

**El Paso County MS4 Post Construction Detention / Water Quality Facility Documentation Form**

This document **must be completed and submitted** with required attachments to the County for projects requiring a detention and/or a water quality facility. A separate completed form must be submitted for each facility.

Project name: All About Outdoor Storage PPR-16-037

Owner name: Lewis Williams – owner of land / All About Outdoor Storage LLC – Kelly McKoon – tenant

Location Address: 16140 Old Denver Road Monument, CO 80132

Latitude and Longitude:

39.066760 – 104.860990

Assessor's Parcel #: 7126004002

Section: 26

Township: 11 S Range: 67 W

Expected Completion date: No later than 6 months after county approval

Project acreage: 11.55

Design Ponding Acres: 0.635

Design Storm: 100-year

Design Engineer Email Address: olliewatts@aol.com

To ensure compliance with C.R.S. 37-92-602(8), the completed Stormwater

Detention and Infiltration Design Data Sheet **must be attached**. The form can be found here:

<https://maperture.digitaldataservices.com/gvh/?viewer=cswdif#> (click on Download SDI Design Data Sheet)

List all permanent water quality control measure(s) (EDBs, rain gardens, etc):

- Detention Pond.

Revise to EDB

For all projects for which the constrained redevelopment sites standard is applied, provide an explanation of why it is not practicable to meet the full design standards. N/A

Attach Operations and Maintenance (O&M) Plan describing the operation and maintenance procedures that ensure the long-term observation, maintenance, and operation of control measure(s), including routine inspection frequencies and maintenance activities. If multiple, different water quality control measures are used at the same location, a separate O & M Plan must be provided for each facility.

Attach Private Detention Basin / Stormwater Quality Best Management Practice Maintenance Agreement and Easement addressing maintenance of BMPs that shall be binding on all subsequent owners of the permanent BMPs.

Attachments:

Stormwater Detention and Infiltration Design Data Sheet

O & M Plan

Maintenance and Access Agreement

Review Engineer

EPC Project File No. PPR-16-037



COLORADO
Division of Water Resources
Department of Natural Resources

Remove the
Non-Jurisdictional
Letter Form.
This must be
submitted as a
separate document.

February 4, 2019

Lewis A Williams
PO Box 73
Monument, CO 80132-0073

VIA EMAIL olliewatts@aol.com

When replying, please refer to:
**All About Outdoor Storage Detention Basin
DAM Non-Jurisdictional
Water Division 2 Water District 10**

SUBJECT: Signed Notice of Intent to Construct a Non-Jurisdictional Water Impoundment Structure

Dear Mr. Williams:

Our office is in receipt of a Notice of Intent (NOI) to Construct a Non-Jurisdictional Water Impoundment Structure for the subject dam. The impoundment is to be located adjacent to Teachout Creek, Tributary to Monument Creek, tributary to Fountain Creek, with the filling source to be Stormwater for Temporary Detention.

In accordance with Rule 11.1 of the Colorado Rules and Regulations for Dam Safety and Dam Construction, the hazard of this dam has been assessed as Low based on the construction drawing plans submitted with the NOI. A copy of the signed NOI is attached. An electronic copy will be maintained with the Division of Water Resources.

Please note the following:

- This structure must be designed and constructed to standards outlined in 37-92-602(8) for stormwater detention facilities.
- Because this structure is located on a tributary to Fountain Creek, the structure can only operate pursuant a Colorado Discharge Permit System Municipal, Separate Storm Sewer System Permit issued by the Department of Public Health and Environment Pursuant to Article 8 of Title 25, C.R.S.
- In the event groundwater is encountered during construction of the pond, the pond must be backfilled so as not to expose groundwater until such time as: 1) a well permit has been obtained for the groundwater pond pursuant to CRS §37-90-137, or 2) the pond is lined in accordance with the document, "State Engineer Guidelines for Lining Criteria for Gravel Pits," dated August 1999.

The requirements and recommendations provided herein are based on our review of the safety and water administration aspects of the proposed dam and the information provided in the submitted NOI. These requirements and recommendations create no liability for the State of Colorado should the dam

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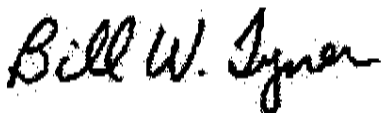
fail for any reason. Please be aware that it is in the owner's best interest to construct, operate, and maintain the structure in a safe manner, as he or she may be held liable in civil court for any downstream damages resulting from failure of the dam. A copy of Specifications for Construction of Non-Jurisdictional Dams is provided to assist you in the construction of a sound structure.

Finally, please be aware of any other permitting or regulatory requirements associated with the construction of a water impoundment structure, including but not limited to county and/or municipal regulations, and wetland permitting through the U.S. Army Corps of Engineers (see www.usace.army.mil for regional contact information).

The plans reviewed in this determination are submitted as part of the Developmental Approval process. Prior to the operation of this structure, please provide notice of completion of construction and as-constructed plans in PDF form including as constructed Stormwater Detention and Infiltration Data Sheet. Additionally, prior to the operation of this structure, notice must be provided pursuant to 37-92-602(8)(d) to the substitute water supply plan notification list maintained by the state engineer pursuant to section 37-92-308 (6) for the water division in which the facility is located.

If you have any questions regarding this approval, please contact Water Commissioner, Doug Hollister, at (719) 227-5291 or via email to doug.hollister@state.co.us, or Dam Safety Engineer, John Hunyadi, at (719)-227-5294, or via email to john.hunyadi@state.co.us,

Sincerely,



Bill W. Tyner, P.E.
Division Engineer, Division 2

Enc: Signed Notice of Intent to Construct a Non-Jurisdictional Water
Impoundment Structure
Specifications for Construction of Non-Jurisdictional Dams
Completion of Construction Form

ec: John Hunyadi, P.E., Dam Safety Engineer
Doug Hollister, District 10 Water Commissioner
Laserfiche File



COLORADO

Division of Water Resources

Department of Natural Resources

www.water.state.co.us P 303.866.3581

NON-JURISDICTIONAL WATER IMPOUNDMENT STRUCTURE¹

This notice is required per Section 37-87-125, C.R.S. (1998) and must be submitted to the Division Engineer's Office a minimum of 45 days prior to construction.

OWNER INFORMATION

Name: Lewis A. Williams Telephone/E-Mail: (719) 488-6629
 Address: PO Box 73 Monument CO 80132-0073
 Street / P.O. Box / Rural Route City State Zip Code

Responsible Person: As above Telephone/E-Mail: () /

Address: _____
 Street / P.O. Box / Rural Route City State Zip Code

Contractor: As Above Telephone/E-Mail: () /

STRUCTURE INFORMATION

Existing Pond Since 1986
 Name of Dam: All about outdoor Storage Water Division: 3 Water District: 10

Location: (Provide Section, Township, Range, and GPS Point taken at crest of dam above streamline/outlet)

- Section: 26, Township: 11 S, Range: 67W, G.P.M.

- Northing: 511785.9 meters, Easting: 4324043.2 meters (Datum should be UTM, NAD 83)

Dam Dimensions: N 30° 3' 56" W 104° 51' 47"

- Vertical Height²: 4 ft., Length: 180 ft., Crest Width: 10 ft., Slopes: U/S: 3 (H:1V), D/S: 2 (H:1V)

Reservoir:

- Surface Area¹: 0.11 acres, Capacity¹: 0.57 acre-feet, Drainage Area*: 11.55 acres
 *(If drainage area is unknown leave blank and a spillway size will be assigned):

Emergency Spillway: (See Table 1, Spillway Sizing Guidelines)

- Bottom Width: 6 ft., Side Slopes: 4 H:1V, Freeboard³: 1.24 ft

Outlet Conduit Type: PVC, Size: 8 inches, Location: SW Corner

Stream Name or Water Source⁴: Creek Proposed Water Use: Detention Storage

Water Court Case or WVID : None
 (Water District Identification Number)

Ant State 1/17/2019

Owner E. Williams Signature of Owner For Owner Date

Office Use Only

DIVISION ENGINEER'S REQUIREMENTS:

Bill W. Igner

February 4, 2019

Dam I.D. 100528

Signature of Division Engineer

Date

¹ A "Non-Jurisdictional Structure" is a dam creating a reservoir with a capacity of 100 acre-feet or less and a surface area of 20 acres or less and a vertical height (footnote 2) of 10 feet or less. Non-jurisdictional size dams are regulated and subject to the authority of the State Engineer consistent with sections 37-87-102 and 37-87-105 C.R.S.

² "Vertical Height" is measured from the elevation of the lowest point of the natural surface of the ground or the invert of the outlet conduit (whichever is lower) where that point occurs along the longitudinal centerline of the dam up to the crest of the emergency spillway of the dam.

³ "Freeboard" is the vertical distance from the bottom of spillway to the crest of the dam. Minimum Freeboard is 3 feet.

⁴ If construction in reservoir intercepts groundwater, a well permit is required. (Well permit applications can be found at www.water.state.co.us)

DWR (11/16)



COLORADO
Division of Water Resources
Department of Natural Resources

COMPLETION OF CONSTRUCTION

DAM ID. 100528

Upon the completion of the All About Outdoor Storage Stormwater DAM, Subject of the Notice of Intent to Construct a Non-Jurisdictional Dam under the Receipt above, location in Sec. 26 Twp. 11 S Rng. 67 W; UTM NAD83, Northing 4324043.2, Easting 511785.9.

Indicate in the blank at the bottom of this form, the date of completion of construction and return to:

Colorado Division of Water Resources
Division 2
310 East Abriendo Ave, Suite B
Pueblo, CO 81004

Date of Completion: _____

Signature of Owner _____ Date _____





COLORADO
Division of Water Resources
Department of Natural Resources

DAM SAFETY BRANCH Specifications for Construction of Non-Jurisdictional Dams

• Site Selection:

- Foundation soils should be firm to provide adequate support for the embankment and should have low permeability to allow for water retention. Site selection should consider potential downstream property damage in the event of a dam failure. Construction of dams in boggy areas, areas with non-uniform fractured rock, or sands/gravels is not recommended and an engineer should be hired to evaluate the site conditions. Any part of the reservoir basin excavated below grade cannot expose groundwater.

• Embankment Design:

- Backfill material to be used for construction of the cutoff trench and embankment should be a suitable clay material and contain no material larger than 6 inches in diameter.
- The upstream slope should be constructed with a slope no steeper than 3:1, and the downstream slope should be no steeper than 2:1 (see cross section below). The dam crest should have a minimum width of 10 feet and the surface should be graded with positive drainage toward the reservoir basin.
- It is recommended that rock rip rap or other suitable material be placed on the upstream slope of the embankment to protect it from wave action. A suitable gravel or geosynthetic material should be placed under the rip rap to prevent fine material from washing out from behind the larger rock.
- The embankment should be fenced to restrict livestock from accessing the dam since they damage the protective vegetation and increase erosion.

• Embankment Construction

- The topsoil and all organic material should be removed from the foundation of the proposed dam site. Organic soil should only be reused for placement on the completed embankment to promote the re-growth of vegetation.
- A cutoff trench should be excavated under the full length of the centerline of the dam with sloping sides (1:1 min.), a minimum bottom width of 3 feet and a depth of 3 feet.
- The foundation of the dam should be scarified/ripped to a depth of 6-inches to provide proper contact between the native foundation and embankment. This surface should then be moisture treated before placement of fill.
- Fill material should be placed in layers not exceeding 12 inches in thickness prior to compaction. Suitable backfill material should have enough clay and moisture content to roll a small ball by hand. If this cannot be done, the soil is likely too dry or does not have adequate clay content.
- Each lift should be thoroughly compacted using a sheeps foot compactor. Care should be taken not to allow the top layers of the soil to dry out between placement of lifts.
- Fill should be placed in uniform lifts that cover the entire embankment length and width.

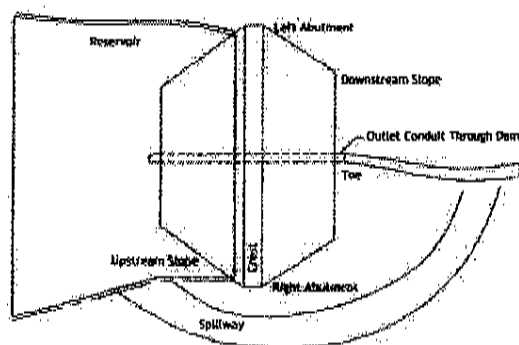
• Outlet

- Unless a waiver is granted in writing by the Division Engineer, all non-jurisdictional dams require an outlet conduit positioned at the natural low point of the reservoir basin. A minimum diameter of 12 inches is recommended and should be controlled at the upstream end by a valve and trash rack.

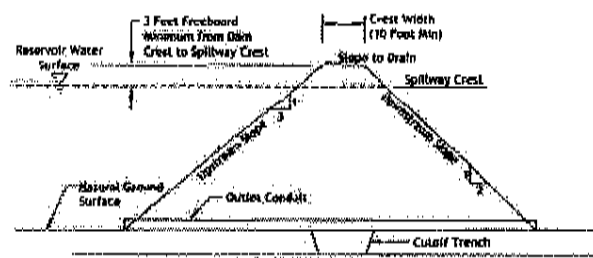
• Emergency Spillway

- The spillway should have sufficient width to provide capacity to route the runoff from the drainage basin above the dam during rainfall/runoff events.
- The emergency spillway should be located on natural ground far enough away to prevent erosion of the dam embankment. A spillway over the dam embankment is not acceptable.
- A minimum of 3 feet of freeboard is required from the bottom of the emergency spillway to the top of the dam.
- To determine the minimum spillway width, see the attached table for your area and drainage basin size.

• Example Plan View and Cross Section



Plan View



Cross Section Through Dam at Outlet

ALL ABOUT OUTDOOR STORAGE

Detention Maintenance Agreement

I will keep a maintenance record for this Dry Detention Maintenance Agreement. This maintenance record will be kept in a log in a known set location. Any deficient elements noted in the inspection will be corrected, repaired, or replaced immediately.

I will inspect twice a year and within 24 hours after every storm greater than 1.0 inches. Records of operation and maintenance will be kept in a known location and will be available upon request.

Inspection activities shall be performed as follows. Any problems that are found shall be repaired immediately.

Potential problems:

Remediate the problem:

Trash/debris present.

Remove trash/debris.

The pipe is clogged.

Unclog the pipe.

The pipe is cracked.

Replace the pipe.

Erosion is occurring in the swale (if applicable).

Re-grade the swale if necessary to smooth it over & provide erosion control such as riprap or erosion control matting to avoid future problems with erosion.

Erosion has occurred or rip rap is displaced.

Provide additional erosion protection such as erosion control matting or riprap if needed to prevent future erosion problems.

Sediment has accumulated, and reduced the depth to 75% of the original design depth. or has accumulated disproportionately, causing the water to flow in a direct path to the outlet.

Search for the source of the sediment & remedy the problem. If sediment needs to be removed and disposed of, it will be disposed of in a location where it will not cause impacts to streams.

- 2 -

February 12, 2019

Water is standing more than
5 days after a storm event.

Check outlet structure for clogging. If it is a
design issue, consult a professional.

Weeds & noxious plants are
growing in the main
treatment area.

Remove the plants by hand or by wiping them
with pesticide (do not spray).

Shrubs or trees have started
to grow on the embankment.

Remove shrubs or trees.

I acknowledge and agree that I am responsible for the performance of the
maintenance procedures listed above.

All About Outdoor Storage PPR-16-037



Kelly McKoon
Owner/Member
16140 Old Denver Road
Monument, CO 80132
719-488-6629

**PRIVATE DETENTION BASIN /
STORMWATER QUALITY BEST MANAGEMENT PRACTICE
MAINTENANCE AGREEMENT AND EASEMENT**

This PRIVATE DETENTION BASIN / STORMWATER QUALITY BEST MANAGEMENT PRACTICE MAINTENANCE AGREEMENT AND EASEMENT (Agreement) is made by and between EL PASO COUNTY by and through THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO (Board or County) and LEWIS WILLIAMS (Owner). The above may occasionally be referred to herein singularly as "Party" and collectively as "Parties."

Recitals

A. WHEREAS, Owner is the owner of certain real estate (the Property or Subdivision) in El Paso County, Colorado, which Property is legally described in Exhibit A attached hereto and incorporated herein by this reference; and

B. WHEREAS, Owner desires to develop on the Property a land use to be known as All About Outdoor Storage (automobile and boat storage yard); and

C. WHEREAS, the development of this Property will substantially increase the volume of water runoff and will decrease the quality of the stormwater runoff from the Property, and, therefore, it is in the best interest of public health, safety and welfare for the County to condition approval of this land use on Owner's promise to construct adequate drainage, water runoff control facilities, and stormwater quality structural Best Management Practices ("BMPs") for the land use; and

D. WHEREAS, Chapter 8, Section 8.4.5 of the El Paso County Land Development Code, as periodically amended, promulgated pursuant to Section 30-28-133(1), Colorado Revised Statutes (C.R.S.), requires the County to condition approval of all subdivisions on a developer's promise to so construct adequate drainage, water runoff control facilities, and BMPs in subdivisions; and

E. WHEREAS, the Drainage Criteria Manual, Volume 2, as amended by Appendix I of the El Paso County Engineering Criteria Manual (ECM), as each may be periodically amended, promulgated pursuant to the County's Colorado Discharge Permit System General Permit (MS4 Permit) as required by Phase II of the National Pollutant Discharge Elimination System (NPDES), which MS4 Permit requires that the County take measures to protect the quality of stormwater from sediment and other contaminants, requires subdividers, developers, landowners, and owners of facilities located in the County's rights-of-way or easements to provide adequate permanent stormwater quality BMPs with new development or significant redevelopment; and

F. WHEREAS, Section 2.9 of the El Paso County Drainage Criteria Manual provides for a developer's promise to maintain a subdivision's drainage facilities in the event the County does not assume such responsibility; and

G. WHEREAS, developers in El Paso County have historically chosen water runoff detention basins as a means to provide adequate drainage and water runoff control in subdivisions, which basins, while effective, are less expensive for developers to construct than other methods of providing drainage and water runoff control; and

H. WHEREAS, Owner desires to improve for the land use one existing detention basin/stormwater quality BMP(s) ("detention basin/BMP(s)") as the means for providing adequate drainage and stormwater runoff control and to meet requirements of the County's MS4 Permit, and to operate, clean, maintain and repair such detention basin/BMP(s); and

I. WHEREAS, Owner desires to improve the detention basin/BMP(s) on property that is legally described in Exhibit A; and

J. WHEREAS, Owner shall be charged with the duties of constructing, operating, maintaining and repairing the detention basin/BMP(s) on the Property described in Exhibit A; and

K. WHEREAS, it is the County's experience that subdivision developers and property owners historically have not properly cleaned and otherwise not properly maintained and repaired these detention basins/BMPs, and that these detention basins/BMPs, when not so properly cleaned, maintained, and repaired, threaten the public health, safety and welfare; and

L. WHEREAS, the County, in order to protect the public health, safety and welfare, has historically expended valuable and limited public resources to so properly clean, maintain, and repair these detention basins/BMPs when developers and property owners have failed in their responsibilities, and therefore, the County desires the means to recover its costs incurred in the event the burden falls on the County to so clean, maintain and repair the detention basin/BMP(s) serving this land use due to the Owner's failure to meet its obligations to do the same; and

M. WHEREAS, the County conditions approval of this land use on the Owner's promise to so construct the detention basin/BMP(s), and conditions approval on the Owner's promise to reimburse the County in the event the burden falls upon the County to so clean, maintain and/or repair the detention basin/BMP(s) serving this Property; and

N. WHEREAS, the County could condition land use approval on the Owner's promise to construct a different and more expensive drainage, water runoff control system and BMPs than those proposed herein, which more expensive system would not create the possibility of the burden of cleaning, maintenance and repair expenses falling on the County; however, the County is willing to forego such right upon the performance of Owner's promises contained herein; and

O. WHEREAS, the County, in order to secure performance of the promises contained herein, conditions approval of this land use upon the Owner's grant herein of a perpetual Easement over the Property for the purpose of allowing the County to periodically access, inspect, and, when so necessary, to clean, maintain and/or repair the detention basin/BMP(s); and

Agreement

NOW, THEREFORE, in consideration of the mutual Promises contained herein, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals: The Parties incorporate the Recitals above into this Agreement.

2. Covenants Running with the Land: Owner agrees that this entire Agreement and the performance thereof shall become a covenant running with the land, which land is legally described in Exhibit A attached hereto, and that this entire Agreement and the performance thereof shall be binding upon itself, its successors and assigns.

3. Construction: Owner shall construct improvements on that the Property described in Exhibit A attached hereto and incorporated herein by this reference, to the existing detention basin/BMP(s). Owner shall not commence construction of the detention basin/BMP(s) until the El Paso County Planning and Community Development Department (PCD) has approved in writing the plans and specifications for the detention basin/BMP(s) and this Agreement has been signed by all Parties and returned to the PCD. Owner shall complete construction of the detention basin/BMP(s) in substantial compliance with the County-approved plans and specifications for the detention basin/BMP(s). Failure to meet these requirements shall be a material breach of this Agreement, and shall entitle the County to pursue any remedies available to it at law or in equity to enforce the same. Construction of the detention basin/BMP(s) shall be substantially completed within one (1) year (defined as 365 days), which one year period will commence to run on the date the Erosion and Stormwater Quality Control Permit (ESQCP) is issued. Rough grading of the detention basin/BMP(s) must be completed and inspected by the PCD prior to commencing road construction.

In the event construction is not substantially completed within the one (1) year period, then the County may exercise its discretion to complete the project, and shall have the right to seek reimbursement from the Owner and its successors and assigns, for its actual costs and expenses incurred in the process of completing construction. The term actual costs and expenses shall be liberally construed in favor of the County, and shall include, but shall not be limited to, labor costs, tool and equipment costs, supply costs, and engineering and design costs, regardless of whether the County uses its own personnel, tools, equipment and supplies, etc. to correct the matter. In the event the County initiates any litigation or engages the services of legal counsel in order to enforce the Provisions arising herein, the County shall be entitled to its damages and costs, including reasonable attorney fees, regardless of whether the County contracts with outside legal counsel or utilizes in-house legal counsel for the same.

4. Maintenance: The Owner agrees for itself and its successors and assigns, that it will regularly and routinely inspect, clean and maintain the detention basin/BMP(s), and otherwise keep the same in good repair, all at its own cost and expense. No trees or shrubs that will impair the structural integrity of the detention basin/BMP(s) shall be planted or allowed to grow on the detention basin/BMP(s).

5. Creation of Easement: Owner hereby grants the County a non-exclusive perpetual easement upon and across the Property described in Exhibit A. The purpose of the easement is to allow the County to access, inspect, clean, repair and maintain the detention basin/BMP(s); however, the creation of the easement does not expressly or implicitly impose on the County a duty to so inspect, clean, repair or maintain the detention basin/BMP(s).

6. County's Rights and Obligations: Any time the County determines, in the sole exercise of its discretion, that the detention basin/BMP(s) is not properly cleaned, maintained and/or otherwise kept in good repair, the County shall give reasonable notice to the Owner and its successors and assigns, that the detention basin/BMP(s) needs to be cleaned, maintained and/or otherwise repaired. The notice

shall provide a reasonable time to correct the problems. Should the responsible parties fail to correct the specified problems, the County may enter upon the Property to so correct the specified problems. Notice shall be effective to the above by the County's deposit of the same into the regular United States mail, postage pre-paid. Notwithstanding the foregoing, this Agreement does not expressly or implicitly impose on the County a duty to so inspect, clean, repair or maintain the detention basin/BMP(s).

7. Reimbursement of County's Costs / Covenant Running With the Land: The Owner agrees and covenants, for itself, its successors and assigns, that it will reimburse the County for its costs and expenses incurred in the process of completing construction of, cleaning, maintaining, and/or repairing the detention basin/BMP(s) pursuant to the provisions of this Agreement.

The term "actual costs and expenses" shall be liberally construed in favor of the County, and shall include, but shall not be limited to, labor costs, tools and equipment costs, supply costs, and engineering and design costs, regardless of whether the County uses its own personnel, tools, equipment and supplies, etc. to correct the matter. In the event the County initiates any litigation or engages the services of legal counsel in order to enforce the provisions arising herein, the County shall be entitled to its damages and costs, including reasonable attorney's fees, regardless of whether the County contracts with outside legal counsel or utilizes in-house legal counsel for the same.

8. Contingencies of Land Use/Land Disturbance Approval: Owner's execution of this Agreement is a condition of land use/land disturbance approval.

The County shall have the right, in the sole exercise of its discretion, to approve or disapprove any documentation submitted to it under the conditions of this Paragraph, including but not limited to, any separate agreement or amendment, if applicable, identifying any specific maintenance responsibilities not addressed herein. The County's rejection of any documentation submitted hereunder shall mean that the appropriate condition of this Agreement has not been fulfilled.

9. Agreement Monitored by El Paso County Planning and Community Development Department and/or El Paso County Department of Public Works: Any and all actions and decisions to be made hereunder by the County shall be made by the Director of the El Paso County Planning and Community Development Department and/or the Director of the El Paso County Department of Public Works. Accordingly, any and all documents, submissions, plan approvals, inspections, etc. shall be submitted to and shall be made by the Director of the Planning and Community Development Department and/or the Director of the El Paso County Department of Public Works.

10. Indemnification and Hold Harmless: Owner agrees, for itself, its successors and assigns, that it will indemnify, defend, and hold the County harmless from any and all loss, costs, damage, injury, liability, claim, lien, demand, action and causes of action whatsoever, whether at law or in equity, arising from or related to its intentional or negligent acts, errors or omissions or that of its agents, officers, servants, employees, invitees and licensees in the construction, operation, inspection, cleaning (including analyzing and disposing of any solid or hazardous wastes as defined by State and/or Federal environmental laws and regulations), maintenance, and repair of the detention basin/BMP(s), and such obligation arising under this Paragraph shall be joint and several. Nothing in this Paragraph shall be deemed to waive or otherwise limit the defense available to the County pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.* C.R.S., or as otherwise provided by law.

11. Severability: In the event any Court of competent jurisdiction declares any part of this Agreement to be unenforceable, such declaration shall not affect the enforceability of the remaining parts of this Agreement.


12. Third Parties: This Agreement does not and shall not be deemed to confer upon or grant to any third party any right to claim damages or to bring any lawsuit, action or other proceeding against either the County, the Owner, or their respective successors and assigns, because of any breach hereof or because of any terms, covenants, agreements or conditions contained herein.

13. Solid Waste or Hazardous Materials: Should any refuse from the detention basin/BMP(s) be suspected or identified as solid waste or petroleum products, hazardous substances or hazardous materials (collectively referred to herein as "hazardous materials"), the Owner shall take all necessary and proper steps to characterize the solid waste or hazardous materials and properly dispose of it in accordance with applicable State and/or Federal environmental laws and regulations, including, but not limited to, the following: Solid Wastes Disposal Sites and Facilities Acts, §§ 30-20-100.5 – 30-20-119, C.R.S., Colorado Regulations Pertaining to Solid Waste Disposal Sites and Facilities, 6 C.C.R. 1007-2, *et seq.*, Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992k, and Federal Solid Waste Regulations 40 CFR Ch. I. The County shall not be responsible or liable for identifying, characterizing, cleaning up, or disposing of such solid waste or hazardous materials. Notwithstanding the previous sentence, should any refuse cleaned up and disposed of by the County be determined to be solid waste or hazardous materials, the Owner, but not the County, shall be responsible and liable as the owner, generator, and/or transporter of said solid waste or hazardous materials.

14. Applicable Law and Venue: The laws, rules, and regulations of the State of Colorado and El Paso County shall be applicable in the enforcement, interpretation, and execution of this Agreement, except that Federal law may be applicable regarding solid waste or hazardous materials. Venue shall be in the El Paso County District Court.

IN WITNESS WHEREOF, the Parties affix their signatures below.

Executed this _____ day of _____, 20____, by:


LEWIS WILLIAMS

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Lewis Williams.

Witness my hand and official seal.

My commission expires: 4-9-22

Oliver E. Watts, Notary Public

Executed this _____ day of _____, 20____, by:

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Craig Dossey, Executive Director
El Paso County Planning and Community Development Department
Authorized Signatory pursuant to LDC

Attest:

Chuck Broerman
County Clerk and Recorder

The foregoing instrument was acknowledged before me this _____ day of _____,
20____, by _____, Executive Director, El Paso County Planning and Community
Development Department, as Attested to by _____, County Clerk and Recorder.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Approved as to Content and Form:

Assistant County Attorney

EXHIBIT A

Legal Description of Property

A portion of the Northwest Quarter of Section 26, Township 11 South, Range 67 west of the 6th P.M., as described.

Commencing at the NW corner of said Section 26, thence S89°26'15"E along the north line thereof for 1338.10' to the NE corner of the NW1/4 of the NW1/4 of said Section 26, thence continue on said north line for 842.10' to intersect the westerly right-of-way line of a County Road, thence S08°42'55"E along said right-of-way line for 499.95', thence S19°48'54"E along said right-of-way line for 882.60' to the Point of Beginning of the tract herein described, Thence (1) continue on said right-of-way line for 430.00', (2) S83°04'31"W for 1134.91' to intersect the east right-of-way line of the D&RGW railroad, (3) S01°07'16"E along said right-of-way line for 141.70', (4) N21°14'00"W along said right-of-way line for 575.44' (6) N82°26'58"E for 1289.94' to the Point of Beginning; containing 12.02 acres of land, more or less.

EXHIBIT B**Legal Description of Pond Easement**

That portion of the Northwest Quarter of Section 26, Township 11 South, Range 67 West of the 6th P.M., El Paso County, Colorado, described as follows: Beginning at the Southernmost corner of that parcel described in Book 5503 at Page 270 of the records of said county; Thence N21°14'00"W, along the West boundary thereof, which is the basis of all bearings in this description, being the East boundary of the D&RG Western Railroad, 273.51'; Thence N65°49'05"E, 144.82'; Thence S30°05'12"E, 181.66'; Thence S83°04'31"W along the South boundary of said parcel, 127.83'; Thence S01°07'16"E continuing along said South line, 141.70' to the Point of Beginning, and containing 0.635 acres.