

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.  
Denver, Colorado 80246-1530  
Phone (303) 692-2000  
TDD Line (303) 691-7700  
Located in Glendale, Colorado

Laboratory Services Division  
8100 Lowry Blvd.  
Denver, Colorado 80230-6928  
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

September 28, 2007

CERTIFIED NO: 7005-1820-0000-3205-2586

Jerry Edmonds, Land Development Project Manager  
Claremont Development, Inc.  
1411 Woolsey Heights  
Colorado Springs, Colorado 80915

Re: Failure to submit required documentation/**Compliance Advisory**  
Claremont Development, Inc.—Claremont Business Park  
CDPS Permit No. COR03 8148  
El Paso County

Dear Mr. Edmonds,

The Water Quality Control Division (Division) forwarded an inspection letter with an enclosed Stormwater Inspection Report (report) to Claremont Development, Inc. on November 29, 2006. The report identified findings associated with the inspection performed at the facility on November 16, 2006 by PG Environmental, LLC, as an authorized representative of the Water Quality Control Division. The report required that Claremont Development, Inc. submit a response to the letter to the Division, by December 29, 2006.

The Division has not received Claremont Development, Inc.'s response to the inspection letter. Claremont Development, Inc. must correct the findings noted in the inspection report, submit an explanation on how each finding was corrected, and submit the requested materials to Colorado Department of Public Health and Environment, WQCD-P-B2, 4300 Cherry Creek Drive South, Denver, CO 80246-1530, Attn: Kathleen Rosow by **October 12, 2007**. Your submittal must include an explanation of why you did not respond by the original deadline. Please contact the Division if you need an additional copy of the original inspection letter and report.

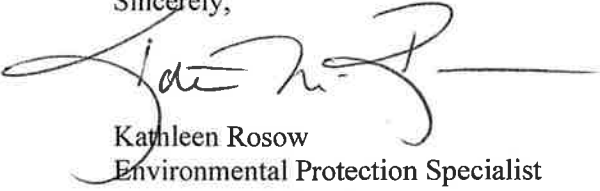
The issuance of this Compliance Advisory does not limit or preclude the Division from pursuing its enforcement options concerning the findings related to this site. The Division is currently evaluating the facts associated with the findings and if a formal enforcement action is deemed necessary, you may be issued a Notice of Violation / Cease and Desist Order that may include the assessment of penalties.

For facilities covered under a Colorado Discharge Permit System (CDPS) general permit, failure to comply with any CDPS permit requirement, including the requirement to provide information requested by the Division or its representatives (see Part II.B.2 of your permit), constitutes a violation of the Federal Clean Water Act and the Colorado Water Quality Control Act, 25-8-101.

Claremont Development, Inc.  
September 28, 2007  
Page 2

If you have any questions, please call me at (303) 692-3521. Thank you for your time and cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen Rosow', with a long horizontal line extending to the right.

Kathleen Rosow  
Environmental Protection Specialist  
Industrial Permits Unit  
WATER QUALITY CONTROL DIVISION

cc: File Copy

# STATE OF COLORADO

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Colorado Department  
of Public Health  
and Environment

May 14, 2008

Claremont Development, Inc.  
1411 Woolsey Heights  
Colorado Springs, CO 80915

Certified Mail Number: 7005 1820 0000 3213 1588

**RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-080513-1**

Dear Sir or Madam:

Claremont Development, Inc. is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). This NOV/CDO is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §§25-8-602 and 25-8-605, C.R.S. of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases this NOV/CDO upon findings that Claremont Development, Inc. has violated the Act, and/or regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Claremont Development, Inc. is required, within thirty (30) calendar days of issuance of this NOV/CDO, 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. to impose a penalty of \$10,000 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/CDO or the issuance of additional enforcement actions.

*Claremont Development, Inc.*  
*Notice of Violation / Cease and Desist Order*  
*Page 2 of 2*

Should you or representatives of Claremont Development, Inc. desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact Mike Harris of this office by phone at (303) 692-3598 or by electronic mail at [michael.harris@state.co.us](mailto:michael.harris@state.co.us).

Sincerely,



Karen Tidwell, Legal Assistant  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

cc: El Paso County Department of Health and Environment, Stormwater Program

ec: Aaron Urdiales, EPA Region VIII  
Gary Soldano, Engineering Section, CDPHE  
Kathy Dolan, Stormwater Program, CDPHE  
Dick Parachini, Outreach and Assistance Unit, CDPHE  
Andrew Ross, Permits Section, CDPHE

MS-3 File

Enclosure(s)



**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**  
**DIVISION OF ADMINISTRATION**  
**WATER QUALITY CONTROL DIVISION**

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**NOTICE OF VIOLATION / CEASE AND DESIST / CLEAN-UP ORDER**

**NUMBER: SO-080513-1**

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**IN THE MATTER OF:      CLAREMONT DEVELOPMENT, INC.**  
**CDPS PERMIT NO. COR-030000**  
**CERTIFICATION NO. COR-038148**  
**EL PASO COUNTY, COLORADO**

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority has been delegated to the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602, 25-8-605 and 25-8-606, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order / Clean-up Order:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. At all times relevant to the alleged violations identified herein, Claremont Development, Inc. ("Claremont") was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.
2. Claremont is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
3. On or about May 12, 2005, Claremont initiated construction activities to build a commercial development on property located at or near State Highway 24 and Marksheffel Road in or near the City of Colorado Springs, El Paso County, Colorado (the "Project").
4. On May 2, 2005, the Division received an application from Claremont for Project coverage under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the "Permit"). During the times relevant to the alleged violations identified herein, a version of the Permit was in place that was effective from July 1, 2002 through June 30, 2007 (the "2002 Permit"). The current version of the Permit, which was signed on May 31, 2007, became effective on July 1, 2007 and remains in effect until June 30, 2012 (the "2007 Permit").

5. On May 3, 2005, the Division provided Claremont Certification Number COR-038148 authorizing Claremont to discharge stormwater from the construction activities associated with the Project to East Fork Sand Creek and the Arkansas River under the terms and conditions of the Permit. Certification Number COR-038148 became effective May 3, 2005 and remains in effect until June 30, 2012 or until Claremont inactivates Permit coverage.
6. East Fork Sand Creek and the Arkansas River are “state waters” as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (101).
7. Pursuant to 5 CCR 1002-61, §61.8, a permittee must comply with all the terms and conditions of a permit and violators of the terms and conditions specified in a permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.
8. On November 16, 2006, a representative from PG Environmental, LLC (the “Inspector”) conducted an on-site inspection of the Project on behalf of the Division, pursuant to the Division’s authority under §25-8-306, C.R.S., to determine Claremont’s compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Project representatives, reviewed the Project’s stormwater management system records, and performed a physical inspection of the Project.

**Deficient and/or Incomplete Stormwater Management Plan**

9. Pursuant to Part I. B. of the 2002 and 2007 Permits, Claremont is required to prepare and maintain a Stormwater Management Plan (“SWMP”) that identifies Best Management Practices (“BMPs”) that, when implemented, will meet the terms and conditions of the Permit. The SWMP is required to identify potential sources of pollution, which may be reasonably expected to affect the quality of stormwater discharges associated with construction activity from the Project. In addition, the plan is required to describe and ensure the implementation of BMPs, which will be used to reduce the pollutants in stormwater discharges associated with construction activity.
10. Pursuant to Part I. B. of the 2002 Permit and Part I. C. of the 2007 Permit, the Project’s SWMP shall include, at a minimum, the following items:
  - a. Site Description - Each plan shall provide a description of the following:
    - i. A description of the construction activity.
    - ii. The proposed sequence for major activities.
    - iii. Estimates of the total area of the site and the area of the site that is expected to undergo clearing, excavation or grading.
    - iv. An estimate of the runoff coefficient of the site before and after construction activities are completed (2002 Permit) and any existing data describing the soil, soil erosion potential or the quality of any discharge from the site.
    - v. A description of the existing vegetation at the site and an estimate of the percent vegetative ground cover.
    - vi. The location and description of any other potential pollution sources, such as vehicle fueling, storage of fertilizers or chemicals, etc.

- vii. The location and description of any anticipated non-stormwater components of the discharge, such as springs and landscape irrigation return flow (2002 Permit) or allowable sources of non-stormwater discharge at the site, e.g., uncontaminated springs, landscape irrigation return flow, construction dewatering, and concrete washout (2007 Permit).
  - viii. The name of the receiving water(s) and the size, type and location of any outfall or, if the discharge is to a municipal separate storm sewer, the name of that system, the location of the storm sewer discharge, and the ultimate receiving water(s).
- b. Site Map - Each plan shall provide a generalized site map or maps which indicate:
- i. Construction site boundaries.
  - ii. All areas of soil disturbance.
  - iii. Areas of cut and fill.
  - iv. Areas used for storage of building materials, soils or wastes.
  - v. Location of any dedicated asphalt or concrete batch plants.
  - vi. Location of major erosion control facilities or structures. (2002 Permit)
  - vii. Locations of all structural BMPs. (2007 Permit)
  - viii. Locations of all non-structural BMPs. (2007 Permit)
  - ix. Springs, streams, wetlands and other surface waters.
  - x. Boundaries of 100-year flood plains, if determined. (2002 Permit)
- c. BMPs for Stormwater Pollution Prevention - The plan shall include a narrative description of appropriate controls and measures that will be implemented before and during construction activities at the facility, including:
- i. Erosion and Sediment Controls – A description of structural site management controls (Structural Practices) which will minimize erosion and sediment transport and a description of interim and permanent stabilization practices (Non-Structural Practices), including the site-specific scheduling of the implementation of the practices.
  - ii. Phased BMP Implementation – The SWMP shall clearly describe the relationship between the phases of construction and the implementation and maintenance of BMPs
  - iii. Materials Handling and Spill Prevention - The SWMP shall identify any procedures or significant materials handled at the site that could contribute pollutants to runoff.
  - iv. Dedicated Concrete or Asphalt Batch Plants – The SWMP shall clearly describe and locate BMPs to control stormwater pollution from dedicated concrete batch plants or dedicated asphalt batch plants.
  - v. Vehicle Tracking Control (2007 Permit) – The SWMP shall clearly describe and locate BMPs to control potential sediment discharges from vehicle tracking.
  - vi. Waste Management and Disposal, Including Concrete Washout (2007 Permit) – The SWMP shall clearly describe and locate BMPs to control stormwater pollution from all construction site wastes, including concrete washout activities.
  - vii. Groundwater and Stormwater Dewatering (2007 Permit) – The SWMP shall clearly describe and locate BMPs to control stormwater pollution from the dewatering of groundwater or stormwater from excavations, wells, etc.
- d. Final Stabilization and Long-Term Stormwater Management - Description of the measures used to achieve final stabilization and measures to control pollutants in stormwater discharges that will occur after construction operations have been completed.

- e. Other Controls (2002 Permit) - Description of other measures to control pollutants in stormwater discharges, including plans for waste disposal and limiting off-site soil tracking.
  - f. Inspection and Maintenance - Description of procedures to inspect and maintain in good and effective operating condition the vegetation, erosion and sediment control measures and other protective measures identified in the SWMP.
- 11. During the November 16, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the SWMP did not describe all the potential pollution sources that were onsite, including the vehicle fueling and washing station and the areas used to store solvents, sealants, and wastes.
  - 12. During the November 16, 2006 inspection, the Inspector reviewed the Project's SWMP and identified that the site map did not include all areas used for storage of building materials, soils and wastes, including the jobsite trailer and material storage area located near the southwest corner of Woolsey Heights at the Project.
  - 13. The Division has determined that Claremont failed to prepare and maintain a complete and accurate SWMP for the Project.
  - 14. Claremont's failure to prepare and maintain a complete and accurate SWMP for the Project constitutes violations of Part I. B. of the 2002 Permit.

**Failure to Implement and/or Maintain  
Best Management Practices to Protect Stormwater Runoff**

- 15. Pursuant to Part I. B. 3. a. (1) of the 2002 Permit and Part I. C. 3. c. (1) of the 2007 Permit, Claremont is required to minimize erosion and sediment transport from the Project. The Permit specifies that structural site management practices may include, but are not limited to: straw bales, silt fences, earth dikes, drainage swales, sediment traps, subsurface drains, inlet protection, outlet protection, gabions, and temporary or permanent sediment basins.
- 16. Pursuant to Part I. B. 3. a. (2) of the 2002 Permit and Part I. C. 3. c. (2) of the 2007 Permit, Claremont is required to implement interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. The Permit specifies that site plans should ensure existing vegetation is preserved where possible and that disturbed areas are stabilized. The Permit specifies that non-structural practices may include, but are not limited to: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees and preservation of mature vegetation.
- 17. The Division has determined that Claremont failed to implement and/or maintain functional BMPs at the Project as described in paragraphs 17(a-g) below:
  - a. During the November 16, 2006 inspection, the Inspector observed disturbed areas located adjacent to East Fork Sand Creek near the western corner of the proposed Cole View roadway at the Project. No BMPs were observed in place to stabilize the disturbed areas or to prevent sediment from discharging to East Fork Sand Creek during storm events. Consequently, erosion of the disturbed areas was observed leading down into East Fork Sand Creek.



- b. During the November 16, 2006 inspection, the Inspector observed multiple soil stockpiles located along the length of the proposed Selix Grove roadway. No BMPs were observed in place to prevent soil and sediment from discharging from the stockpiles during storm events.
  - c. During the November 16, 2006 inspection, the Inspector observed disturbed areas all along the access road located at the northwest perimeter of the Project. Silt fencing was observed in place near this location, however, the silt fencing was not acting as a functional BMP, as the silt fencing had collapsed. Consequently, erosion of the disturbed areas was observed leading toward East Fork Sand Creek.
  - d. During the November 16, 2006 inspection, the Inspector observed a large disturbed area located adjacent to East Fork Sand Creek, along the northwest corner of Marksheffel Road and Meadowbrook Parkway at the Project. No BMPs were observed in place to stabilize the vast disturbed area or to prevent sediment from discharging to East Fork Sand Creek during a storm event. Consequently, erosion of the disturbed area was observed leading down into East Fork Sand Creek.
  - e. During the November 16, 2006 inspection, the Inspector observed a disturbed area located up gradient from the intersection of Meadowbrook Parkway and the Woolsey Heights roadway at the Project. A silt fence was observed in place, however, the silt fence was not acting as a functional BMP, as the silt fence was falling down and had been bypassed by a previous storm event. No other BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging to an adjacent storm sewer inlet, which was directly connected to East Fork Sand Creek.
  - f. During the November 16, 2006 inspection, the Inspector observed a disturbed area located along the southeast side of Meadowbrook Parkway at the Project. A silt fence was observed in place, however, the silt fence was not acting as a functional BMP, as the silt fence had collapsed and had been bypassed by a previous storm event. No other BMPs were observed in place to stabilize the disturbed areas or to prevent sediment from discharging from the area during storm events.
  - g. During the November 16, 2006 inspection, the Inspector observed a disturbed area located adjacent to the Woolsey Heights roadway, northeast of the jobsite trailer at the Project. No BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging from the area during storm events. Consequently, sediment and debris was observed in the Woolsey Heights roadway.
18. Claremont's failure to implement and maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations of Part I. B. 3. a. of the 2002 Permit.

### **NOTICE OF VIOLATION**

Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Claremont has violated the following sections of the Permit:

**Part I. B. of the 2002 Permit**, which states in part, “The SWMP shall be prepared in accordance with good engineering, hydrologic and pollution control practices. The main objective of the plan shall be to identify Best Management Practices (BMPs) which when implemented will meet the terms and conditions of this permit. The plan shall identify potential sources of pollution (including sediment) which may be reasonably expected to affect the quality of stormwater discharges associated with construction activity from the facility. In addition, the plan shall describe and ensure the implementation of BMPs which will be used to reduce the pollutants in stormwater discharges associated with construction activity. Construction operations must implement the provisions of the SWMP required under this part as a condition of this permit.”

**Part I. B. 3. a. of the 2002 Permit**, which outlines in part that BMPs for Stormwater Pollution Prevention shall address erosion and sediment controls, including “structural site management practices which will minimize erosion and sediment transport,” and “interim and permanent stabilization practices, including site specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where possible and that disturbed areas are stabilized.”

### **REQUIRED CORRECTIVE ACTION**

Based upon the foregoing factual and legal determinations and pursuant to §§25-8-602, 25-8-605 and 25-8-606, C.R.S., Claremont is hereby ordered to:

19. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-703, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Claremont to comply with the following specific terms and conditions of this Order:

20. Claremont shall immediately evaluate the Project’s SWMP and implement necessary measures to ensure that the SWMP contains all of the elements required by the 2007 Permit and is effective in managing stormwater and pollutant discharges from the Project. Within thirty (30) calendar days of receipt of this Order, Claremont shall submit to the Division a written certification stating that a complete, effective and up-to-date SWMP has been fully developed and implemented at the Project.
21. Claremont shall immediately implement necessary measures to ensure that adequate BMPs are in place to control stormwater and pollutant discharges from the Project. Within thirty (30) calendar days of receipt of this Order, Claremont shall evaluate and modify all existing BMPs at the Project to ensure the BMPs meet the design requirements specified in the Project’s complete and up-to-date SWMP. Within forty-five (45) calendar days of receipt of this Order, Claremont shall submit photographs to the Division documenting the current conditions and the associated BMPs implemented at the Project.
22. Within thirty (30) calendar days of receipt of this Order, Claremont shall submit to the Division a detailed written statement outlining the standard procedures Claremont will undertake to ensure that functional stormwater management systems are fully implemented at its Colorado construction sites.

23. Within thirty (30) calendar days of receipt of this Order, Claremont shall retain the services of a qualified entity and complete an evaluation of all stormwater drainage ways associated with the Project for the buildup of sediment and other pollutants. Within thirty (30) calendar days of completing the evaluation, Claremont shall submit to the Division: a) a report outlining the findings from the evaluation; b) a plan for remediating identified areas of sediment accumulation and pollutant discharges originating from the Project, if necessary; and c) a time schedule for completing all remedial activities at the Project. The submitted plan and time schedule shall become a condition of this Order and Claremont shall comply with the plan and time schedule as submitted unless notified by the Division, in writing, that an alternate plan or schedule is appropriate. If the Division imposes an alternate plan or schedule, it shall also become a condition of this Order. Within fifteen (15) calendar days of completing the remediation activities, Claremont shall submit a final report to the Division outlining Claremont's remedial actions

### **NOTICES AND SUBMITTALS**

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, Claremont shall submit an original and an electronic copy to the Division at the following address:

Colorado Department of Public Health and Environment  
Water Quality Control Division / WQCD-B2  
Compliance Assurance and Data Management Section  
Attention: Michael Harris  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
michael.harris@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist 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**

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11(A) you 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.

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). 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.

Both the answer and the request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

### **FALSIFICATION AND TAMPERING**

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

### **POTENTIAL CIVIL AND CRIMINAL PENALTIES**

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 703, 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 ten thousand dollars per day for each day during which such violation 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 Notice of Violation / Cease and Desist 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**

Pursuant to §25-8-601, C.R.S., you are 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**

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

### **EFFECT OF ORDER**

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.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 703, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 14th day of May, 2008.

### **FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**



Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

# **RAW LAND DETAILING, INC.**

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10475 Accipiter Drive Peyton, CO 80831 (719) 495-7770 Fax (719) 495-7771 Mobile 661-4499

June 9, 2008

Jeremy Hammers  
Hammers Construction, Inc.  
1411 Woolsey Heights  
Colorado Springs, CO. 80915

RE: Claremont Business Park  
CDPS Permit # COR-038148

Dear Jeremy,

On June 9, 2008 RAW LAND DETAILING, INC. was retained by your firm to perform an evaluation of all storm water drainage ways associated with the project for the build up of sediment and other pollutants. On June 9, 2008 at 5:25 P. M. I personally inspected the site with your company representative, Jerry Edmonds.

It was noted that 80% of the vacant parcels had been revegetated and growing well. It is also noted that the remainder of the vacant parcels had recently been drill seeded and straw crimped in disturbed areas or areas where the revegetated efforts did not germinate. The site consists of 78 commercial lots, 34 of which have been sold and are completely landscaped and hard surfaced. All streets are paved and have curb and gutter.

There are erosion control measures in place at this time and are working effectively. The site has 2 vehicle tracking pads for an onsite non-chemical storage yard. The storage yard has silt fence around the down side perimeter. There are also 2 vehicle tracking pads to 2 vacant parcels. All inlets have wattles for inlet protection. Silt fence is installed on numerous lots for curbside protection. Silt fence is installed on numerous lots for cross slope protection. The streets were in the process of being swept with a mechanical sweeper and are cleaner than most municipality streets.

There is no evidence of build up of sediment or other pollutants in the streets, swales, stormwater drainage ways associated with the project or at the toe of any slopes adjacent to Sand Creek service road or Sand Creek.

I certify under penalty of law that this document was prepared under my direction and 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 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.

Please feel free to call with any questions.

Sincerely,

A handwritten signature in blue ink, reading "Larry D. Lee". The signature is fluid and cursive, with the first name "Larry" and last name "Lee" clearly legible, and "D." in the middle.

Larry D. Lee / President  
RAW LAND DETAILING, INC.

# STATE OF COLORADO

Bill Owens, Governor  
Dennis E. Ellis, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.  
Denver, Colorado 80246-1530  
Phone (303) 692-2000  
TDD Line (303) 691-7700  
Located in Glendale, Colorado

Laboratory Services Division  
8100 Lowry Blvd.  
Denver, Colorado 80230-6928  
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

November 29, 2006

Ron Murphy, Dir. of Land Development  
Claremont Development, Inc.  
3460 Capital Drive  
Colorado Springs, CO 80939

Re: Facility Inspection  
Claremont Business Park  
CDPS Permit No. COR-038148  
El Paso County

Dear Mr. Murphy,

An inspection of the above-referenced facility was conducted on November 16, 2006 by PG Environmental, LLC, an authorized representative of the Water Quality Control Division (the Division). The inspection procedure consists of two parts: a review of records, and an on-site facility inspection. Findings associated with the inspection are detailed in the enclosed inspection report. You must correct the findings noted in the enclosed inspection report, submit an explanation on how each finding was corrected, and submit the requested materials to the Colorado Department of Public Health and Environment, WQCD-P-B2, 4300 Cherry Creek Drive South, Denver, CO 80246-1530, Attn: Matt Czahor by December 29, 2006.

For facilities covered under a Colorado Discharge Permit System (CDPS) general permit, failure to comply with any CDPS permit requirement constitutes a violation of the Federal Clean Water Act and the Colorado Water Quality Control Act, 25-8-101.

If you have any questions, please call me at (303) 692-3575. Thank you for your time and cooperation.

Sincerely,

Matt Czahor  
Environmental Protection Specialist  
Permits Unit  
WATER QUALITY CONTROL DIVISION

cc: Lee Hanley, EPA Region 8  
Local Health Department  
File Copy



## Stormwater Inspection Report

Permittee: Claremont Development, Inc.	Cert. No. <b>COR-03 8148</b>	Date: 11/16/06
Facility: Claremont Business Park	Industrial Type: Construction	Receiving Water: East Fork Sand Creek
Facility Address: SH 24 and Marksheffel Road; El Paso County, Colorado		
Persons present: Jerry Edmonds (Project Manager, Hammers Construction); Brenner Perryman (PG Environmental, LLC)		
Facility Representative(s)/Title(s): Jerry Edmonds (Project Manager, Hammers Construction)	Inspector(s): Scott Coulson (PG Environmental, LLC)	

### Inspection Findings

#### Records Review

Note: The permit certification effective date was 05/03/2005. The date that construction started and land-disturbing activities began at the site was 05/12/2005.

1. A copy of the Stormwater Management Plan (SWMP) was retained onsite. The SWMP was reviewed during the inspection and found to be inadequate for the following reasons:
  - a. The section in the SWMP on Site Description did not provide a clear description of other potential pollution sources identified for the project (i.e., vehicle fueling and washing, solvents, sealants, waste storage etc.) as required by Part I.B.1.f of the permit. As provided by Jerry Edmonds (Project Manager, Hammers Construction), for example, a mobile fueling station is used for equipment fueling but this practice was not described in the SWMP. The SWMP must be updated to include this information.
  - b. The Site Map did not identify all areas used for storage of building materials, soils or wastes as required by Part I.B.2 of the permit. For example, the Site Map did not include the jobsite trailer and material storage area located near the southwest corner of Woolsey Heights. The Site Map must be updated to identify areas used for the storage of building materials, soils or wastes, and must reflect current facility conditions in the field.
2. Inspection records were available, but were inadequate, as they were not conducted as required in Part I.C.5 of the permit. Inspection records were not specific to the stormwater management system and did not document that all erosion and sediment control measures identified in the SWMP had been observed for proper operation. Furthermore, the form used for inspections did not include a structured format to facilitate documenting that all BMPs identified in the SWMP had been observed. Inspections must be documented in accordance with Part I.C.5 of the permit.

Note: Inspections must be conducted at least every 14 days and after any precipitation or snowmelt event that causes surface erosion, except during winter snow pack conditions where no melting is occurring, or when all construction activities are completed. During winter snow pack conditions where no melting is occurring, no inspections need to be conducted. When all construction activities are completed but final stabilization has not been achieved due to a vegetative cover that has been planted but has not become established, inspections must be conducted at least once a month.

#### Facility Inspection

Note: All Best Management Practices (BMPs) mentioned in the following findings must be installed according to the specifications and design criteria outlined in the SWMP. These specifications and design criteria must meet best engineering practice requirements.

3. It was observed during the inspection that inadequate BMPs were implemented to prevent the discharge of sediment from disturbed areas in the southwest portion of the site to the East Fork Sand Creek at a point located near the western corner of the proposed Cole View roadway. Overland flow from the southwest portion of the site is directed to this

point (see attached Photographs 1 and 2). Evidence of a previous runoff event discharging sediment from the site, beyond the BMPs, and to East Fork Sand Creek (State waters) was observed; including rill and small gully formation along the streambank (see attached Photograph 3). Adequate BMPs must be implemented to prevent the discharge of sediment from disturbed areas in the southwest portion of the site into East Fork Sand Creek (State waters).

4. It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment from multiple soil stockpiles located along the length of the proposed Selix Grove roadway (see attached Photograph 4). As a result, there was a potential for sediment discharge from the stockpiles and transport toward a down-gradient access road located at the northwest perimeter of the site. Adequate BMPs must be implemented to prevent sediment discharge from the stockpiles and transport toward the access road.
5. It was observed during the inspection that inadequate BMPs were implemented to prevent the discharge of sediment from up-gradient areas to East Fork Sand Creek (State waters) along the access road located at the northwest perimeter of the site. Specifically, two areas of silt fence located down-gradient of the aforementioned soil stockpiles had collapsed (see attached Photographs 5 and 6). Moreover, evidence of a previous runoff event directing flow beyond the BMPs toward East Fork Sand Creek (State waters) was observed; including rill and gully formation directing previous flow across the access road (see attached Photograph 7). As a result, there was a potential for sediment discharge to East Fork Sand Creek (State waters). Adequate BMPs must be implemented to prevent the potential discharge of sediment into East Fork Sand Creek (State waters).
6. It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment from a large expanse of disturbed soil (approximately 1.5 acres) located along the northwest corner of Marksheffel Road and Meadowbrook Parkway (see attached Photographs 8 through 10) to East Fork Sand Creek (State waters). Rill and gully formation were observed down-gradient of the disturbed area along the streambank (see attached Photograph 11). As a result, there was a potential for sediment discharge to East Fork Sand Creek (State waters). Adequate BMPs must be implemented to prevent the potential discharge of sediment from the disturbed area into East Fork Sand Creek (State waters).
7. It was observed during the inspection that inadequate BMPs were implemented to prevent the discharge of sediment from disturbed up-gradient areas to a storm drain inlet at the intersection of Meadowbrook Parkway and the Woolsey Heights roadway (see attached Photograph 12). As provided by Jerry Edmonds (Project Manager, Hammers Construction), the onsite storm drain inlets are connected to various outfalls into East Fork Sand Creek (State waters). The area up-gradient of the intersection had not been adequately stabilized and the silt fence had been bypassed by a previous flow event (see attached Photograph 13). Sediment and debris accumulation was visible adjacent to the storm drain inlet (see attached Photograph 14). As a result, there was a potential for sediment discharge to the storm drain system and a subsequent outfall to East Fork Sand Creek. Adequate BMPs must be implemented to prevent the discharge of sediment to the storm drain inlet and a subsequent outfall to East Fork Sand Creek (State waters).
8. It was observed during the inspection that BMPs were inadequately maintained along the southeast side of Meadowbrook Parkway. Specifically, the silt fence was not properly entrenched in the ground to retain sediment and had been bypassed by a previous flow event (see attached Photograph 15). In addition, several sections of silt fence had collapsed (see attached Photograph 16). As a result, there was a potential for discharge of sediment from this location to Meadowbrook Parkway, a public street. BMPs must be inspected and maintained in good and effective operating condition to prevent the discharge of sediment from this location to Meadowbrook Parkway.
9. It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment to the Woolsey Heights roadway at a location northeast of the jobsite trailer (see attached Photograph 17). Sediment and debris accumulation was visible in the Woolsey Heights roadway, a private street (see attached Photograph 18). BMPs must be implemented to prevent the discharge of sediment from the adjacent disturbed area to the Woolsey Heights roadway.

# Site Photographs

Photograph date: 11/16/2006

Claremont Development, Inc.  
Claremont Business Park  
El Paso County, Colorado



Photograph 1



Photograph 2







Photograph 3



Photograph 4



Site Photographs	Claremont Development, Inc. Claremont Business Park El Paso County, Colorado	Photograph date: 11/16/2006
		Photograph 5
		Photograph 7



# Site Photographs

Photograph date: 11/16/2006

Claremont Development, Inc.  
Claremont Business Park  
El Paso County, Colorado



Photograph 9



Photograph 10



Photograph 11



Photograph 12



# Site Photographs

Photograph date: 11/16/2006

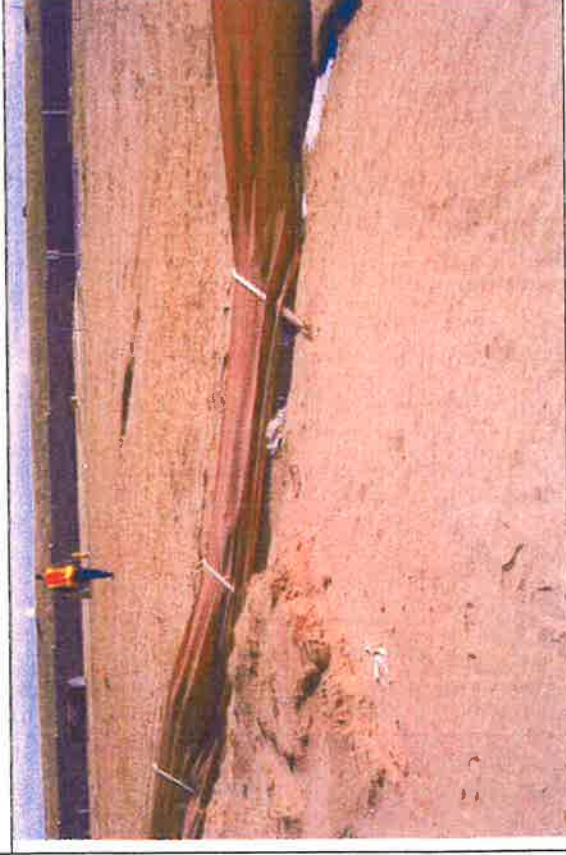
Claremont Development, Inc.  
Claremont Business Park  
El Paso County, Colorado



Photograph 13



Photograph 14



Photograph 15



Photograph 16

## Site Photographs

Photograph date: 11/16/2006

Claremont Development, Inc.  
Claremont Business Park  
El Paso County, Colorado



Photograph 17



Photograph 18