

STATE OF COLORADO

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

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

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
TDD Line (303) 691-7700 (303) 692-3090
Located in Glendale, Colorado
<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

June 25, 2009

Jacinto Rodrigues
Sumo Development Company, Inc.
2960 Siloam Road
Florence, CO 81226

Certified Mail Number: 7005 1820 0000 3208 0831

**RE: Service of Amendment Number One to Notice of Violation/Cease and Desist Order,
Number: SO-080108-1**

Dear Mr. Rodrigues:

Sumo Development Company, Inc. ("Sumo") is hereby issued the enclosed Amendment Number One to the Notice of Violation/Cease and Desist Order, Number: SO-080108-1 (the "NOV/CDO") that was issued to Sumo on January 8, 2008. This Amendment Number One to the 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 of the Colorado Revised Statutes.

Should you desire to discuss this matter with the Division or if you have any questions, please don't hesitate to contact me at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,

Michael Harris
Enforcement Unit
WATER QUALITY CONTROL DIVISION

ec: Aaron Urdiales, EPA Region VIII
Dick Parachini, Watershed Program, CDPHE
Carolyn Schachterle, OPA, CDPHE
Nathan Moore, Permits Section, CDPHE



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

AMENDMENT NUMBER ONE

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-080108-1

IN THE MATTER OF: SUMO DEVELOPMENT COMPANY, INC.
d/b/a: SUMO ENTERPRISES, INC.
CDPS PERMIT NO. COR-030000
CERTIFICATION NO. COR-03B265
FREMONT 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 and 25-8-605, C.R.S., the Division hereby issues the following Amendment Number One to its original Notice of Violation / Cease and Desist Order, Number: SO-080108-1 ("NOV/CDO"), dated January 8, 2008:

AMENDMENT NUMBER ONE

To further clarify the violations cited in the January 8, 2008 NOV/CDO, the Division hereby amends the NOV/CDO as follows:

1. Paragraph 5a is added, which reads as follows, "5a. Pursuant to 5 CCR 1002-61, §61.4(3)(a)(i), facilities proposing a discharge of stormwater associated with industrial activity shall submit a permit application 180 days before that facility commences industrial activity which may result in a discharge of stormwater associated with that industrial activity. Facilities involved in construction activities shall submit a permit application at least 90 days before the date on which construction is to commence."
2. Paragraph 6a is added, which reads as follows, "6a. Sumo's construction activity constitutes industrial activity that is subject to stormwater permitting requirements."
3. Paragraph 6b is added, which reads as follows, "6b. Sumo's construction activity at the Project has the potential to result in a discharge of stormwater to state waters."

4. Paragraph 13a is added, which reads as follows, “13a. Additionally, Sumo’s failure to obtain CDPS permit coverage for the Project, prior to January 9, 2007, constitutes violation(s) of 5 CCR 1002-61, §61.4(3)(a)(i).”

5. The NOTICE OF VIOLATION section is revised to reflect the addition of Paragraph 5a and Paragraph 13a. A new paragraph is added to the end of the section, which reads as follows, “**5 CCR 1002-61, §61.4(3)(a)(i)**, which states in part, ‘Facilities proposing a new discharge of stormwater associated with industrial activity shall submit an application 180 days before that facility commences industrial activity which may result in a discharge of stormwater associated with that industrial activity. Facilities described under sections 61.3(2)(e)(iii)(J) and 61.3(2)(f)(ii)(A) shall submit applications at least 90 days before the date on which construction is to commence.’”

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11(A) you are required to submit to the Division an answer affirming or denying the findings in paragraphs 1-4 of this Amendment Number One to the NOV/CDO, and responding to the violation cited in paragraph 5.

Section 25-8-603, C.R.S. and 5 CCR 1002, § 21.11 also state that you may request the Division to conduct a public hearing to determine the validity of this Amendment Number One to the NOV/CDO. The Division is aware that you previously submitted a request for a hearing to contest certain findings and violations cited in the original NOV/CDO. In order to contest any of the findings or violations cited in this Amendment Number One, you must file a separate request for a hearing. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002-21, § 21.4(B)(2). In such event, the Division would schedule a hearing to deal with the issues you contest from both the original NOV/CDO and this Amendment Number One. If you do not file a separate request for hearing regarding this Amendment, the validity of the factual allegations and the violations cited herein shall be deemed established in any subsequent Department proceeding. In such case, the adjudicatory hearing which you previously requested would be limited to the findings of fact and violations that you denied from the original NOV/CDO.

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

SCOPE OF AMENDMENT NUMBER ONE

The scope of this Amendment Number One to the NOV/CDO is limited to the revisions outlined above. All other terms and conditions of the NOV/CDO shall remain unchanged and in effect.

Issued at Denver, Colorado, this 25th day of June, 2009.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



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