repair of downstream property damage resulting from sediment leaving the site.*
- ◆ *Re-grading and refilling rill and gully erosion.*
- ◆ *Replacing lost topsoil.*
- ◆ *Undertaking second and third seeding and mulching operations.*
- ◆ *Work stoppage due to non-compliance and making a trip to SEMSWA offices to pay a reinstatement GESC Permit fee or re-inspection fee.*

5.2.3 Review of the GESC Field Manual, GESC Plan, and Related Plans and Permits. Prior to the Preconstruction Meeting, the GESC Manager shall thoroughly review the GESC Field Manual, GESC Plan, Standard Notes and Details, and related plans and permits for the project. A review of the 10 Elements of an Effective GESC Plan in Section 4 would provide valuable insight. It is the GESC Manager's responsibility to understand all of the requirements of the GESC Permit Process as laid out in these documents. In addition, it is the GESC Manager's responsibility to ensure that other field personnel are aware of the GESC requirements.

SEMSWA welcomes calls from Permittee(s) during this process to answer any questions that the GESC Manager or other Permittee staff may have regarding the GESC Permit Process.

Understanding the Requirements of the GESC Plan, continued

Preparation for the Preconstruction Meeting



Preconstruction Meeting

5.2.4 Documents that Shall Remain On Site. A copy of the GESC Field Manual, Stamped and Approved GESC Drawings, Standard Notes and Details, and any project permits shall remain on the site at all times. Once the GESC Permit is obtained, it shall remain on site at all times as well.

5.3

5.3.1 Installation of Initial BMPs. The Initial BMPs shown on the GESC Drawings shall be installed prior to the on site Preconstruction Meeting. The Initial BMPs are shown on the Initial BMPs Drawing for Staged GESC Plans (generally for sites greater than 1 acre) and are indicated as "Initial BMPs" when shown on a combined Small Site and Utility GESC Plan.

No formal notification needs to be given to SEMSWA to install the Initial BMPs, other than receiving the signed GESC Drawings and the copy of the GESC Field Manual (discussed in Section 2.13). However, all of the requirements of the GESC Field Manual and GESC Plan, including the Standard Notes and Details, shall be complied with. See Section 6 for a description of proper installation and maintenance of BMPs.

If the Permittee(s) think that modifications to Initial BMPs shown on the GESC Drawings should be made to provide for a more effective plan, the Permittee(s) shall contact the Design Engineer and SEMSWA (see contact information in Appendix A) to obtain acceptance of the proposed modifications prior to installing the BMPs.

5.3.2 Construction Shall Not Start. Other than the installation of the Initial BMPs shown on the GESC Plan, no stripping operations, haul road grading, or other construction shall occur.

Important!

If the Permittee(s) begin work on the site (other than installing the Initial BMPs) prior to obtaining an approved GESC Permit, SEMSWA will issue a Stop Work Order and assess a fee in accordance with the current SEMSWA Fee Schedule.

5.3.3 Scheduling the Preconstruction Meeting. The Permittee(s) shall contact SEMSWA to schedule the on site Preconstruction Meeting. Three days notice (business days, not including Saturdays and Sundays) shall be provided to schedule the meeting.

5.4

5.4.1 Attendees at the Preconstruction Meeting. The on site Preconstruction Meeting is a critical milestone prior to the start of construction. In addition to the SEMSWA Inspector, the following representatives shall attend:

1. **Owner or Owner's Representative** (the Contractor may **NOT** be the owner's representative).
2. **General Contractor.**

Preconstruction Meeting, continued

3. **GESC Manager and Alternate GESC Manager** (one or both may be the same as the Owner or General Contractor Representative).
4. **Grading Sub-Contractor**, if different than the General Contractor.
5. **Design Engineer** (the Design Engineer's attendance is not mandatory; however, it is strongly recommended that the Design Engineer attend, to avoid possible delays if SEMSWA or the Permittee(s) determine that modifications to the GESC Plan are necessary).

5.4.2 General Meeting Agenda. The following agenda items are addressed at the Preconstruction meeting.

1. **Introductions.** Introductions of all attendees, including the GESC Manager and Alternate GESC Manager, will take place.
2. **Contact Information.** Attendees will exchange contact information.
3. **Review of GESC Field Manual.** The SEMSWA Inspector will confirm the Permittee(s)' understanding of the GESC Field Manual.
4. **Field Review of GESC Drawings.** The GESC Drawings for all stages and phases will be reviewed to confirm the attendees' understanding of the GESC Plan and to discuss any modifications to the plan. If modifications to the GESC Plan are thought to be advantageous, input will be sought from the Design Engineer and final acceptance of changes will be as determined by SEMSWA review staff. Limits of construction and topsoil stripping limits shall be confirmed.
5. **Inspection of Initial BMPs.** A visual inspection of all of the Initial BMPs that have been installed will take place. The SEMSWA Inspector will confirm if any corrections are required.
6. **Acceptance of Initial BMPs.** If the Initial BMPs are accepted by the SEMSWA Inspector, as is or with minor corrections, the SEMSWA Inspector will inform the Permittee(s), sign the GESC Permit Application, and submit the GESC Permit Application to the SEMSWA for processing. **Construction shall not start until an executed GESC Permit is obtained from SEMSWA as described in Section 5.5.**

5.4.3 Corrections to the BMPs. If the SEMSWA Inspector determines that significant modifications or corrections to the BMPs are necessary, the SEMSWA Inspector will inform the Permittee(s) that such corrections shall be made, that a follow-up inspection shall be scheduled with

Important! *If one of the mandatory attendees does not attend the Preconstruction Meeting, or if the GESC Field Manual and accepted GESC Plans are not in the GESC Manager's possession, or if the installation of the Initial BMPs is not approved by the GESC Inspector, the meeting shall be rescheduled and the applicant will be assessed a reinspection fee. The fee shall be paid at the SEMSWA Office prior to scheduling another Preconstruction Meeting.*

Section 5. Field Process and Enforcement

Preconstruction Meeting, continued

SEMSWA, and that acceptance of the corrected BMPs by the SEMSWA Inspector shall take place prior to the signing of the GESC Permit or prior to any additional inspections. Modifications to the GESC Plan will, in most cases, require acceptance of the Design Engineer who signed and stamped the GESC Drawings.

The Executed GESC Permit

5.5

5.5.1 Pick Up the Executed GESC Permit. SEMSWA will execute the GESC Permit generally within 24-hours of acceptance of the Initial BMPs (either at the Preconstruction Meeting or at a follow-up inspection). Once the Permittee(s) pick up the executed GESC Permit, construction can start.

Installation of Interim and Final BMP's

5.6

It is the responsibility of the GESC Manager to ensure that Interim and Final BMPs are installed at the earliest opportunity that grading or construction of new facilities allows.

For BMPs where a specific time frame is not given, the controls shall be installed as soon as construction of the infrastructure is substantially complete or when grading activities have produced grades close to the final grade. In any case, it is up to the discretion of the SEMSWA Inspector to make the final determination of Interim and Final BMP installation time frames.

Permittee GESC Inspections

5.7

During the construction phase, erosion and sediment controls must be inspected regularly by the GESC Manager to ensure that the BMPs are adequately maintained and functioning as intended. The frequency of GESC inspections shall be consistent with the "Key Installation and Maintenance Requirements" for each of the BMPs provided in Section 6.

In order for SEMSWA to ensure that the inspections are completed as required, the Permittee will be required to provide a Certification of GESC Inspections with the Initial Close-Out Acceptance. A copy of the certification form is provided as part of Appendix P.

SEMSWA GESC Inspection Process

5.8

5.8.1 SEMSWA GESC Inspections. During the construction phase, erosion and sediment controls will be inspected regularly by a SEMSWA Inspector. SEMSWA Inspectors will consider the overall effectiveness of the controls for reducing erosion and trapping sediment on the site and will check for proper installation and maintenance of the controls. SEMSWA Inspectors will coordinate with the GESC Manager, whose responsibility it is to ensure that the site remains in compliance with all GESC requirements.

Section 5. Field Process and Enforcement

SEMSWA GESC Inspection Process, continued

The Owner's signature on the GESC Permit application form or Letter of GESC Permit Compliance constitutes written authorization for SEMSWA and its agents to enter the project site and conduct regular inspections to ensure compliance with SEMSWA regulations.

5.8.2 Mandatory SEMSWA Inspections. The Permittee(s) shall call SEMSWA (contact information is shown in Appendix A) to schedule the following mandatory inspections:

1. Preconstruction Meeting/Inspection of Initial BMPs.
2. Any time during construction when a new GESC Manager or Alternate GESC Manager is chosen.
3. Initial Close-out Inspection at end of construction.
4. Vegetation Acceptance Inspection two years after Initial Close-out Inspection, or when grass has reached required vegetative cover in accordance with Section 7.3, prior to removal of on-site BMPs.
5. Final Close-out Inspection (after vegetation has been accepted and sediment controls have been removed).
6. For Staged and Phased GESC Plans where more than 40 acres needs to be disturbed (70 acres for soil mitigation) and where work occurs in multiple grading phases, the following inspection process is required:

Mandatory Inspections for Staged and Phased Projects:

1. A phased project starts in the same manner as any other GESC permitted project, with the installation of the Initial BMPs as shown on the Initial GESC Drawing. The difference is that only the Initial BMPs for Phase I need to be installed and inspected in order to obtain the GESC Permit.
2. Once the Permittee(s) have obtained the GESC permit, topsoil stripping / stockpiling and grading may begin on Phase I only. Failure to restrict grading operations to the limits of Phase I shall result in issuance of a Violation.
3. When the Permittee(s) are nearing the end of grading on Phase I, the Interim BMPs for Phase I shall be installed per the Interim GESC Drawing; in addition, the Initial BMPs shall be installed on Phase II as shown on the Initial GESC Drawing.
4. A **mandatory inspection** shall be scheduled, in accordance with this section, to inspect the Initial and Interim BMPs on Phase I as well as the Initial BMPs for Phase II. If the SEMSWA Inspector finds the BMPs to be installed and maintained in accordance with the approved GESC Plan and GESC Manual, the SEMSWA Inspector will sign the GESC Phasing Acceptance Sheet.
5. Once the SEMSWA Inspector has signed the GESC Phasing Acceptance Sheet, topsoil stripping/stockpiling and grading may commence on Phase II.
6. All disturbed areas on Phase I shall be surface roughened, drill seeded and crimp mulched or otherwise stabilized in accordance with the accepted GESC Plan within 5 calendar days from the SEMSWA Inspector's sign-off for commencement of the next phase (the SEMSWA Inspector may grant a seeding "extension" if at a time of year not conducive to seeding, refer to Section 4.9). Failure to complete the required seeding and mulching within the allotted time shall result in issuance of a Stop Work Order for the entire project. **NO TIME EXTENSIONS SHALL BE GRANTED.**
7. This process shall be repeated for each additional phase until all earthwork is complete.



Violation and Enforcement

Important! *Violations to the Clean Water Act shall be subject to criminal penalties of up to \$25,000 per day.*

5.9

5.9.1 Penalties and Enforcement. Failure to comply with any term, condition, limit, deadline or other provision of this GESC Manual, a GESC Permit, or failure to obtain a GESC Permit, shall constitute a violation of the SEMSWA GESC Regulation, as amended. Any person who pleads guilty, enters a plea of no-contest, or who after trial is found guilty of violating any term, condition, limit, deadline or other provision of this GESC Manual, a GESC Permit, or failure to obtain a GESC Permit, may be punished by a fine not to exceed \$1,000.00 for each day the violation exists, imprisonment for a period not to exceed one (1) year, or both fine and imprisonment. Each violation of shall constitute a separate offense for each and every day during which such violation exists or continues.

Violations may also constitute a violation of the Federal Clean Water Act and the Colorado Water Quality Control Act, Section 25-8-101, et seq., C.R.S. (“Act”). SEMSWA may, in addition to enforcement and prosecution in accordance with this Manual, refer violations to state or federal agencies for enforcement and prosecution. Importantly, pursuant to Section 25-8-609 C.R.S., 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 in violation of any permit issued under the Act. If the violation is committed with negligence or recklessness, the maximum fine shall be \$12,500 per day. If the violation is committed knowingly or intentionally, the maximum fine shall be \$25,000 per day.

In addition to any other legal or equitable remedies that SEMSWA may have for GESC violations, SEMSWA may withhold issuance or extensions of permits, certificates, approvals, or other authorizations granted by the City of Centennial (such as but not limited to building permits or certificates of occupancy), refuse to perform any inspections, refuse to approve any inspections, or to issue any other necessary approvals until such violation has been corrected and the Permittee(s) has taken the necessary action to ensure compliance with the GESC permit and GESC Manual requirements.

5.9.2 Violations. SEMSWA classifies violations in one of two categories, depending on the severity of the violation and has different enforcement actions for each category.

5.9.3 Level I Violations. Level I Violations are viewed by SEMSWA to pose an immediate serious risk to the health, safety or welfare of people and/or the environment. Level I Violations include, but shall not be limited to the following:

Violation and Enforcement, continued



- *Clearing, grubbing, grading or filling without a SEMSWA GESC permit.*
- *Disturbing land or filling within a floodplain or sensitive area without proper approvals.*
- *For phased grading, failure to provide required stabilization on a phase within 5 days of the GESC Phased Acceptance.*
- *Failure to correct Level II violations per the directives of the SEMSWA Inspector within the specified amount of time.*

Level I Violations may result in the immediate issuance of a Stop Work Order or a Notice of Violation (NOV), depending upon the impact and severity of the violation. If a Stop Work Order is issued, all work on site must stop until the GESC permit is issued or reinstated.

5.9.4 Level II Violations. Level II Violations are viewed by SEMSWA to pose a moderate risk to health, safety or welfare of people and/or the environment; however if not immediately corrected, will pose a serious risk.

Level II Violations include, but shall not be limited to the following: Remediation for Level II Violations shall commence immediately after the

- *Tracking of material onto roadways and adjacent properties.*
- *Failure to make required plan revisions.*
- *Failure to perform BMP maintenance as directed by the SEMSWA Inspector.*
- *Failure to provide routine maintenance for erosion and sediment controls.*
- *Installation of non-SEMSWA approved BMPs.*
- *Failure to provide inlet protection.*
- *Failure to provide protection of drainageways.*
- *Failure to provide sediment pond maintenance.*
- *Staging of equipment outside of a stabilized staging area.*
- *Failure to have approved GESC Permit, GESC Drawings, and Field Manual on site.*

Permittee is notified of the violation. Notification can either be verbal in-



This site was issued a re-inspection fee when the GESC Manager scheduled an inspection prior to reaching the required vegetative cover as well as not maintaining the required sediment controls.

Violation and Enforcement, continued

struction from the SEMSWA Inspector to the GESC Manager or included on an inspection report as a deficiency. Level II Violations shall be corrected immediately and as necessary. A re-inspection will be completed by the SEMSWA Inspector, and if the corrections have not been completed satisfactorily re-inspection fees will be applied for subsequent inspections. Corrections not made in full after additional inspections and subsequent inspections fees will result in the issuance of a Notice of Violation (NOV) and possible Stop Work Order.

5.9.5 Re-Inspection Fee. To offset the cost of additional inspections on non-compliant sites, SEMSWA will require re-inspection fees. Inspection fees will not be charged for the first re-inspection of a site where deficiencies have been identified. Re-inspection fees shall be applied if the site continues to be in non-compliance after the first re-inspection. The re-inspection fees must be paid in person at the SEMSWA office. SEMSWA may refuse to provide other required SEMSWA inspections (for example and not limited to inspections for a public improvement certification, GESC requirements, or other inspections) until re-inspection fees are paid. Failure to pay re-inspection fees may also result in the Issuance of a Notice of Violation and/or a Stop Work Order.



5.9.6 Notice of Violation. Failure to meet the GESC requirements may result in the issuance of a Notice of Violation. Violations must be remedied immediately and as necessary. If the Violation is not remedied upon re-inspection, a Stop Work Order may be issued and prosecution commenced as discussed in Section 5.9.7.

5.9.7 Stop Work Orders. The Director, or his/her designated representative, is authorized to order work to be stopped on any project that disturbs the land and which is not in compliance with the requirements of the GESC Permit. When a Stop Work Order is issued, the GESC Permit for that project is revoked. In addition, the State of Colorado Department of Public Health and Environment may be notified.



If a project is issued a Stop Work Order, all work on site shall be stopped. Safety-related items (e.g., backfilling of holes and trenches) as well as corrective actions may be completed; how-

Important! *If a Permittee works without a GESC Permit, a fee in accordance with the current Fee Schedule will be assessed. This fee shall apply each time the project is found to be working without or prior to issuance of a GESC Permit. SEMSWA will enforce the GESC Permit, GESC Manual, GESC Plan and Stop Work Order through any available means.*

Violation and Enforcement, continued

ever, the Permittee(s) shall inform the SEMSWA Inspector of such activities.

The Permittee(s) shall do the following to reinstate a GESC Permit and resume work on the site:

1. Correct the deficient practices that precipitated the Stop Work Order.
2. Apply for a reinstatement of the GESC Permit and pay the reinstatement fee at the SEMSWA office.
3. Call SEMSWA to schedule a site inspection.
4. Obtain a release of Stop Work Form after approval of the corrected work from a SEMSWA Inspector.

A posted Stop Work Order shall not be removed from the site except by SEMSWA. A SEMSWA Inspector is the only authorized agent to remove a posted Stop Work Order.

5.9.8 SEMSWA GESC Regulation. Failure to comply with a Stop Work Order and provide the necessary remedies to meet the GESC requirements is a violation of the SEMSWA GESC Regulation.

5.10

Revocation of Collateral for Default by Permittee(s)

5.10.1 Default by Permittee(s). In the event there is a default or violation by the Permittee(s) of any of the requirements of the GESC Permit, GESC Plan, and/or GESC Manual, remedies will be available to SEMSWA in accordance with the remedies identified in this GESC Manual, in any SEMSWA Resolution(s) containing provisions for providing remedies for enforcement against defaults or violations, remedies listed in any applicable Subdivision Improvements Agreement, and any other remedies provided by law. A default by Permittee(s) shall be based on conditions including, but not limited to, the following:

A Default by Permittee(s) shall be based on conditions including, but not limited to, the following:

5.10.2 Notice of Default. If the Director, or representative of the Director, gives notice that a Default by Permittee(s) exists, and if the Permittee(s)

Section 5. Field Process and Enforcement

Revocation of Collateral for Default by Permittee(s), cont.

- *Permittee(s) fails to construct the improvements in substantial compliance with the GESC Plan and the other requirements of the GESC Permit;*
- *Permittee(s) fails to complete construction of the GESC improvements by the completion date provided in the GESC Plan or Permit as the same may be extended;*
- *Permittee(s) fails to cure any noncompliance specified in any written notice of noncompliance within the timeframe specified in the Notice of Violation;*
- *Permittee(s) otherwise breaches or fails to comply with any obligation of the GESC Permit;*
- *Permittee(s) become insolvent, files a voluntary petition of bankruptcy, is adjudicated as bankrupt pursuant to an involuntary petition in bankruptcy, or a receiver is appointed for the Permittee;*
- *Permittee(s) fails to maintain in full force and effect a letter of credit in the amounts specified above or in the GESC Permit. Notice of defaults as to any phase of the GESC improvements must be given prior to expiration of the warranty period for such phase of the Subdivision improvements as hereinafter provided.*

fails to cure such default within the time specified by the Director, SEMSWA shall be entitled to: (a) make a draw on the letter of credit for the amount reasonably determined by SEMSWA to be necessary to cure the default in a manner consistent with the approved GESC Plan up to the face amount of the letter of credit; and (b) sue the Permittee(s) for recovery of any amount necessary to cure the default over and above the amount available under the letter of credit.

5.10.3 SEMSWA Right to Complete GESC Improvements. SEMSWA shall have the right to complete the GESC Improvements, in substantial accordance with the GESC Plan, the Engineer's Cost Estimate, and other requirements of this GESC Manual, either itself or by contract with a third party or by assignment of its rights to a successor who has acquired the subdivision/project by purchase, foreclosure, or otherwise. SEMSWA, any Contractor under contract with SEMSWA, or any such successor Permittee(s), their agents, subcontractors and employees shall have the non-exclusive right to enter upon the subject property for the purpose of completing the GESC Improvements.

5.10.4 Use of Funds by SEMSWA. Any funds obtained by SEMSWA under a letter of credit, or recovered by SEMSWA from the Permittee(s) by suit or otherwise, will be used by SEMSWA to pay the costs of completion of the GESC Improvements substantially in accordance with the GESC Plan and the other requirements of this GESC Manual and to pay the reasonable costs and expenses of SEMSWA in connection with the Default by Permittee(s), including reasonable attorneys' fees, with the surplus, if any, to be returned to the Permittee(s).