February 22, 2018

DSM Realty Corporation &
CWW, LLC, Ron Rossi
/o DSM Realty, David Malkin, President
150 Chestnut Street
Providence, RI 02903

RF: SSRE RI Gold Meadow Farms
Freshwater Wetland Permit No. 16-0202
RIPDES Construction General Permit Authorization No. RIR101456
Letter of Non-Conformance

For the property and project located approximately 1,500 feet east of Lippett Avenue and approximately 2,800 feet southeast of its intersection with Hope Road, Assessor's Plat 23, Lot Nos. 6,7,8,15,20 &36 and Assessor's Plat 30/3, Lot 240, near Utility Pole No. 11, Cranston, R

Dear Mr. Malkin and Mr. Rossi

This letter is being written in response to permit compliance evaluation inspections that the Rhode Island Department of Environmental Management (RIDEM) conducted at the above-mentioned construction site on January 24, 2018 and February 14, 2018. Based on these inspections, the RIDEM is notifying DSM Realty Corporation and CWW, LLC that it is in Significant Non-Compliance (SNC) for failure to properly install and implement proper Best Management Practices ("BMPs"). This failure of proper installation, implementation and maintenance of BMP's has resulted in the unauthorized alteration of freshwater wetlands on the project site.

The following paragraphs provide more detail regarding the specific conditions that were identified as being deficient during the inspection, as well as required corrective actions to take place to address deficiencies in the soil erosion and sediment control practices on site:

1. A properly executed Soil Erosion and Sediment Control (SESC) plan was not available on site. Please complete and submit to the RIDEM copies of the following: a signed version of Section-7 (Party Certification) of the Plan and an authorized Stormwater Facility Maintenance Agreement.

2. Page 13 of the Soil Erosion and Sediment Control Plan (SESC Plan) indicates that for all the project phases the exposed area will be 5 acres or less. However, the RIDEM estimates that over 40 acres was cleared and graded and the operator did not provide any temporary vegetative or structural stabilization. Please be aware that section 3.3.7.5 of the Rhode Island Stormwater Design and Installation Standards Manual (RISDISM) requires that all disturbed soils which do not have adequate vegetative stabilization by November 15th must be stabilized through the use of non-vegetative erosion control measures. If work continues within any of the disturbed areas during the period from October 15th through April 15th care must be taken to ensure that only the area required for that day’s work is exposed, and all erodible soil must be restabilized within 5 working days. Therefore, please clearly identify what steps will be taken to correct these deficiencies.

Office of Water Resources/Telephone: 401.222.4700/Fax: 401.222.3564
3. During the site inspection the RIDEM noticed that only one sediment trap was installed within the limits of disturbance. The RIDEM estimates that over 40 acres of the project area was cleared and graded which exceeds the design criteria for a temporary sediment trap. Therefore, please immediately implement steps to provide temporary sediment traps in the locations that are shown on the approved site plans.

4. According to sheet 8 of the site plans the contractor was to install silt fence around all earth stockpiles. However, during the January 24th site inspection the RIDEM noticed that the stockpiles were not surrounded with staked haybales or filter rolls. Therefore, the operator must take immediate actions to institute the required erosion controls along the perimeter of all material and earth stockpiles.

5. During the site inspection the designated construction entrance was identified as being in need of maintenance. Part II.B of the RIPDES Construction General Permit (CGP) requires the maintenance of all Best Management Practices to prevent the uncontrolled release of measurable amounts of sediment or sediment laden water from traveling beyond the limits of disturbance. Section D of the Rhode Island Soil Erosion and Sediment Control Handbook directly addresses the procedures required to adequately maintain construction entrances. Therefore, the operator must immediately correct the current condition of the construction entrance.

6. As depicted on the approved site plans, silt fence or straw wattles were to be installed on the up-gradient side of the infiltration trenches. However, during the inspection the RIDEM noticed that sediment controls were not installed up-gradient of the infiltration trenches. Please note that many site areas around the infiltration trenches were not stabilized. Therefore, the operator must take immediate steps to correct this deficiency and the engineer must determine whether or not sediment build-up has limited the infiltration capabilities of the infiltration trenches to less than the design infiltration rate.

7. Per section 2.7 of the SESC Plan, the operator must stake out the site locations where the long-term stormwater practices will be installed to prevent compaction or clogging of the soils by construction equipment. During the inspection the locations for the proposed long-term stormwater practices were not clearly marked with stakes or flagging. Therefore, the operator must correct this deficiency.

8. During the site inspection the RIDEM was unable to locate the temporary grass swales that were shown on the site plans. However, the RIDEM did notice a shallow depression located along the western property line that was full of sediment and water. Therefore, temporary grass swales must be installed in the locations shown on the approved site plans.

9. Section of 2.9 of the SESC Plan indicates that the operator must create and adopt a spill control plan that includes measures to contain and clean up a spill. During the inspection the operator indicated that there was a spill containment kit at the site. Please provide a description of the spill containment kit, and ensure that the spill control plan/spill kit are stored in a prominent location at the site.

10. During the site inspection the inspection reports were not available to be shown to the inspector upon request. According to section III.1.3.b.11 of general permit, all records of inspections including records of maintenance and corrective actions must be maintained with the SESC Plan. Therefore, please ensure that copies of the inspection reports are maintained with the SESC Plan.

11. According to Section 4.3 of the SESC Plan the site must be inspected by the operator at least once every seven days and within twenty-four hours after any storm event which generates at least 0.25 inches of rainfall per twenty-four hours. However, upon review of the inspection reports the RIDEM
noticed that only weekly inspections were checked. Since, none of the boxes for post-storm-event inspections were checked it appears that the operator did not do site inspections after any storm events that generated at least 0.25 inches of rainfall. The operator must provide the corrective action date on the inspection form. Therefore, please clearly identify what steps have been taken to correct this deficiency.

12. During the inspection the operator informed RIDEM inspectors that the project’s commencement date was September 16, 2017. However, on January 3, 2018, the RIDEM received copies of the inspection reports from October 20, 2017 to January 23, 2018. Therefore, please provide copies of the inspection reports from September 16, 2017 to October 20, 2017.

13. Upon review of the inspection reports the RIDEM noticed that some of the sections within the weather information section were not completed. The operator must provide the date of the last rain event, duration, approximate rainfall, rain gauge location and source, weather at the time of the inspection on all future inspection reports.

The above-detailed instances of failure to properly implement your SESC and maintain a stable construction site while adhering to the approved site plans has resulted in the project proceeding in non-conformance with the terms and conditions of the permit issued by this Program on November 30, 2016 for Application No. 16-0202; RIPDES File RIR101456 (copy of letter enclosed).

Specifically, you are in non-conformance with the terms and conditions of the permit in at least the following instances:

1. In non-conformance with Condition No. 2, site alterations have occurred beyond the approved limit of disturbance (“LOD”). Specifically, sediment laden runoff and fill material in the form of accumulated sediments has been deposited in freshwater wetlands outside the approved limit of disturbance within at least Wetlands D, E, F, C, H and Z.

2. In non-conformance with Condition No. 10, erosion and sediment controls were not properly maintained, replaced, supplemented or modified as necessary throughout the life of this project to minimize soil erosion and to prevent sediments from being deposited in any wetlands not subject to disturbance under this permit.

3. In non-conformance with Condition Nos. 12 and 13, all best management practices detailed and described on the approved plans were not installed and/or were not maintained to prevent harm to adjacent freshwater wetlands. Specifically, erosion controls and temporary sediment basins (traps) were not installed in accordance with the approved site plans.

In order for the project to return into conformance with the terms and conditions of the permit and the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act ("Rules"), the following actions are required in addition to all items noted above:

1. Replace, maintain, reinforce and otherwise supplement erosion controls along the approved LOD adjacent to Freshwater Wetlands D, E, F, C, H and Z and as needed elsewhere on-site for the duration of the project until all disturbed soils are properly stabilized.
2. Remove accumulated sediments from the following wetlands to a suitable upland location as indicated below:

a. Wetland B: Remove accumulated sediments via hand held implements and using buckets or wheelbarrows as appropriate, specifically near Flags B8 and B9 where sediments have accumulated to a depth that can be removed.

b. Wetland H: Remove accumulated sediments via hand held implements and using buckets or wheelbarrows as appropriate approximately between LOD Flag No. 10a to approximately 10 feet south of Flag H2 where sediments have accumulated to a depth that can be removed. There is a drainage flow path (pushed leaves, slight scouring) that outlets from the H-Series wetland (near Flag H10) that flows into the B-Series downslope. A section or two of filter soxx or straw bales could be placed as a check dam across the flow path to slow the velocity of any high rain events to prevent sedimentation from entering downstream wetlands and/or better reinforce erosion controls along the LOD.

c. D-Series: remove accumulated sediments from between the stone berm and the line of filter soxx from the perimeter wetland (opposite approximately Flags D7) by hand or from a piece of equipment operating from the adjacent upland. Please note that sediments laden runoff has been released into Swamp D and further action might be required at a later date (see paragraph below).

d. Wetland Z: remove accumulated sediments along the outer edge by hand or from a piece of equipment operating from the adjacent upland.

Please be advised that due to seasonally high water levels within the wetlands, the Department was unable to confirm in some instances whether sediment has accumulated at depths that would impact the functions and values of the receiving wetlands, and will be re-inspecting the site on at a future date to determine if any further restoration requirements are needed. Once water levels have suitably dropped, if unacceptable levels of accumulated sediments remain, follow-up measures will be required at that time. For example, at least Swamp D as noted above and Forested Wetlands B, C, E and F have surface inundation with turbid water conditions and are targeted for reinspection.

Additionally, OWR Inspectors noted that, as a result of disturbance from heavy truck traffic and snow plowing along the roadway leading into the site, the pathway of stormwater flow has been modified. Whereas pre-existing conditions allowed stormwater to flow across the road in a shallow ditch, it is now flowing west along the road and both entering the woods to the south in a different location as well as flowing into Lippitt Avenue, and thence south to finally flow into downstream wetlands. While the Department did not observe any actionable violations at this time, you are advised to address this flow diversion in a timely manner so as to return stormwater flow along its pre-existing pathway before erosion along the current flow path results in significant impacts to downstream wetland areas.

Please note that the Office of Water Resources is considering referral of this construction project to the DEM’s Office of Compliance and Inspection for appropriate enforcement for failure to properly install, operate, and maintain BMPs. Failure to satisfactorily address the above stated deficiencies and required actions and respond within fourteen (14) calendar days may result in additional enforcement actions. The written response must include photographic documentation of the corrective actions taken to address the comments.
If there are any questions regarding this letter’s requirements, you may contact Joseph Camara with respect to SESC deficiencies at 401-222-4700, extension 7640, or Nancy Freeman with respect to wetland restoration items at 401-222-4700, ext. 7408.

Sincerely,

Joseph Camara, Senior Engineer
RIDEM Office of Water Resources
Construction Stormwater Engineering, Floodplain and 401 Permitting Program

and

Charles A. Herbet, Program Supervisor
RIDEM Office of Water Resources
Freshwater Wetlands Program


cc: Eric Beck, Chief of Groundwater & Wetlands Protection
Sam Kaplan, RIDEM RIPDES Program
David Russo, DiPrete Engineering
Ralph Palumbo, Southern Sky Renewable Energy, RI. LLC

xc: Kevin Burke, Cranston Building Official
Kenneth Mason, Cranston Public Works Di
Brian Palombo, Vinagro