



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

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**COMPLIANCE ORDER ON CONSENT**

**NUMBER: SC-080114-1**

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**IN THE MATTER OF:     STANDARD PACIFIC OF COLORADO, INC.  
                              CDPS PERMIT NO. COR-030000  
                              CERTIFICATION NOS. COR-038456 & COR-039612  
                              ADAMS & ELBERT COUNTIES, COLORADO**

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The Colorado Department of Public Health and Environment (“Department”), through the Water Quality Control Division (“Division”), issues this Compliance Order on Consent (“Consent Order”), pursuant to the Division’s authority under §25-8-605, C.R.S. of the Colorado Water Quality Control Act (“the Act”) §§ 25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Standard Pacific of Colorado, Inc. (“Standard Pacific”). The Division and Standard Pacific may be referred to collectively as “the Parties.”

**STATEMENT OF PURPOSE**

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, the civil penalties associated with the alleged violations identified in the Notice of Violation / Cease and Desist Order (Number: SO-061227-5) that the Division issued to Standard Pacific on December 27, 2006.

**DIVISION’S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS**

2. Based upon the Division’s investigation into and review of the compliance issues identified herein, and in accordance with §25-8-605, C.R.S., the Division has made the following determinations regarding Standard Pacific and Standard Pacific’s compliance with the Act and the stormwater permit for construction.
3. At all times relevant to the alleged violations identified herein, Standard Pacific was a Delaware corporation in good standing and registered to conduct business in the State of Colorado.
4. On January 1, 2004, Standard Pacific registered the trade name “Standard Pacific Homes” with the Colorado Secretary of State.
5. Standard Pacific 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).

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### **Turnberry Meadows Project**

6. On or about July 1, 2005, Standard Pacific initiated construction activities to build a residential housing development on property located at or near East 104<sup>th</sup> Avenue and Revere Street, in or near Commerce City, Adams County, Colorado (the “Turnberry Meadows Project”).
7. On June 22, 2005, the Division received an application from Standard Pacific Homes for Turnberry Meadows Project coverage under the Colorado Discharge Permit System (“CDPS”) General Permit, Number COR-030000, for Stormwater Discharges Associated with Construction Activity (the “Permit”).
8. On July 6, 2005, the Division provided Standard Pacific Certification Number COR-038456 authorizing Standard Pacific to discharge stormwater from the construction activities associated with the Turnberry Meadows Project to Second Creek and the South Platte River under the terms and conditions of the Permit. Certification Number COR-038456 became effective July 5, 2005 and remains in effect until June 30, 2007 or until Standard Pacific inactivates Permit coverage.
9. Second Creek and the South Platte 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).
10. On June 13, 2006, a representative from Kleinfelder, Inc. (the “Inspector”) conducted an on-site inspection of the Turnberry Meadows Project on behalf of the Division, pursuant to the Division’s authority under §25-8-306, C.R.S., to determine Standard Pacific’s compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Turnberry Meadows Project representatives, conducted a review of the Turnberry Meadow Project’s stormwater management system records, and performed a physical inspection of the construction site.

### **Spring Valley Ranch Project**

11. On or about December 5, 2005, Standard Pacific initiated construction activities to build a residential housing development on sixty-three (63) acres of property located at or near South Augusta Avenue and East Kingsmill Drive, in unincorporated Elbert County, Colorado (the “Spring Valley Ranch Project”).
12. On February 24, 2006, the Division received an application from Standard Pacific Homes for Spring Valley Ranch Project coverage under the Permit.
13. On February 28, 2006, the Division provided Standard Pacific Certification Number COR-039612 authorizing Standard Pacific to discharge stormwater from the construction activities associated with the Spring Valley Ranch Project to Running Creek and the South Platte River under the terms and conditions of the Permit. Certification Number COR-039612 became effective February 28, 2006 and remains in effect until June 30, 2007 or until Standard Pacific inactivates Permit coverage.
14. Running Creek and the South Platte 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).

15. 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.
16. On June 14, 2006, the Inspector conducted an on-site inspection of the Spring Valley Ranch Project on behalf of the Division, pursuant to the Division's authority under §25-8-306, C.R.S., to determine Standard Pacific's compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Spring Valley Ranch Project representatives, conducted a review of the Spring Valley Ranch Project's stormwater management system records, and performed a physical inspection of the construction site.
17. Pursuant to Part I. B. of the Permit, Standard Pacific is required to prepare a Stormwater Management Plan ("SWMP") for each project that identifies Best Management Practices ("BMPs") that, when implemented, will meet the terms and conditions of the Permit. Each 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 each project. In addition, each 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.
18. The Division has determined that Standard Pacific failed to prepare and maintain a complete and accurate SWMP for the Turnberry Meadows Project as described in paragraphs 18(a-d) below:
  - a. During the June 13, 2006 inspection, the Inspector reviewed the SWMP for the Turnberry Meadows Project and determined that the SWMP did not clearly describe the relationship between the phases of construction and the implementation and maintenance of controls and measures, as required in the Permit.
  - b. During the June 13, 2006 inspection, the Inspector reviewed the SWMP for the Turnberry Meadows Project and determined that the SWMP did not contain specific procedures for achieving final stabilization and controlling pollutants in stormwater discharges that will occur after construction operations have been completed, as required in the Permit.
  - c. During the June 13, 2006 inspection, the Inspector reviewed the SWMP for the Turnberry Meadows Project and determined that the Site Map had not been updated to include all areas of soil disturbance and areas used for storage of building materials and waste, as required in the Permit.
  - d. During the June 13, 2006 inspection, the Inspector observed a concrete washout area at the Turnberry Meadows Project. Wastewater in the washout area was being contained with the use of a hay bale dyke. However, the SWMP for the Turnberry Meadows Project did not describe the use of hay bales for the concrete washout area.

19. The Division has determined that Standard Pacific failed to prepare and maintain a complete and accurate SWMP for the Spring Valley Ranch Project as described in paragraphs 19(a) below:
  - a. During the June 14, 2006 inspection, the Inspector reviewed the SWMP for the Spring Valley Ranch Project and determined that the Site Map had not been updated to include the locations of all BMPs that were implemented on the site.
20. Standard Pacific's failures to prepare and maintain complete and accurate SWMPs for the Turnberry Meadows Project and the Spring Valley Ranch Project constitute violations of Part I. B. of the Permit.
21. Pursuant to Part I. B. 3. a. (1) of the Permit, Standard Pacific is required to minimize erosion and sediment transport from each 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.
22. Pursuant to Part I. B. 3. a. (2) of the Permit, Standard Pacific is required to implement interim and permanent stabilization practices at each project, 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.
23. Pursuant to Part I. B. of the Permit, Standard Pacific is required to implement the provisions of each project's SWMP as a condition of the Permit.
24. The Division has determined that Standard Pacific failed to implement and/or maintain functional BMPs at the Turnberry Meadows Project as described in paragraphs 24(a-e) below:
  - a. During the June 13, 2006 inspection, the Inspector observed straw wattles in place as perimeter sediment controls throughout the Turnberry Meadows Project. The straw wattle located at Lot 20 Block 9 was torn and was not acting as a functional BMP, as sediment discharge was observed in the adjacent curb and gutter. The straw wattles located at Lot 14 Block 4, Lot 6 Block 4, and Lot 7 Block 4 had not been maintained and were not acting as functional BMPs, as the wattles were mostly buried with sediment. The straw wattle located at Lot 15 Block 5 was not acting as a functional BMP, as the wattle was trenched into the ground.
  - b. During the June 13, 2006 inspection, the Inspector observed a disturbed area along the southern boundary of the Turnberry Meadows Project. A straw wattle was present in the area but was not installed. No other BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging from this area of the site during storm events.
  - c. During the June 13, 2006 inspection, the Inspector observed disturbed areas at Lot 10 Block 9, Lot 27 Block 9, Lot 11 Block 5 and Lot 11 Block 12 of the Turnberry Meadows Project. No BMPs were observed in place to stabilize the disturbed areas or to prevent sediment from discharging from these lots during storm events.

- d. During the June 13, 2006 inspection, the Inspector observed a disturbed area near 105<sup>th</sup> Court and Troy Street at the Turnberry Meadows Project. No BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging from this area of the site during storm events.
  - e. During the June 13, 2006 inspection, the Inspector observed disturbed areas and soil stockpiles located at Lots 6 and 7 within Block 4 of the Turnberry Meadows Project. A silt fence was in place adjacent to one of the stockpiles, however, the silt fence did not extend across the entire disturbed area and, thus, was not acting as a functional BMP to prevent sediment discharges from area as a whole. No other BMPs were observed in place to stabilize the disturbed area or to prevent sediment from discharging from these lots during storm events.
25. The Division has determined that Standard Pacific failed to implement and/or maintain functional BMPs at the Spring Valley Ranch Project as described in paragraphs 25(a–d) below:
- a. During the June 14, 2006 inspection, the Inspector observed erosion control blankets in place near the intersection of East Kingsmill Drive and La Costa Court and near Lot 31 Block 2 of the Spring Valley Ranch Project. The SWMP for the Spring Valley Ranch Project stated that the erosion control blankets would be anchored. However, the Inspector did not observe any anchors in place.
  - b. During the June 14, 2006 inspection, the Inspector observed a culvert adjacent to Lots 19 and 20 within Block 2 of the Spring Valley Ranch Project. Erosion control blankets were observed in place, however, the blankets did not cover the entire disturbed area and no other BMPs were observed in place to prevent sediment from the disturbed area from discharging to the culvert.
  - c. During the June 14, 2006 inspection, the Inspector observed straw wattles and erosion control blankets in place within the drainage swale located adjacent to Lots 17 and 18 within Block 2 of the Spring Valley Ranch Project. The wattles and blankets were being undercut by stormwater flowing down the drainage channel and, thus, were not acting as functional BMPs.
  - d. During the June 14, 2006 inspection, the Inspector observed an erosion control blanket in place within the drainage swale located adjacent to Lots 24 and 25 within Block 2 of the Spring Valley Ranch Project. The blanket was not being maintained, however, as a section of the blanket was missing.
26. Standard Pacific's failures to implement and maintain functional BMPs to protect stormwater quality during construction activities at the Turnberry Meadows Project and Spring Valley Ranch Project constitute violations of Part I. B. and Part I. B. 3. a. of the Permit.

### **ORDER AND AGREEMENT**

27. Based on the foregoing factual and legal determinations, pursuant to its authority under §25-8-605 C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order (Number: SO-061227-5), the Division orders Standard Pacific to comply with all provisions of this Consent Order, including all requirements set forth below.

28. Standard Pacific agrees to the terms and conditions of this Consent Order. Standard Pacific agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§ 25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Standard Pacific also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Standard Pacific against the Division:
- a. The issuance of this Consent Order;
  - b. The factual and legal determinations made by the Division herein; and
  - c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.
29. Notwithstanding the above, Standard Pacific does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Standard Pacific pursuant to this Consent Order shall not constitute evidence of fault by Standard Pacific with respect to the conditions of the projects.

### **CIVIL PENALTY**

30. Based upon the application of the Division's Stormwater Civil Penalty Policy (January 25, 2007), and consistent with Departmental policies for violations of the Act, Standard Pacific shall pay Twenty Seven Thousand One Hundred Forty Seven Dollars (\$27,147.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Twenty Seven Thousand One Hundred Forty Seven Dollar (\$27,147.00) civil penalty for the above violation(s) and Standard Pacific agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his designee. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Michael Harris  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CADM-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

### **SCOPE AND EFFECT OF CONSENT ORDER**

31. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations alleged herein and in the December 27, 2006 Notice of Violation / Cease and Desist Order (Number: SO-061227-5).
32. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy", which includes a thirty-day public comment period. The Division and Standard Pacific each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.

33. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty. Any violation of the provisions of this Consent Order by Standard Pacific, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.
34. Notwithstanding paragraph 29 above, the violations described in this Consent Order will constitute part of Standard Pacific's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Standard Pacific. Standard Pacific agrees not to challenge the use of the cited violations for any such purpose.

### **LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY**

35. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to civil penalties for the specific instances of violations cited herein and in the December 27, 2006 Notice of Violation / Cease and Desist Order (Number: SO-061227-5). The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.
36. This Consent Order does not grant any release of liability for any violations not specifically cited herein.
37. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.
38. Upon the effective date of this Consent Order, Standard Pacific releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.

### **NOTICES**

39. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment  
Water Quality Control Division / WQCD-CADM-B2  
Attention: Michael Harris  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Telephone: 303.692.3598  
E-mail: michael.harris@state.co.us

For Standard Pacific:

Tim Little, President  
Standard Pacific of Colorado, Inc.  
Standard Pacific Homes  
4600 South Syracuse Street, Suite 400  
Denver, CO 80237  
Telephone: 303.846.8513  
E-mail: Tlittle@stanpac.com

**MODIFICATIONS**

40. This Consent Order may be modified only upon mutual written agreement of the Parties.

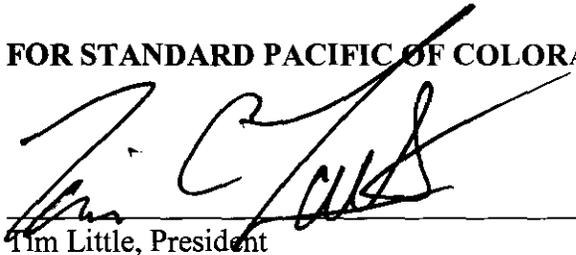
**NOTICE OF EFFECTIVE DATE**

41. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

**BINDING EFFECT AND AUTHORIZATION TO SIGN**

42. This Consent Order is binding upon Standard Pacific and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

**FOR STANDARD PACIFIC OF COLORADO, INC.:**



Tim Little, President

Date: 12/26/07

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

Lori M Gerzina Date: 1/14/08  
Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION