

Storm Water Permit Enforcement Methods & Experiences

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Presentation Outline

- County enforcement philosophies – Perry
- County enforcement procedures - Leif
- Enforcement case studies (2) - Alan

County Enforcement Philosophies

- Focus on obtaining compliance
 - Penalties can come later if needed
- Be consistent
 - Use the checklists, flow charts, standards, etc.
- Documentation!
 - Database notes for all contacts, emails, etc.
- Pick your battles – “big picture”/program view

County Enforcement Philosophies (cont.)

- Focus on customer service
 - Review timelines (10-20 working days)
 - Authorized Local Program
 - NR 216 permit included with county permit (No NOI)
 - Conduct wetlands, endangered resources and historical reviews
 - Coordinate agency reviews
 - Don't have an attitude, just do your job

County Storm Water Ordinance

(Revised April 2005)

- Defines prohibited practices, including
 - Land disturbing activity without a permit
 - Not following the approved plan
 - Failing to comply with permit conditions
 - Failing to maintain BMPs until permit termination
 - Failing to comply with Notice of Violation

Permit Holder Responsibilities

- Must be “owner” of site
- If structural and / or permanent BMP construction involved, applicant shall provide engineer, responsible for
 - Compliance with approved plans
 - Implementation of inspection plan
 - Verification of construction
- Provide EC inspector, maintain inspection log, maintain BMPs

Financial Assurance (a must)

- Conditions for Permit Termination/release:
 - As-built survey (certified)
 - P.E. construction verification (planting too!)
 - Maintenance agreement addenda recorded
 - Final inspection by LRD
- Standard language req'd



Violations

- LRD shall notify permit holder in writing
- Describe the violation, remedial action, and schedule for compliance
- Each day that a violation exists constitutes separate violation

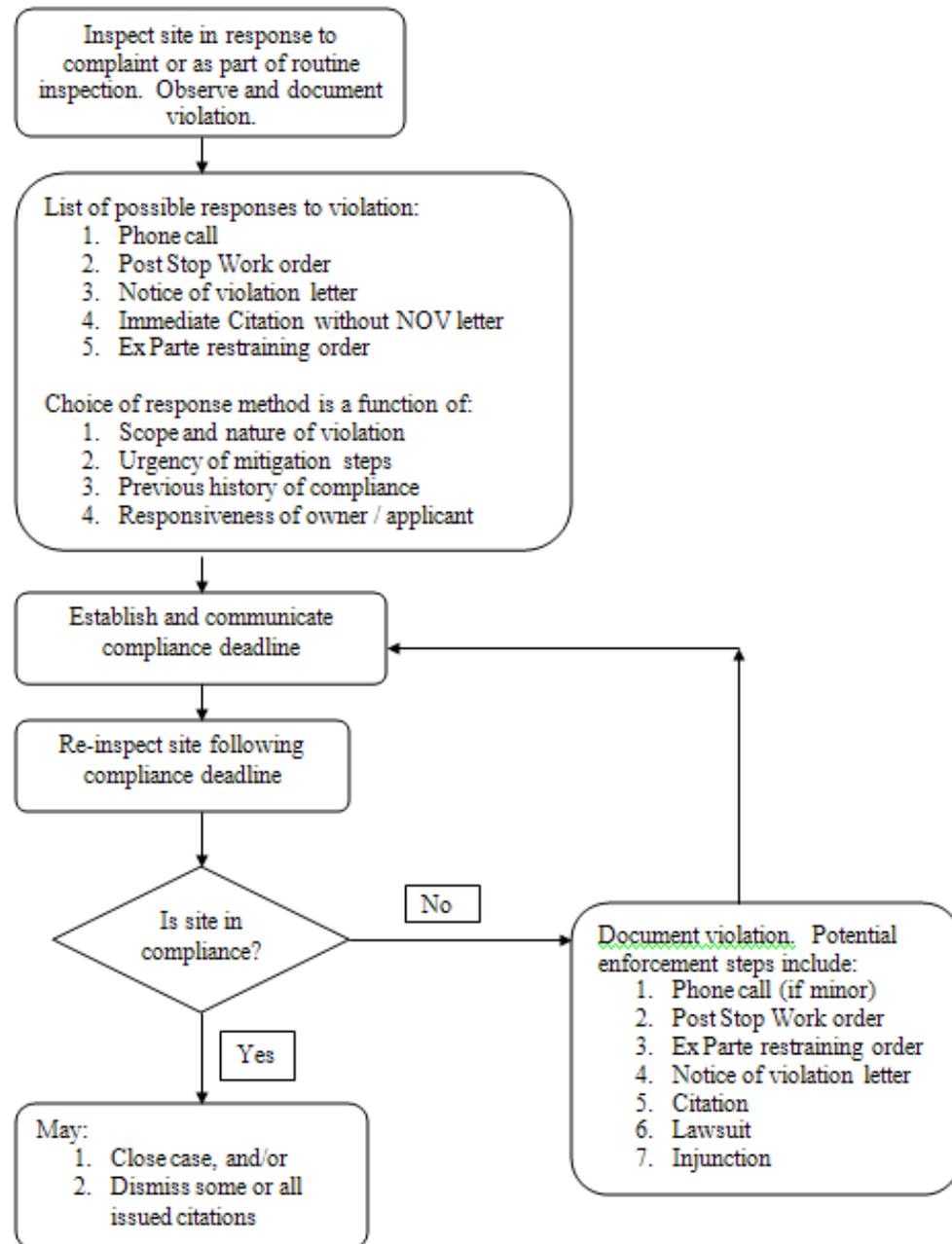
Authorized Methods of Enforcement

- Forfeiture
- Stop Work Order
- Permit Revocation
- Injunction
- Declared nuisances
- Emergency Action
- Citation

Enforcement Procedures Flowchart

(MS4 permit requirement)

Enforcement Procedures Flowchart



Emergency Action

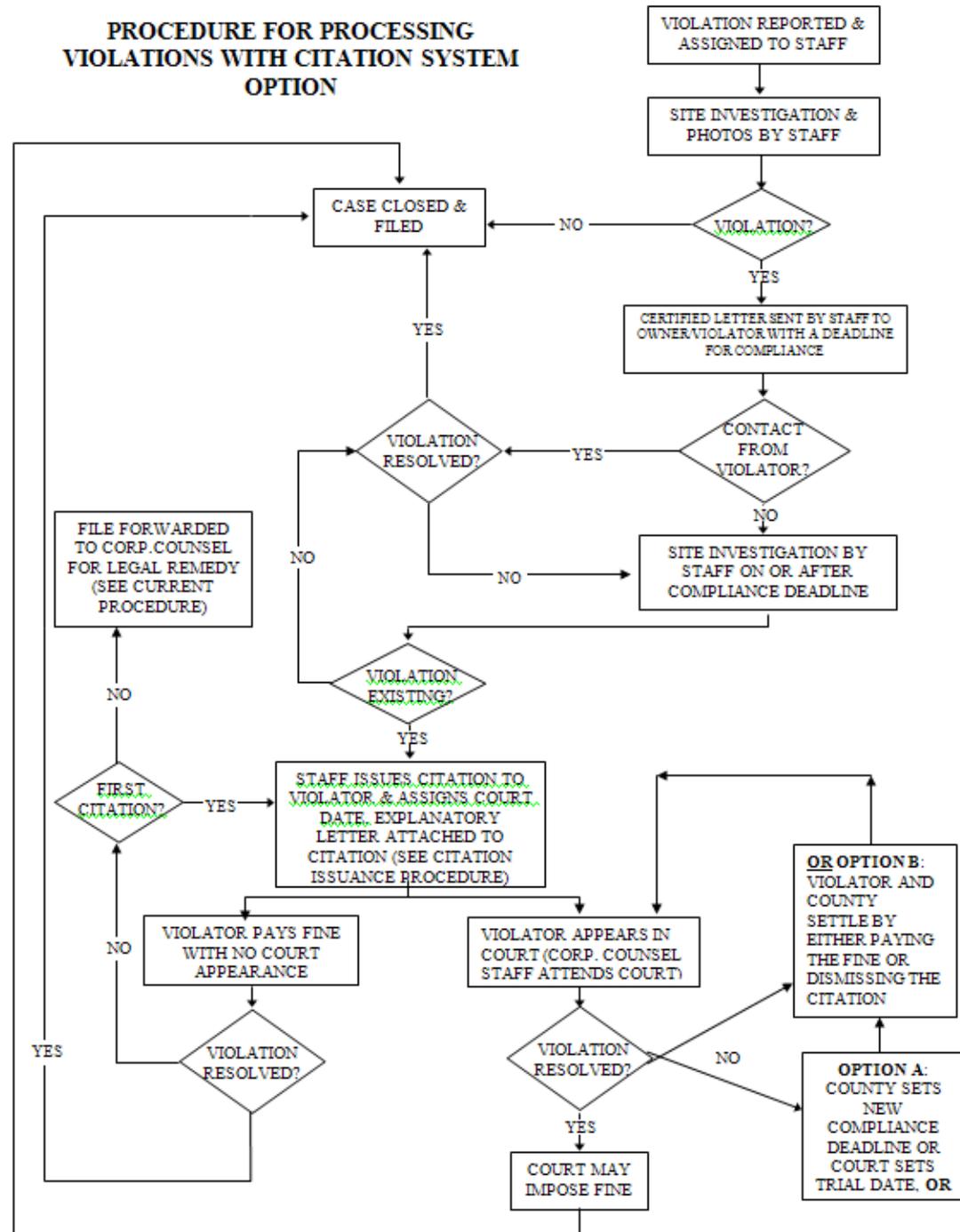
- Financial assurance may be used for emergency action or in case of default
- \$1,000 - \$60,000 cash
- \$20,000 / post-construction BMP
- Letter of credit in double stated amount, automatic renewal until permit termination

Citations & Forfeitures

- \$100-\$1,000 / violation
- May be dismissed if permit holder achieves compliance

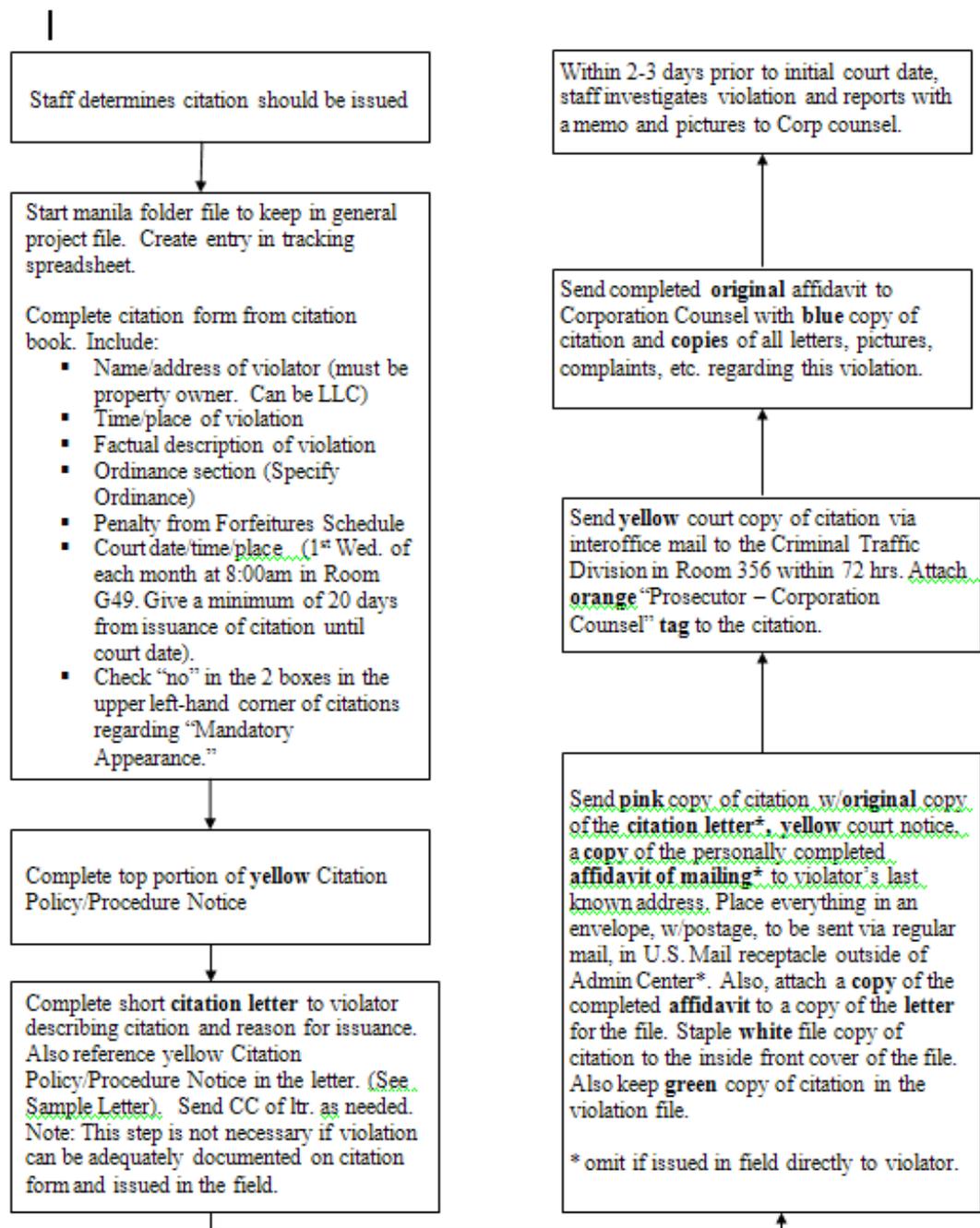
Procedure for Processing Violations with Citation System Option

PROCEDURE FOR PROCESSING VIOLATIONS WITH CITATION SYSTEM OPTION



PROCEDURE FOR ISSUANCE OF CITATIONS

Procedure for Issuance of Citations



Referral to Co. Corporation Counsel

(Circuit Court)

- Enforce citations
- Seek court order/injunction
- Seek forfeitures (penalties/damages per day)
- Defend LRD staff in enforcement actions or law suites against the county
 - Advise LRD staff in enforcement strategies
 - Advise LRD staff in depositions, etc.

County Staff Inspections

- Inspect sites in cooperating Phase I / II communities at least once every two weeks
- Perform final inspections for permit termination
- Respond to complaints

Inspections for Enforcement

- First inspection
 - Document violations, contact by phone and mail
 - May go immediately to other enforcement tools if warranted by situation (eg. emergency action)
- Second Inspection - issue NOV if non-compliant
- Third Inspection - issue citation if non-compliant
- Subsequent Inspections – may issue add'l citations

Enforcement Case Study

Site A

10 acres of unpermitted floodplain, floodway, wetland grading and filling. Soil deposited in a river.



Day 1

Enforcement Case Study

Site A

10 acres of unpermitted floodplain, floodway, wetland grading and filling. Soil deposited in a river.

Timeline

Day 1 – 8 AM: The County was notified by WDNR of violation.

Day 1 – 9 AM: Enforcement conference on site with DNR Stormwater, DNR Warden, property owner and County Storm Water. Posted Stop Work Order.

Day 2 – Issued Notice of Violation and set compliance deadline.

Enforcement Case Study

Site A

10 acres of unpermitted floodplain, floodway, wetland grading and filling. Soil deposited in a river.

Timeline

- Day 3 – Silt fence installed along river and turbidity barrier installed in the river.
- Day 12 – Received application and plan set for removal of fill from the floodplain, floodway, wetland and river.
- Day 30 – Received financial assurance to cover the cost to restore the site. Permit issued and restoration commenced.
- Day 80 – Site stabilization largely complete.
- Day 85 – Accepted as-built survey showing compliance with soil removal requirements.

Enforcement Case Study

Site A

10 acres of unpermitted floodplain, floodway, wetland grading and filling. Soil deposited in a river.



Day 3

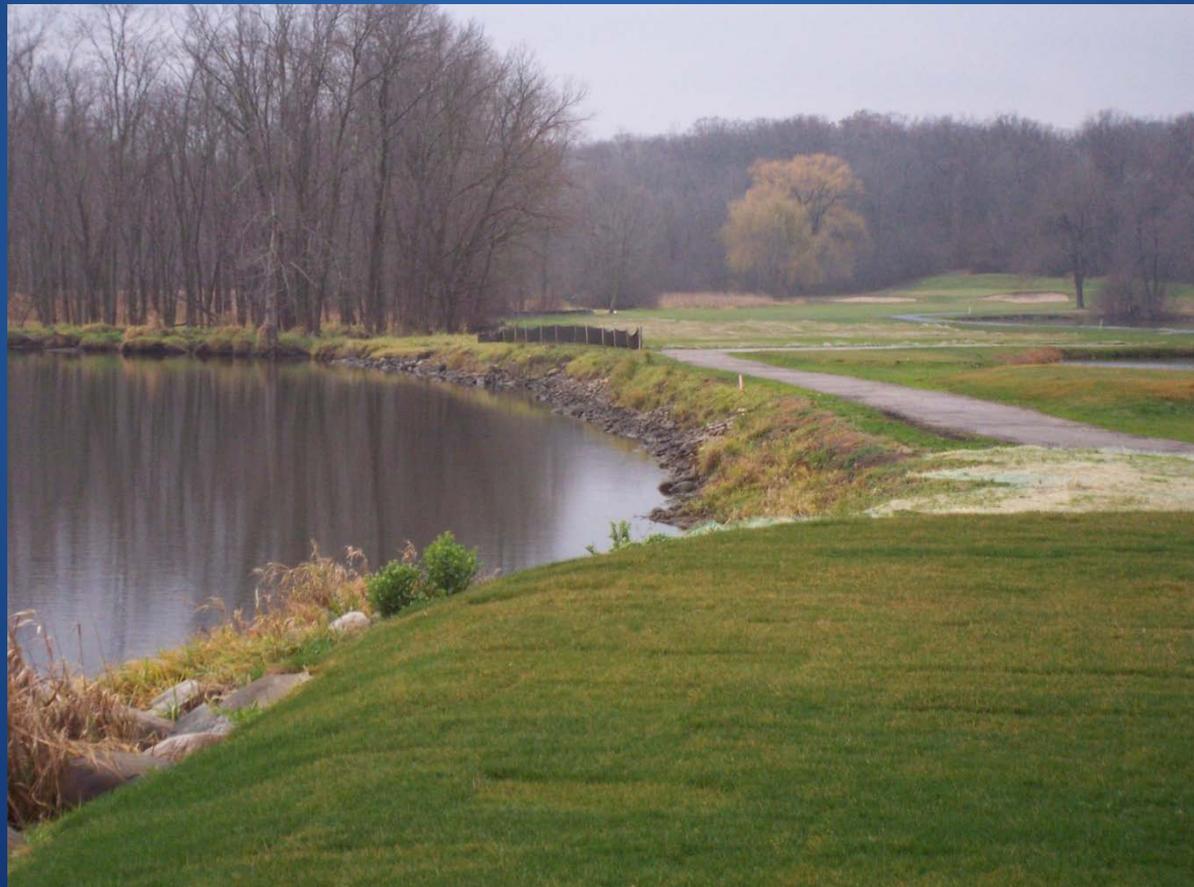


Day 52

Enforcement Case Study

Site A

10 acres of unpermitted floodplain, floodway, wetland grading and filling. Soil deposited in a river.



Day 80

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.



Before

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.

Road construction on hydric soils proves to be difficult for the grading contractor due to shallow groundwater.



3 months into construction & fall is approaching (no stabilization)

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.



5 months into construction. A combined DNR & County investigation is conducted. Several subsequent enforcement meetings are held with the contractor regarding the ability to execute the approved plans. DNR issues NON.

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.



Spring of year 2; combined DNR & County inspection. Project engineer has changed without notifying the regulatory agencies. Enforcement conference held on-site.

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.



Summer of year 2. Notice of violation issued & compliance deadline set.

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.



Fall of year 2 & the project has stalled. County issues emergency action order to restore the site.

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.



Summer of year 3; restoration not complete & permit expired. Citations issued. Turns out permit holder is no longer involved in the project. A bank is now in charge.

Enforcement Case Study

Site B

40 acre condominium development, partially located on hydric soils.



Fall of year 3; County uses financial assurance as an emergency action to complete site restoration and obtain as-built surveys of BMPs.