



COLORADO

Department of Public
Health & Environment

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

July 14, 2015

The Corporation Company
Lennar Colorado, LLC
1675 Broadway, Suite 1200
Denver, CO 80202

Certified Mail Number: 7014 2870 0000 7699 5399

RE: Service of Notice of Violation/Cease and Desist Order, Number:SO-1500714-1

Dear Sir or Madam:

Lennar Colorado, LLC is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). 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, C.R.S., of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases the NOV/CDO upon findings that Lennar Colorado, LLC has violated the Act and/or permit or control regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Lennar Colorado, LLC is required, within thirty (30) calendar days of receipt 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 Lennar Colorado, LLC 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 me by phone at (303) 692-6498 or by electronic mail at andrea.beebout@state.co.us.

Sincerely,

Andrea Beebout, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION



Enclosure(s)

cc: Enforcement File

ec: Natasha Davis, EPA Region VIII
Gary Hartzell, Elbert County Health Department
Nicole Rowan, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Amy Zimmerman, Engineering Section, CDPHE
Kelly Jacques, Field Services Section, CDPHE
Lillian Gonzalez, Permits Section, CDPHE
Tania Watson, Compliance Assurance, CDPHE
Nathan Moore, Clean Water Compliance Unit, CDPHE
Rik Gay, Clean Water Compliance Unit, CDPHE





COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: SO-150714-1

IN THE MATTER OF: LENNAR COLORADO, LLC
 CDPS PERMIT NO. COR030000
 CERTIFICATION NO. COR03L242
 ELBERT 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 is implemented through 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 makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant to the alleged violations identified herein, Lennar Colorado, LLC ("Lennar") was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.
2. Lennar 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. On approximately October 15, 2013, Lennar initiated construction activities of a single family residential development at or near County Road 194 and Coal Creek Street, near the town of Parker, Elbert County, Colorado ("Project").
4. On October 1, 2013, the Division received an application from Lennar for coverage under the Colorado Discharge Permit System ("CDPS") General Permit Number COR030000, for Stormwater Discharges Associated with Construction Activity ("Permit") for a planned disturbance of 148.7 acres of land within the Project.
5. On October 8, 2013, the Division provided Lennar with Certification Number COR03L242 authorizing Lennar to discharge stormwater from construction activities associated with the Project to Coal Creek under the terms and conditions of the Permit. Certification Number COR03L242 became effective October 8, 2013 and has been administratively continued until a new Permit and associated certification is issued, or until Lennar inactivates Permit coverage.



6. Pursuant to 5 CCR 1002-61, §61.8, Lennar must comply with all terms and conditions of the Permit, and violations of such terms and conditions may be subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.
7. On February 12, 2015, a representative from the Division (“Inspector”) conducted an on-site inspection of the Project pursuant to the Division’s authority under §25-8-306, C.R.S., to determine Lennar’s compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Project representatives, reviewed the Project’s stormwater management system records, and performed a physical inspection of the Project.

Failure to Install, Maintain, or Properly Select Best Management Practices

8. Pursuant to Part I.B.3. of the Permit, Lennar must implement the provisions of the Project’s SWMP as written and updated, from commencement of construction activity until final stabilization is complete.
9. Pursuant to Part I.D.2. of the Permit, Lennar must select, install, implement, and maintain appropriate BMPs, following good engineering, hydrologic and pollution control practices. BMPs implemented at the site must be adequately designed to provide control for all potential pollutant sources associated with construction activity at the Project.
10. Pursuant to Part I.D.1. of the Permit, concrete washout water shall not be discharged to state surface waters or to storm sewer systems, and all site wastes must be properly managed to prevent potential pollution of state waters.
11. Pursuant to Part I.D.7. of the Permit, all erosion and sediment control practices and other protective measures identified in the SWMP must be maintained in effective operating condition. BMPs that are not adequately maintained in accordance with good engineering, hydrologic and pollution control practices, including removal of collected sediment outside the acceptable tolerances of the BMPs, are considered to be no longer operating effectively and must be addressed.
12. During the February 12, 2015 inspection, the Inspector identified the following deficiencies related to BMP selection, design, installation, implementation and maintenance at the Project, as described in Paragraphs 12 (a-n) below:
 - a. Control measures on lot 85 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
 - i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 85, despite specifications in the Project’s SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 85 flowed generally east to Coal Creek.
 - ii. The concrete washout pit on lot 85 was undersized and did not have adequate containment features such as compacted berms. Additionally, the concrete washout pit was not 8’ by 10’ in size and did not have a vehicle tracking pad installed at the access as required by Project SWMP specifications. These deficiencies impaired the ability of the concrete washout control measure to contain concrete waste. No



additional control measures were implemented down gradient of the concrete washout pit (refer to paragraph 12ai) and stormwater runoff flowed generally east to Coal Creek.

- b. Control measures on lot 117 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
 - i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 117, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 117 flowed generally northwest and northeast towards drainage ditches, eventually draining to Coal Creek.
 - ii. A portable toilet was installed outside of lot 117 within the natural drainage way along the road. Project SWMP specifications require portable toilet facilities to be protected from off-site discharges and installed away from waterways. As a result of this deficiency, there was a potential for stormwater discharges to come in contact with sanitary waste. Stormwater within the natural drainage way flowed generally northwest eventually draining to Coal Creek.
 - iii. The concrete washout pit on lot 117 was undersized and did not have adequate containment features such as compacted berms. Additionally, the concrete washout pit was not 8' by 10' in size and did not have a vehicle tracking pad installed at the access point as required by Project SWMP specifications. These deficiencies impaired the ability of the concrete washout control measure to contain concrete waste. No additional control measures were implemented down gradient of the concrete washout (refer to paragraph 12bi) and stormwater runoff flowed generally northeast towards drainage ditches, eventually draining to Coal Creek.
 - iv. Two access points were being utilized at lot 117; however, neither of the access points had vehicle tracking control measures in place despite Project SWMP specifications requiring that a vehicle tracking control measure be installed at all access points. As a result of this deficiency, sediment tracking was observed onto the roadway on the west side of lot 117. No additional control measures were implemented down gradient of the access points and stormwater runoff from lot 117 flowed towards drainage ditches, eventually draining to Coal Creek.
- c. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 135, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 135 flowed generally west towards Coal Creek.
- d. Control measures on lot 144 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
 - i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 144, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the

- disturbed areas on lot 144 flowed to drainage ditches, eventually draining to Coal Creek.
- ii. A culvert was installed within the access point to lot 144; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, the culvert was filled with sediment and there was an additional erosive pollutant source contributing to the drainage ditch. No additional control measures were implemented down gradient of the culvert and stormwater runoff flowed within drainage ditches to Coal Creek.
 - iii. A portable toilet was installed on uneven ground up gradient of the drainage ditch, despite Project SWMP specifications requiring portable toilet facilities to be installed on level surfaces away from waterways. As a result of this deficiency, there was a potential for stormwater to come in contact with sanitary waste. Stormwater from the portable toilet on lot 144 flowed towards the drainage ditch, eventually draining to Coal Creek.
 - iv. The concrete washout pit on lot 144 was undersized and did not have adequate containment features such as compacted berms. Additionally, the concrete washout pit was not 8' by 10' in size and did not have a vehicle tracking pad installed at the access point as required by Project SWMP specifications. The sign for the concrete washout was broken and laying on the ground next to the washout pit, despite Project SWMP specifications requiring signage to remain in good repair. These deficiencies impaired the ability of the concrete washout control measure to contain concrete waste. No additional control measures were implemented down gradient of the concrete washout (refer to paragraph 12di) and stormwater runoff flowed towards drainage ditches, eventually draining to Coal Creek.
 - v. No vehicle tracking control measures were in place at the access to lot 144 despite Project SWMP specifications requiring that a vehicle tracking control measure be installed at all access points. As a result of this deficiency, sediment tracking was observed onto the roadway on the north side of lot 144. No additional control measures were implemented down gradient of the access point and stormwater runoff flowed to drainage ditches eventually draining to Coal Creek.
- e. Control measures on lot 145 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
- i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 145, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 145 flowed to drainage ditches and generally west draining to Coal Creek.
 - ii. A culvert was installed within the access point to lot 145; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, the culvert was surrounded by eroded soils and there was an additional erosive pollutant source contributing to the drainage ditch. No additional control measures were implemented down gradient of the culvert and stormwater runoff flowed generally west towards Coal Creek.

- iii. Two construction dumpsters on lot 145 were full of waste and overflowing, despite Project SWMP specifications requiring waste containers to be emptied before they are full and overflowing. As a result of this deficiency, construction waste had the potential to be displaced offsite of the construction site.
- f. Control measures on lot 146 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
- i. The concrete washout pit on lot 146 was undersized and did not have adequate containment features such as compacted berms. Additionally, the concrete washout pit was not 8' by 10' in size and did not have a vehicle tracking pad installed at the access as required by Project SWMP specifications. In addition, concrete waste was observed on the ground without containment next to two stockpiles on the south side of lot 146. As a result of these deficiencies, there was a potential for concrete waste to comingle with stormwater and be discharged offsite. Stormwater from lot 146 flowed to drainage ditches, eventually draining to Coal Creek.
 - ii. No vehicle tracking control measures were installed at the access to lot 146, despite Project SWMP specifications requiring that a vehicle tracking control be installed at all access points. As a result of this deficiency, sediment tracking was observed onto the public roadway. No additional control measures were implemented down gradient of the access point and stormwater flowed within drainage ditches to Coal Creek.
- g. Control measures on lot 203 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
- i. Perimeter control measures were not installed or properly maintained to manage stormwater runoff from disturbed areas on lot 203. Specifically, silt fence throughout lot 203 was not installed at the edge of disturbance despite Project SWMP specifications requiring the installation of perimeter BMPs prior to commencement of major construction. In addition, a major tributary to Coal Creek had evidence of use as an access to lot 203. Although the access was blocked off by silt fence, no surface stabilization measures were in place within the tributary. As a result of these deficiencies, there was no erosion or sediment control method in place to control pollutant contributions to stormwater from lot 203. No additional control measures were implemented down gradient of lot 203 and stormwater flowed within drainage ditches to an adjacent tributary to Coal Creek.
 - ii. A culvert was installed within the access to lot 203; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, the culvert was filled with sediment and contributing additional pollutants to the drainage ditch. No additional control measures were implemented down gradient of the culvert and stormwater flowed to an adjacent tributary to Coal Creek.
 - iii. Concrete washout waste was discharged directly to the ground without containment on the west side of the lot 203. In addition, no concrete washout control measure was installed on lot 203, despite Project SWMP specifications requiring the installation of a designated concrete washout prior to commencement of concrete activities. As a result of this deficiency, there was a potential for concrete washout waste to discharge offsite. Silt fence was installed down gradient of the concrete

washout waste; however, it would not be capable of containing concrete-contaminated stormwater. Stormwater flowed generally northeast towards a major tributary to Coal Creek.

- iv. Various construction wastes were found in the culvert within the access to lot 203. Project SWMP specifications indicate that wastes should be kept away from streets, gutters, watercourses, and stormdrains. As a result of this deficiency, the capacity of the culvert could be reduced and lead to failure during a rain event and additional pollutant contributions to the drainage ditch. At the very least, the waste could be carried offsite in stormwater flows. No additional control measures were implemented down gradient of the culvert and stormwater flowed to adjacent tributary to Coal Creek.
- h. Control measures on lot 204 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
 - i. A culvert was installed within the access point to lot 204; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, the culvert was surrounded by eroded soils, and there was an additional erosive pollutant source contributing to the drainage ditch. No additional control measures were implemented down gradient of the culvert and stormwater runoff flowed through drainage ditches to a major tributary to Coal Creek.
 - ii. The concrete washout pit on lot 204 was undersized and did not have adequate containment features such as compacted berms. Additionally, the concrete washout pit was not 8' by 10' in size and did not have a vehicle tracking pad installed at the access as required by Project SWMP specifications. In addition, concrete waste was observed on the ground without containment near the house on lot 204. As a result of these deficiencies, there was a potential for concrete waste to comingle with stormwater and be discharged offsite. Stormwater from lot 204 flowed to drainage ditches, eventually draining to Coal Creek.
 - iii. No vehicle tracking control measures were installed at the access to lot 204, despite Project SWMP specifications requiring that a vehicle tracking control measure be installed at all access points. As a result of this deficiency, sediment tracking was observed onto the public roadway. No additional control measures were implemented down gradient of the access point and stormwater flowed within drainage ditches to Coal Creek.
 - iv. Three dumpsters were located within the drainage ditch along lot 204, despite Project SWMP specifications requiring waste-collection areas to be located away from streets, gutters, watercourses, and storm drains. As a result of this deficiency, the dumpsters were blocking the flow path of the drainage ditch and would likely lead to additional erosion within the channel. No additional control measures were implemented down gradient and stormwater flowed within drainage ditches to Coal Creek.
- i. Control measures on lot 208 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
 - i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 208, despite specifications in the Project's SWMP requiring

the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 208 flowed generally southwest discharging to a major tributary to Coal Creek.

- ii. A culvert was installed within the access point to lot 208; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, the culvert was filled with sediment and there was an additional erosive pollutant source contributing to the drainage ditch. No additional control measures were implemented down gradient of the access point and stormwater flowed within drainage ditches to Coal Creek.

- j. Control measures on lot 210 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
 - i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 210, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 210 flowed to drainage ditches and eventually to Coal Creek.
 - ii. A culvert was installed within the access point to lot 210; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, the culvert was filled with eroded sediment and there was an additional erosive pollutant source contributing to the drainage ditch. No additional control measures were implemented down gradient of the culvert and stormwater flowed within drainage ditches to Coal Creek.
 - iii. Concrete washout waste was discharged to ground without containment on the south side of lot 210. In addition, no concrete washout control measure was installed on lot 210, despite Project SWMP specifications requiring the installation of a designated concrete washout prior to the commencement of concrete activities. No additional control measures were implemented down gradient of the concrete waste and stormwater flowed to drainage ditches and directly to a tributary to Coal Creek.
 - iv. No vehicle tracking control measures were installed at the access to lot 210 despite Project SWMP specifications requiring that a vehicle tracking control measure be installed at all access points. As a result of this deficiency, sediment tracking was observed onto the public roadway. No additional control measures were implemented down gradient of the access point and stormwater flowed within drainage ditches to Coal Creek.

- k. Control measures on lot 212 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
 - i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 212, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, significant erosion was observed from lot

- 212 as well as heavy sedimentation within the vegetation down gradient of lot 212. No additional control measures were implemented down gradient of the disturbed areas on lot 212 and stormwater flowed to drainage ditches and eventually to Coal Creek.
- ii. A culvert was installed within the access point to lot 212; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, there was an additional erosive pollutant source contributing to the drainage ditch. No additional control measures were implemented down gradient of the culvert and stormwater flowed within drainage ditches to Coal Creek.
 - iii. Concrete waste was observed within the drainage ditch on the north side of the access point to lot 212 despite Project SWMP specifications requiring designated washout areas to be used for washing of concrete trucks or equipment. No additional control measures were implemented down gradient of the concrete waste and stormwater flowed within the drainage ditches to Coal Creek.
- l. Control measures on lot 213 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
- i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 213, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 213 flowed to drainage ditches and eventually to Coal Creek.
 - ii. Concrete and masonry waste was observed on the ground without containment throughout lot 213 and a large pile of concrete waste was discovered to be partially buried. In addition, no concrete washout control measure was installed on lot 213, despite Project SWMP specifications requiring the installation of a designated concrete washout prior to the commencement of concrete activities. No additional control measures were implemented down gradient of the concrete and masonry wastes and stormwater flowed to drainage ditches and eventually to Coal Creek.
- m. A portable toilet was installed at lot 222 on uneven ground up gradient of the drainage ditch, despite Project SWMP specifications requiring portable toilet facilities to be installed on level surfaces away from waterways. As a result of this deficiency, there was a potential for stormwater discharges to come in contact with sanitary waste. Stormwater from the portable toilet on lot 222 flowed into the drainage ditch, draining to Coal Creek.
- n. Control measures on lot 223 were not implemented and/or maintained according to good engineering, hydrologic and pollution control practices. Specifically:
- i. No erosion or sediment control measures were implemented down gradient of the disturbed areas on lot 223, despite specifications in the Project's SWMP requiring the installation of perimeter BMPs prior to the commencement of major construction. As a result of this deficiency, there were no mechanisms in place to reduce sediment transport offsite of the Project. Stormwater runoff from the disturbed areas on lot 223 flowed to drainage ditches and eventually to Coal Creek.

- ii. A culvert was installed within the access point to lot 223; however, it was not installed according to Project SWMP specifications. Specifically, no erosion control measures were installed on the banks surrounding the culvert despite Project SWMP specifications requiring erosion control measures to be installed around the culvert location. As a result of this deficiency, there was an additional erosive pollutant source contributing to the drainage ditch and the culvert was filled with eroded soils. No additional control measures were implemented down gradient of the culvert and stormwater flowed within drainage ditches to Coal Creek.
 - iii. A portable toilet was installed on uneven ground up gradient of the drainage ditch despite Project SWMP specifications requiring portable toilet facilities to be installed on level surfaces away from waterways. As a result of this deficiency, there was a potential for stormwater discharges to come in contact with sanitary waste. Stormwater from the portable toilet on lot 223 flowed into the drainage ditch, draining to Coal Creek.
 - iv. The concrete washout pit on lot 223 was undersized and did not have adequate containment features such as compacted berms. Additionally, the concrete washout pit was not 8' by 10' in size and did not have a vehicle tracking pad at the access as required by Project SWMP specifications. These deficiencies impaired the ability of the concrete washout control measure to contain concrete waste. Stormwater from lot 223 flowed to drainage ditches, eventually draining to Coal Creek.
13. The Division has determined that Lennar failed to implement and/or maintain functional BMPs for all potential pollutant sources at the Project, following good engineering, hydrologic, and pollution control practices.
14. Lennar's failure to implement and/or maintain functional BMPs to protect stormwater quality during construction activities at the Project constitutes violations of Part I.B.3., Part I.D.2, and Part I.D.7. of the Permit.

NOTICE OF VIOLATION

15. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined Lennar has violated the following sections of the Permit:

Part I.B.3. of the Permit, which states in part, "Facilities must implement the provisions of the SWMP as written and updated, from commencement of construction activity until final stabilization is complete, as a condition of this permit."

Part I.D.2. of the Permit, which states, "Facilities must select, install, implement, and maintain appropriate BMPs, following good engineering, hydrologic and pollution control practices. BMPs implemented at the site must be adequately designed to provide control for all potential pollutant sources associated with construction activity to prevent pollution or degradation of State waters."

Part I.D.7. of the Permit, which states in part, "All erosion and sediment control practices and other protective measures identified in the SWMP must be maintained in effective operating condition."

REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Lennar is hereby ordered to:

16. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Lennar to comply with the following specific terms and conditions of this Order:

17. Lennar shall immediately implement necessary measures to ensure that adequate BMPs are in place to control pollutant discharges from the Project. This includes ensuring that all disturbed areas the Project are stabilized and/or protected with a system/series of erosion and sediment control practices, and that all BMPs at the site are selected, designed, installed, implemented, and maintained following good engineering, hydrologic, and pollution control practices. Within thirty (30) calendar days of receipt of this Order, Lennar shall evaluate and modify all BMPs at the Project to ensure the BMPs meet the installation and implementation requirements specified in the Project's complete and up-to-date SWMP. Within forty-five (45) calendar days of receipt of this Order, Lennar shall submit photographs to the Division documenting the current conditions at the site and the associated BMPs implemented at the Project.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, Lennar shall submit an original and an electronic copy to the Division at the following address:

Andrea Beebout
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-6498
Email: andrea.beebout@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation/Cease and Desist 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, is 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 803, C.R.S., or 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 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 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued in Denver, Colorado, this 14th day of July, 2015

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Patrick J. Pfaltzgraff, Director
WATER QUALITY CONTROL DIVISION