

# 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

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Colorado Department  
of Public Health  
and Environment

December 23, 2008

David Buttery, City Manager  
City of Woodland Park  
P.O. Box 9007  
Woodland Park, CO

Certified Mail Number: 7005 1820 0000 3209 5699

**RE: Expedited Settlement Agreement, Number: ES-081223-1  
CDPS Permit No: COR – 039481**

Dear Mr. Buttery:

Enclosed for your records you will find the City of Woodland Park's copy of the recently executed Expedited Settlement Agreement ("ESA"). Please be advised that the first page of the ESA was changed in order to place the correct ESA Number on the final document. The ESA is now fully enforceable and constitutes a final agency action.

As specified in the enclosed ESA, the City of Woodland Park must, within fifteen (15) calendar days, submit a certified or cashier's check for the amount specified in the ESA to the Water Quality Control Division in order for this matter to be resolved.

If you have any questions, please don't hesitate to contact Danelle Morgan at (303) 692-3176 or by electronic mail at [danelle.morgan@state.co.us](mailto:danelle.morgan@state.co.us).

Sincerely,

Kristi-Raye Beaudin, Legal Assistant  
Water Quality Protection Section  
WATER QUALITY CONTROL DIVISION

cc: Teller County Environmental Health Department

cc: Aaron Urdiales, EPA Region VIII  
Gary Beers, Permits Unit, CDPHE

Enclosure(s)



Colorado Department of Public Health & Environment  
Water Quality Control Division

## EXPEDITED SETTLEMENT AGREEMENT

Number: ES-081223-1

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Expedited Settlement Agreement ("ESA"), pursuant to the Division's authority under §§25-8-602, 25-8-605 and 25-8-608, 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 the City of Woodland Park ("Woodland Park"). The Division and Woodland Park may be referred to collectively as "the Parties."

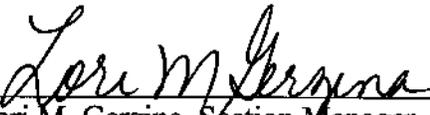
1. Woodland Park is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
2. Woodland Park is conducting construction activities to improve public parks (the "Project").
3. Woodland Park failed to comply with the provisions of its Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (the "Permit"), Certification Number COR-039481, as described in the attached inspection report.
4. The parties enter into this ESA in order to resolve the matter of civil penalties associated with the violation(s) alleged herein and in the attached inspection report for a penalty of \$19,500.00.
5. By accepting this ESA, Woodland Park neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. Woodland Park certifies that all deficiencies identified in the attached inspection report have been corrected and that the Project is currently in full compliance with the terms and provisions of the Permit. Additionally, Woodland Park has attached to this ESA: (1) a written description detailing how the deficiencies were corrected; and (2) representative photographs documenting the current conditions and the associated BMPs implemented at the Project.
7. Woodland Park agrees to the terms and conditions of this ESA. Woodland Park agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602, 25-8-605 and 25-8-608, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, Woodland Park waives: (1) the right to contest the finding(s) specified herein and in the attached inspection report; and (2) the opportunity for a public hearing pursuant to §25-8-603, C.R.S.
8. This ESA is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Woodland Park each reserve the right to withdraw consent to this ESA if comments received during the thirty-day period result in any proposed modification to the ESA.

9. This ESA constitutes a final agency order or action upon the date when the Executive Director or his designee signs the ESA and effectively imposes the civil penalty.
10. Woodland Park agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Woodland Park shall submit a certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," for the amount specified in paragraph 4 above, to:  
  
Danelle Morgan  
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
11. Notwithstanding paragraph 5 above, the violations described in this ESA will constitute part of Woodland Park'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 Woodland Park. Woodland Park agrees not to challenge the use of the cited violations for any such purpose.
12. This ESA, when final, is binding upon Woodland Park 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 ESA.

**ACCEPTED BY CITY OF WOODLAND PARK:**

 _____ Signature	<u>    </u> Date
<u>DAVID N. BUTTERY</u> Name (printed)	<u>CITY MANAGER</u> Title

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

 _____ Lori M. Gerzina, Section Manager Compliance Assurance and Data Management Section WATER QUALITY CONTROL DIVISION	Date: <u>12/19/08</u>
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## Stormwater Inspection Report

Permittee: City of Woodland Park	Cert. No. COR-03 9481	Date: 06/06/2007
Facility: Meadow Wood Park Improvements	Industrial Type: Construction	Receiving Water: Trout Creek, Horse Creek, South Platte River
Facility Address: 2000 Evergreen Heights Drive; Teller County, Colorado		
Persons present: Keith Wilcox (Construction Inspector, City of Woodland Park), Pat Mancini (Administrative Assistant, City of Woodland Park)		
Facility Representative(s)/Title(s): Bill Alspach (Director of Public Works/City Engineer, City of Woodland Park)	Inspector(s): Jared Richardson (PG Environmental, LLC)	

### Inspection Findings

#### Records Review

Note: The permit certification effective date was 02/01/2006. The date that construction started and land-disturbing activities began at the site was 04/2006, as provided by Keith Wilcox (Construction Inspector, City of Woodland Park).

1. A copy of the Stormwater Management Plan (SWMP) was not retained onsite. The CDPS General Permit–Stormwater Discharges Associated with Construction Activity (stormwater discharge permit) requires that a SWMP be developed and retained on site as required by Part I.E.2.b of the permit. A written explanation must be provided to the Division describing why the SWMP was not retained on site, including a description of what steps will be taken to ensure that the SWMP will be retained on site in the future.
2. A copy of the Stormwater Management Plan (SWMP) was retained at the county's office building located at 220 W. South Avenue, Woodland Park, CO. 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 an adequate description of the proposed sequence of major activities at the site as required by Part I.B.1.b of the permit. The SWMP must be updated to include this information.
  - b. The section in the SWMP on Site Description did not provide an estimate of the total area of the site, and the area of the site that is expected to undergo clearing, excavation or grading, as required by Part I.B.1.c of the permit. The SWMP must be updated to include this information.
  - c. The section in the SWMP on Site Description did not provide an estimate of the runoff coefficient of the site before and after construction activities are completed and any existing data describing the soil, soil erosion potential or the quality of any discharge from the site, as required by Part I.B.1.d of the permit. The SWMP must be updated to include this information.
  - d. The section in the SWMP on Site Description did not provide an adequate estimate of the percent vegetative ground cover as required by Part I.B.1.e of the permit. The SWMP must be updated to include this information.
  - e. The Site Map did not clearly identify the construction site boundaries as required by Part I.B.2 of the permit. Specifically, the Site Map did not identify the construction site boundaries in a legend or callout. The Site Map must be updated to clearly identify the construction site boundaries, and must reflect current facility conditions in the field.
  - f. The Site Map did not clearly identify all areas of soil disturbance as required by Part I.B.2 of the permit. The Site Map must be updated to identify all areas of soil disturbance, and must reflect current facility conditions in the field.

- g. The Site Map did not clearly identify all areas of cut and fill as required by Part I.B.2 of the permit. Specifically, the Site Map did not clearly identify the existing and proposed contours of the site. The Site Map must be updated to identify all areas of cut and fill, and must reflect current facility conditions in the field.
  - h. 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. Specifically, the Site Map did not include the soil stockpile located at the northeast corner of the Sports Complex parking lot. The Site Map must be updated to identify areas used for storage of building materials, soils or wastes, and must reflect current facility conditions in the field.
  - i. The Site Map did not adequately identify the location of major erosion control facilities or structures as required by Part I.B.2 of the permit. Specifically, the Site Map did not clearly identify the silt fence, tracking pad, and straw bale BMPs implemented at the facility. The Site Map must be updated to include this information, and must reflect current facility conditions in the field.
  - j. The section in the SWMP on BMPs for Stormwater Pollution Prevention did not include specifications and design criteria for the BMPs identified in the SWMP (e.g., silt fence, straw bales, etc.). The SWMP must be updated to include this information.
  - k. The section in the SWMP on BMPs for Stormwater Pollution Prevention did not clearly describe the relationship between the phases of construction and the implementation and maintenance of controls and measures as required by Part I.B.3 of the permit. For example, which controls and maintenance procedures will be implemented during each of the following stages of construction: clearing and grubbing necessary for perimeter controls, initiation of perimeter controls, remaining clearing and grubbing, road grading, final grading, stabilization, and removal of control measures. The SWMP must be updated to include this information.
  - l. The section in the SWMP on BMPs for Stormwater Pollution Prevention did not include a description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices as required by Part I.B.3.a.2 of the permit. Particularly, site-specific scheduling of non-structural practices (e.g., temporary seeding, mulching, grading, vegetative buffer strips, etc.) was not described in the SWMP. The SWMP must be updated to include this information.
  - m. The section in the SWMP on BMPs for Stormwater Pollution Prevention did not clearly identify procedures or significant materials (see Definitions at Part I.D of the permit) that could contribute pollutants to runoff. For example, heavy equipment maintenance and fueling operations were not identified as potential pollution sources in the SWMP, and spill prevention and response procedures were not described. The SWMP must be updated to reflect current facility conditions and the practices used in the field.
  - n. The section in the SWMP on Final Stabilization and Long-term Stormwater Management did not include a 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, as required by Part I.B.4 of the permit. The SWMP must be updated to include this information.
  - o. The section in the SWMP on Inspection and Maintenance did not clearly describe the procedures to inspect and maintain in good and effective operating condition the vegetation, erosion and sediment controls measures and other protective measures as required by Part I. B. 6 of the permit. The SWMP must be updated to include this information.
3. Inspection records were available and were reviewed during the inspection, but were found to be inadequate for the following reasons:

- a. Inspections were not conducted as required in Part I.C.5 of the permit. Inspection records 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.
- b. Inspection records did not document the required inspection frequency specified in Part I.C.5 of the permit. Inspections were conducted more than 14 days apart on more than one occasion. The largest gap between inspections was 62 days with inspections documented on 04/04/06 and 07/05/06. Inspections must be conducted 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.

4. It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment from a detention basin located in the western portion of the construction site. An open outlet structure was installed at the grade of the concrete channel with soil present (see attached Photographs 1 and 2). As provided in the SWMP, drainage from the detention basin is connected to an unnamed tributary of Trout Creek (State waters) on the west side (see attached Photograph 3). Evidence of a previous runoff event discharging sediment from the detention basin to the unnamed tributary of Trout Creek (State waters) was observed, including sediment accumulation in the outlet structure and pipes (see attached Photographs 4 and 5). Because the detention basin is not functioning as an adequate BMP for sediment removal, then either the basin must be modified to provide filtering and settling of sediment or adequate BMPs must be implemented for all up-slope, disturbed areas of the site to prevent sediment discharge to the basin, and subsequently offsite to the western unnamed tributary of Trout Creek (State waters).
5. It was observed during the inspection that adequate BMPs were not implemented to prevent the discharge of sediment from up-slope, disturbed areas of the site and detention basin to the unnamed tributary of Trout Creek (State waters) located offsite to the west of the detention basin. Specific examples of disturbed areas without adequate BMPs included the following locations: (a) the eastern inlet to the detention basin (see attached Photograph 6), (b) the disturbed basin side slopes and base (see attached Photographs 7, 8 and 9), and (c) the eastern drainage swale leading into the detention basin inlet (see attached Photographs 10 and 11). BMPs had not been implemented to prevent the sediment accumulation observed within the detention basin concrete channel and earthen swale leading to the detention basin. As a result, there was a potential for erosion, sediment transport, and subsequent discharge of sediment to the basin and offsite to the west of the basin into the unnamed tributary of Trout Creek (State waters). Adequate BMPs must be implemented on the site to prevent the discharge of sediment to and from the detention basin, and subsequently to the unnamed tributary of Trout Creek (State waters) located offsite to the west.
6. It was observed during the inspection that adequate BMPs were not implemented to prevent the discharge of sediment from a detention basin located in the northeast corner of the construction site. An open outlet structure was installed at the grade of soil present in the basin (see attached Photographs 12-outlet bottom right of photo and 13). In addition, an earthen swale was installed immediately southwest of the detention basin and was transporting sediment from up-slope disturbed areas of the site to the uncontrolled inlet structure for the aforementioned detention basin (see attached

Photographs 14 and 15). As provided by Mr. Keith Wilcox (Construction Inspector, City of Woodland Park), drainage from the detention basin outlet structure is connected to a pipe that discharges 600 feet northeast of the project into the Michael Lane roadway drainage swale located at 1305 Michael Lane. Evidence of a previous runoff event discharging sediment from the detention basin outlet pipe to the Michael Lane roadway drainage swale was observed (see attached Photographs 16 and 17). Because the detention basin is not functioning as an adequate BMP for sediment removal, then either the basin must be modified to provide filtering and settling of sediment or adequate BMPs must be implemented for all up-slope, disturbed areas of the site to prevent sediment discharge to the basin, the Michael Lane roadway drainage swale. All discharges of sediment to the Michael Lane roadway drainage swale must be cleaned up and properly disposed of so that it does not re-enter the Michael Lane roadway drainage swale.

7. It was observed during the inspection that adequate BMPs were not implemented to prevent the discharge of sediment to the northeast corner of the Sports Complex public parking lot. Specifically, asphalt millings and sediment were observed in the Sports Complex parking lot (see attached Photographs 18, 19 and 20). As a result, there was a discharge of sediment from the disturbed area to the Sports Complex parking lot, and potentially to the detention basin. Adequate BMPs must be implemented to prevent the discharge of sediment from the disturbed area to the Sports Complex parking lot, and sediment and asphalt millings in the Sports Complex parking lot must be removed and disposed of so that it does not re-enter the parking lot.
8. It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment from a soil stockpile located east of the Sports Complex parking lot. BMPs were not implemented to prevent erosion from water run-on to the stockpile slopes, and no perimeter BMPs were implemented (see attached Photograph 21). As a result, there was a potential for the discharge of sediment to the Sports Complex public parking lot and subsequently to the detention basin. Adequate BMPs must be implemented to prevent the discharge of sediment from the soil stockpile.
9. It was observed during the inspection that BMPs were not implemented to prevent the discharge of sediment from the disturbed slope areas north of the soccer field (see attached Photograph 22). BMPs were not implemented to prevent water run-on to the slope and the surface of the slope was not stabilized. Evidence of rill formation was observed in the drainage conveyance swale at the toe of slope, and the erosion control blanket implemented at the outlet of the drainage conveyance swale was not properly entrenched to prevent failure (see attached Photograph 23). As a result, there was a potential for the discharge of sediment from the disturbed slope areas to the detention basin located at the northeast corner of the site. Adequate BMPs must be implemented and correctly installed to prevent the discharge of sediment from the disturbed slope areas to the eastern detention basin.
10. It was observed during the inspection that adequate BMPs were not implemented to prevent the discharge of sediment from the disturbed slope areas located in the northeast and southeast portions of the site. The straw bales utilized at the toe of a slope in the northeast corner of the site (see attached Photograph 24) was not installed in accordance with specifications and design criteria meeting best engineering practice requirements. Specifically, the straw bales were not properly entrenched in the ground to retain sediment and prevent failure. In addition, the straw bales utilized at the southeast corner of the soccer field had sediment accumulation beyond the bales and were not properly entrenched (see attached Photograph 25). As a result, there was a potential for the discharge of sediment from the disturbed slope areas. Adequate BMPs must be implemented to prevent the discharge of sediment from the disturbed slopes.
11. It was observed during the inspection that adequate BMPs were not implemented to prevent the discharge of sediment to the culvert pipe and drainage swale located near the northwest end of the Sports Complex parking lot. Sediment accumulation was visible in the rock pad adjacent to the culvert pipe inlet (see attached Photographs 26 and 27). In addition, flow dissipators were not in place below the culvert pipe outlet structure, nor were there control devices wrapping up and around the outlet (see attached Photograph 28). As a result, there was a potential for the discharge of sediment to the drainage swale and subsequent west detention basin. Adequate BMPs must be implemented to prevent the discharge of sediment to the drainage swale and subsequent western detention basin.