

Appendix C
**Example Letters: Non-Stormwater Discharge
Notification**

40 CFR §122.26 (b) (2)

“Illicit discharge means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.”

Federal Clean Water Act

Section 301 of the Clean Water Act established a broad prohibition against “the discharge of any pollutant by any person” except as compliance with the Act’s permit requirements, effluent limitations and other enumerated provisions.

Because the Section 301 prohibition establishes the Act’s scope, it is useful to examine closely the language of the statute. First the “discharge of a pollutant” is defined to mean, in relevant part, “any addition of any pollutant to navigable waters from any point source.” Thus, the terms “addition,” “pollutant,” “navigable waters,” and “point source” are of critical importance.

Colorado Regulatory Statutes, Water Quality Control Commission Regulations

[Regulation 65](#) 65.2 (1) “No person shall discharge any pollutant, except for pollutants in naturally-occurring stormwater, from a point source that flows to a storm sewer without first having obtained a permit for such discharge from the Division pursuant to section 25-8-501, C.R.S.”

[Regulation 61](#) 61.2(42) “Illicit Discharge” means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except the following: discharges specifically authorized by a CDPS permit, and discharges resulting from fire fighting activities.

Colorado Clean Water Act

CRS 25-8-601. Division to be notified of suspected violations and accidental discharges - penalty. (1) Any person [c1] or any agency of the state or federal government may apply to the division to investigate and take action upon any suspected or alleged violation of any provision of this article or of any order, permit, or regulation issued or promulgated under authority of this article.

Comment [c1]: [c1] This is important to note, unique amongst other Acts, because not just regulatory agency can pursue an enforcement action.

CRS 25-8-609. Criminal pollution - penalties. (1) Any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters or into any domestic wastewater treatment works commits criminal pollution if such discharge is made:

(3) Any person who commits criminal pollution of state waters shall be fined, for each day the violation occurs, as follows:

(a) If the violation is committed with criminal negligence or recklessly, as defined in section 18-1-501, C.R.S., the maximum fine shall be twelve thousand five hundred dollars.

(b) If the violation is committed knowingly or intentionally, as defined in section 18-1-501, C.R.S., the maximum fine shall be twenty-five thousand dollars.

(c) If two separate offenses under this article occur in two separate occurrences during a period of two years, the maximum fine for the second offense shall be double the amounts specified in paragraph (a) or (b) of this subsection (3), whichever is applicable.

(d) Any criminal penalty collected under this section shall be credited to the general fund.

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

4201 East Arkansas Avenue EP #B400
Denver, Colorado 80222
(303) 757-9343
(303) 757-9445 FAX



MMM DD, YYYY

John Doe
Environmental Manager
XYZ Inc.
1000 Example Street
Denver, CO 80###

Dear Mr. Doe,

This letter is a follow-up to an inspection of your property by CDOT staff on MMM DD, YYYY. It was determined during the inspection that pipes from your facility are connected to the storm sewer within CDOT Right of Way (ROW) along XXX Road and irrigation run-off from your facility has previously been observed to also discharge into the storm sewer. CDOT has no record of permitting for such a connection. An Access Permit from CDOT is required for this connection. You may contact Brad Sheehan at (303) 512-4271 for access permit information. Additionally, a Colorado Discharge Permit System (CDPS) permit from the Colorado Department of Public Health and Environment (CDPHE) may be required for the discharge. In addition, the discharge may be in violation of the Clean Water Act. You may contact Nathan Moore with CDPHE Water Quality Control Division for further information on CDPS permits. Nathan can be reached at (303) 692-3555.

XYZ, Inc. has 5 days to remove any connection and discharge into the stormwater system or immediately apply for a permit from CDOT and, if applicable, from CDPHE. In general, most discharges not composed entirely of stormwater and/or irrigation water would require a permit. If a permit is applied for, the company must provide CDPHE with procedures the company will follow until a permit is obtained. These procedures must ensure that no discharges to the storm sewer occur. CDOT is willing to collaborate with XYZ, Inc on design options that will be consistent with upcoming drainage design changes in the nearby right of way in question.

It is the sole responsibility of XYZ, Inc. to ensure that it complies with all environmental regulations both at the state and local levels. XYZ, Inc must comply with all appropriate stormwater, pretreatment, and other CDPS regulations and standards. If you have questions regarding this matter, please call me at 303-757-9343.

Sincerely,

Colorado Department of Transportation
Richard Willard
Water Quality Program Manager

cc:
Jane Doe, XXXX Basin Water Quality Authority
Nathan Moore, CDPHE Water Quality Control Division
Jo Doe, City of XXXX

Illicit Discharge Example Letter

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

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Denver, Colorado 80222
(303) 757-9343
(303) 757-9445 FAX



MMM DD, YYYY

John Doe
Environmental Manager
XYZ Inc.
1000 Example Street
Denver, CO 80###

Dear Mr. Doe,

This letter is a follow-up to an inspection of a discharge from your property by CDOT staff on MMM DD, YYYY. It was determined during the inspection that a damaged van parked near the fence at your property at 1000 Example Street was leaking motor oil and oil was being discharged from your property with snowmelt into a nearby storm drain in CDOT's back parking lot at 2000 Example Street, see Figure 1. **This illicit discharge is in violation of the Federal Water Pollution Control Act (the federal Clean Water Act) and the Colorado Water Quality Control Act. In addition, since this spill traveled overland, this release of petroleum products may also fall under the regulations of the Solid Waste Act, 30-20-100.5, et seq. Colorado revised statues and any impacted soil may need to be cleaned up.** You may contact Beth Ann Williams with CDPHE Water Quality Control Division for further information with reference to report number 2007-0197. Beth Ann can be reached at (303) 692-3429.

XYZ, Inc. needs to take immediate action to contain and remove any further discharge and infiltration from this source. It is the sole responsibility of XYZ, Inc. to ensure that it complies with all environmental regulations at both the state and local level. XYZ, Inc. must comply with all appropriate stormwater, pretreatment, and other NPDES regulations and standards.

If you have questions regarding this matter, please call me at (303) 757-9343.

Sincerely,

Colorado Department of Transportation

Richard Willard
Water Quality Program Manager

cc:
Jane Doe, XXXX Basin Water Quality Authority
Beth Ann Williams, CDPHE Water Quality Control Division
Jo Doe, City of XXXX

Illicit Discharge/Dumping Example Letter

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION

4201 East Arkansas Avenue EP #B400
Denver, Colorado 80222
(303) 757-9343
(303) 757-9445 FAX



MMM DD, YYYY

John Doe
Environmental Manager
XYZ Inc.
1000 Example Street
Denver, CO 80###

Dear Mr. Doe,

This letter is a follow-up to an inspection of your property by CDOT staff on MMM DD, YYYY. It has been observed by CDOT staff that mobile pumps from your facility are occasionally discharging to the storm sewer drain which discharges to a CDOT MS4 outfall. CDOT has no record of permitting for such a connection. You should be aware that no person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater without a permit. An Access Permit from CDOT is required for this connection. You may contact Brad Sheehan at (303) 512-4271 for access permit information. Additionally, a Colorado Discharge Permit System (CDPS) permit from the Colorado Department of Public Health and Environment (CDPHE) may be required for the discharge. **In addition, the discharge may be in violation of the Clean Water Act.** You may contact Nathan Moore with CDPHE Water Quality Control Division for further information on CDPS permits. Nathan can be reached at (303) 692-3555.

XYZ, Inc. needs to take immediate action to contain and remove any further discharge and infiltration from this source. It is the sole responsibility of XYZ, Inc. to ensure that it complies with all environmental regulations at both the state and local level. XYZ, Inc. must comply with all appropriate stormwater, pretreatment, and other NPDES regulations and standards.

It is the sole responsibility of XYZ, Inc. to ensure that it complies with all environmental regulations both at the state and local levels. Cherry Creek Tree Farm must comply with all appropriate stormwater, pretreatment, and other CDPS regulations and standards. If you have questions regarding this matter, please call me at 303-757-9343.

Sincerely,

Colorado Department of Transportation

Richard Willard
Water Quality Program Manager

cc:

Jane Doe, XXXX Basin Water Quality Authority
Nathan Moore, CDPHE Water Quality Control Division
Jo Doe, City of XXXX