

STATE OF COLORADO

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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

July 29, 2008

Premier Eurocase, Inc.
12000 E. 56th Ave. STE K
Denver, CO 80239

Certified Mail Number: 7005 1820 0000 3213 1847

RE: Service of Notice of Violation/Cease and Desist Order, Number: SO-080729-2

Dear Sir or Madam:

Premier Eurocase, 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 Premier Eurocase, Inc. has violated the Act, and its implementing permit regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Premier Eurocase, 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.

Should you or representatives of Premier Eurocase, 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 Michael Harris of this office by phone at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,



Kristi-Raye Beaudin, Legal Assistant
Compliance Assurance and Data Management Section
WATER QUALITY CONTROL DIVISION

- cc: Denver Environmental Health Department
MS-3 File
- ec: Aaron Urdiales, EPA Region VIII
Doug Camrud, Engineering Section, CDPHE
Dick Parachini, Outreach and Assistance Unit, CDPHE
Andrew Ross, Permits Section, CDPHE

Enclosure(s)



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

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

NUMBER: SO-080729-2

IN THE MATTER OF: PREMIER EUROCASE, INC.
CDPS PERMIT NO. COR-010000
CERTIFICATION NO. COR-011012
DENVER COUNTY, COLORADO

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, Premier Eurocase, Inc. ("Premier") was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.
2. Premier 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. Premier operates an industrial facility involved in the manufacturing and assembly of store fixtures, which is located at 12000 E. 56th Street, in the City and County of Denver, Colorado (the "Facility").
4. The Facility is covered under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-010000, for Stormwater Discharges Associated with Light Industrial Activity (the "Permit").
5. On September 5, 2000, the Division provided Premier Certification Number COR-011012 authorizing Premier to discharge stormwater from the industrial activities associated with the Facility to Sand Creek under the terms and conditions of the Permit. Certification Number COR-011012 became effective September 5, 2000, was renewed on July 1, 2001 and again on July 1, 2006, and remains in effect until June 30, 2011 or until Premier inactivates Permit coverage.
6. Sand Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).

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 February 7, 2007, a representative from the Denver Department of Environmental Health (the "Inspector") conducted an on-site inspection of the Facility on behalf of the Division, pursuant to the Division's authority under §25-8-306, C.R.S., to determine Premier's compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Facility representatives, reviewed the Facility's stormwater management system records, and performed a physical inspection of the Facility.

Deficient and/or Incomplete Stormwater Management Plan

9. Pursuant to Part I. B. of the Permit, Premier is required to prepare a Stormwater Management Plan ("SWMP") for the Facility 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 industrial activity from the Facility. 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 industrial activity.
10. Pursuant to Part I. B. of the Permit, the SWMP shall include, at a minimum, the following items:
 - a. **Industrial Activity Description** – Each plan shall include a narrative description of the industrial activity taking place at the site.
 - b. **Site Map** – Each plan shall include a site map indicating an outline of the drainage area of each stormwater outfall, each existing structural control measure to reduce pollutants in stormwater runoff, and surface water bodies.
 - c. **Stormwater Management Controls** – Each plan shall include a description of stormwater management controls and shall address the following minimum components:
 - i. **SWMP Administrator** – Each SWMP shall identify a specific individual(s) who is responsible for developing the SWMP and assisting the plant manager in its implementation, maintenance, and revision.
 - ii. **Identification of Potential Pollutant Sources and Best Management Practices** – Each SWMP shall identify potential sources of pollutants and describe BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges. Each description of BMPs shall include stormwater diversions, materials handling and spill prevention, sediment and erosion prevention, and other pollution prevention measures.
 - iii. **Sampling Information** – Each plan shall include a summary of any existing discharge sampling data describing pollutants in stormwater discharges and a description of each proposed sampling point, should monitoring be required.

- iv. Preventive Maintenance – Each plan shall include a preventive maintenance program that involves inspection and maintenance of stormwater management devices, as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.
 - v. Good Housekeeping – Each plan shall address cleaning and maintenance schedules, trash disposal and collection practices, grounds maintenance, etc.
 - vi. Spill Prevention and Response Procedures – Each plan shall identify areas where potential spills can occur, with their accompanying drainage points. Procedures for cleaning up spills shall be identified.
 - vii. Employee Training – Each plan shall include procedures for conducting employee training that addresses topics such as spill response, good housekeeping, material management practices, and plant operation and design features. Each plan shall identify periodic dates for such training.
 - viii. Identification of Discharges other than Stormwater – The plan shall include a description of the results of an evaluation for the presence of discharges other than stormwater, including the method used, the date of evaluation, and the onsite drainage points that were observed.
- d. Comprehensive Inspections – Each SWMP shall identify qualified personnel that will inspect designated equipment and plant areas. Each SWMP shall specify the procedures and intervals of the comprehensive inspections.
 - e. Consistency with Other Plans – SWMPs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the Clean Water Act, or BMP Programs otherwise required by a CDPS permit.
11. During the February 7, 2007 inspection, the Inspector reviewed the Facility’s SWMP and identified deficiencies in the SWMP as described in paragraphs 11(a–c) below:
- a. The SWMP did not identify a SWMP administrator.
 - b. The SWMP did not include a site map.
 - c. The section of the SWMP covering employee training did not address topics such as spill response, good housekeeping and material management practices. Additionally, the SWMP did not identify periodic dates of training.
12. On November 5, 2007, in response to the February 7, 2007 inspection, Premier submitted a revised SWMP to the Division for review. In-office review of the revised SWMP identified deficiencies in the SWMP as described in paragraphs 12(a–c) below:

- a. The section of the SWMP covering employee training did not identify periodic dates of training.
 - b. The stormwater conveyance system on the site was not evaluated for the presence of discharges other than stormwater.
 - c. The SWMP did not identify qualified personnel who would inspect designated equipment and plant areas.
13. The Division has determined that Premier failed to prepare and maintain a complete and accurate SWMP for the Facility.
14. Premier's failure to maintain a complete and accurate SWMP for the Facility constitutes violation(s) of Part I. B. of the Permit.

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

15. Pursuant to Part I. B. 3. b. of the Permit, Premier is required to identify potential sources of pollutants at the Facility and implement BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges. The Permit specifies that where stormwater pollution potential exists, appropriate preventative measures must be taken and documented.
16. The Division has determined that Premier failed to implement and/or maintain functional BMPs at the Facility as described in paragraphs 17(a-e) below:
- a. During the February 7, 2007 inspection, the Inspector observed no BMPs in place to divert stormwater around potential pollution sources. Stormwater was being allowed to flow through sawdust and other debris before entering the storm drain.
 - b. During the February 7, 2007 inspection, the Inspector observed the "East Cyclone" at the Facility. The SWMP stated that a canvas boot and cover would be implemented to keep sawdust contained within the dumpster. No canvas boot or cover was observed in place. A significant amount of sawdust and other debris was observed surrounding the East Cyclone with no BMPs in place to clean up the sawdust and debris or to prevent it from discharging to the storm drain during rain or snowmelt events. Consequently, sawdust and debris was observed in the storm drain adjacent to the East Cyclone.
 - c. During the February 7, 2007 inspection, the Inspector observed the "West Cyclone" at the Facility. The West Cyclone was positioned directly over the storm drain with no dumpster or containment device in place. Sawdust was piled on top of the storm drain and observed surrounding the West Cyclone with no BMPs in place to clean up the sawdust or to prevent it from discharging to the storm drain during rain or snowmelt events. Consequently, sawdust and debris was observed in

the storm drain directly under and adjacent to the East Cyclone

- d. During the February 7, 2007 inspection, the Inspector observed debris littered along the west end of the facility. No BMPs were observed in place to clean up the debris or to prevent stormwater from commingling with the debris before discharging to the adjacent storm drain.

17. Premier's failure to implement and maintain BMPs to protect stormwater quality at the Facility constitutes violation(s) of Part I. B. 3. b. of the 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 Premier has violated the following sections of the Permit.

Part I. B. of the Permit, which states in part, "A Stormwater Management Plan (SWMP) shall be developed for each facility covered by this permit. SWMPs shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in stormwater discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit."

Part I. B. 3. b. of the Permit, which outlines that a permittee shall identify potential sources of pollutants at the site and assess the potential of these sources to contribute pollutants to stormwater discharges, and states, "In each case where stormwater pollution potential exists, appropriate preventive measures must be taken and documented."

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., Premier is hereby ordered to:

18. 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 Premier to comply with the following specific terms and conditions of this Order:

19. Premier shall immediately implement measures to ensure that the Facility's SWMP contains all the minimum requirements outlined in Part I. B. of the Permit and is effective in managing stormwater and pollutant discharges from the Facility. Within thirty (30) calendar days of receipt of this Order, Premier

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 Facility.

20. Premier shall immediately implement measures to ensure that adequate BMPs are in place to control stormwater and pollutant discharges from the Facility. Within thirty (30) calendar days of receipt of this Order, Premier shall evaluate and modify all existing BMPs at the Facility to ensure the BMPs meet the design requirements specified in the Facility's complete and up-to-date SWMP. Within forty-five (45) calendar days of receipt of this Order, Premier shall submit photographs to the Division documenting the current conditions and the associated BMPs implemented at the Facility.
21. Within thirty (30) calendar days of receipt of this Order, Premier shall retain the services of a qualified entity and complete an evaluation of all stormwater drainage systems associated with the Facility for the buildup of sawdust, debris, sediment and/or other pollutants. Within thirty (30) calendar days of completing the evaluation, Premier shall submit to the Division: a) a report outlining the findings from the evaluation; b) a plan for cleaning identified areas of pollutant accumulation originating from the Facility, if necessary; and, c) a time schedule for completing all remedial activities at the Facility. The submitted plan and time schedule shall become a condition of this Order and Premier 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 any clean-up activities, Premier shall submit a final report to the Division outlining Premier'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, Premier 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 / Clean-up 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 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. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

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. 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 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 29th day of July, 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