

Lessons Learned in Permit Enforcement

How to inspect and prepare for enforcement

Be proactive and avoid enforcement

Maggie Wagner

Inspection Begins With

- COMMUNICATION!
- Well-developed plan and sequence
- Documentation



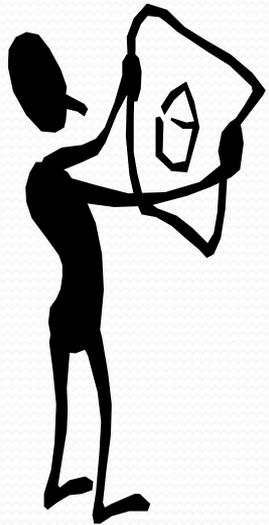
Communications

- #1 priority
- Preconstruction Meeting
- Inspector, Municipality, Developer & Contractor
 - Who receives inspection reports
 - Who is responsible for response to report
 - Establish expected timelines for response
 - How to amend the plan
 - Consequences of no response
 - Enforcement Procedure



Well Developed Plan & Sequence

- Recommend developing plan & sequence with the Contractor
- Factors in all foreseeable issues with the development
 - Weather conditions
 - Groundwater conflicts & plan for dewatering (don't forget about trench dewatering!)
 - Pond outlets installed prior to other underground utilities (grading vs. underground contractor)
- Specific tasks per item & any overlap identified



Documentation

- Project, date, time, weather conditions
- Note deficiencies in accordance with the approved plan and sequence
- Photograph site conditions
- Identify corrective actions required
- Provide initial feedback to onsite contractor, if available
- Email/fax report to designated personnel



Inspection Report Sample

	Exact place of erosion/sediment control inspected	Type of erosion/sediment control and its observed condition	Description of any necessary maintenance or repair to erosion/sediment control, including anticipated date of completion
1.	Construction Entrance	Tracking pad not installed and tracking present on the road. (03/21/13)	Install tracking pad per DNR Technical Standard # 1057 and per plan sheet CE-1 and CE-4. Remove any sediment tracked on the street after each occurrence.
2.	North stockpile	Not tarped according to plans; Sediment bale barrier not installed at around the perimeter as shown on plans. (03/21/13)	According to plan sheet CE-1, All stockpiles must be tarped at the end of the day or immediately upon the threat of precipitation. Note: When pile isn't being worked, it should be tarped. Install straw bale barrier according to plan sheet CE-1. Note: Other perimeter control measures may be considered (wattles, silt fence, etc.).
3.	Sediment trap	Stone weir and emergency overflow not installed as shown on plans. (03/21/13)	Install per plan sheet CE-1 and as shown on detail sheet CE-4. Follow DNR Technical Standard #1063.
4.	East Stockpile	Not tarped according to plans; Sediment bale barrier not installed at around the perimeter as shown on plans. (03/21/13)	According to plan sheet CE-1, All stockpiles must be tarped at the end of the day or immediately upon the threat of precipitation. Note: When pile isn't being worked, it should be tarped. Install straw bale barrier or other perimeter control measures(wattles, silt fence, etc.) on the downstream end of the stockpile
5.	Disturbed exposed soils thru out the swales and berm.	Disturbed soils not stabilized with erosion mat. (03/21/13)	Per Sequence Note #2, Matting shall be immediately installed on the exposed berms and swales. Note: More than 50% of the swales/ berm have mat installed.
6.	Out Of Sequence	Perimeter erosion control measures (Sequence #2) including the items mentioned in this report are not entirely installed, meanwhile building foundation work(Sequence #5) has started. (03/21/13)	Complete all needed repairs prior to get back into proper sequence.



Enforcement Procedure

- Plan approval
 - Review erosion control plan
 - Review of construction sequence
 - Permit approvals from WDNR



Enforcement Procedure

- Preconstruction meeting discussion
 - Clarify roles
 - Who is owner's E.C. inspector?
 - Who is repairing deficiencies?
 - City's inspection role & timeline
 - Review construction sequence
 - Discuss deviation from plan process
 - Document change, how change sequence, new measure needed or deleted, City/WDNR approval
 - Enforcement procedure discussed



Enforcement Procedure

- Notice of Non-Compliance letter (NON)
 - Inspection reveals on-going violations that are not being corrected for more than a two week period or immediately if serious
 - Defines deadline to correct all violations outlined in latest inspection report
 - Typically 2-3 weeks to correct all violations (can be less depending on seriousness of violation)



NON Sample

Developer Name
Developer Company
1234 Erosion Avenue
Any Clue, NO 53005

Subject: Development Name
Erosion Control

NOTICE OF NON-COMPLIANCE

Dear Mr. Out of Compliance:

A site visit on February 14, 2006 by City staff revealed your site is not in compliance with your erosion control plan for the site.

Please find the attached erosion control inspection report outlining items that need immediate attention. All items included on this report must be completed on or before March 17, 2006. If these items are not addressed, the site is subject to fines.

In addition, please supply our office with a copy of your Notice of Intent (NOI) and the responsible party for your erosion control inspections.

If you have any questions or concerns, please feel free to contact Jeffrey Weigel, P.E., Director of Public Works, or myself at 262-691-0804.

Sincerely,

Magdelene J. Wagner, P.E.
Assistant City Engineer

CC: The World

Enforcement Procedure

- Notice of Violation Letter (NOV)
 - Issued if no work is being done or an extension is not approved to bring site into compliance.
 - Includes a \$/day fine that will be imposed until violations are corrected.
 - Gives a deadline to repair or City will complete repairs and bill for work.
 - WDNR is notified of ongoing violation and unresponsiveness.



NOV Sample

Developer Name
Developer Company
1234 Erosion Avenue
Any Clue, NO 53005

Subject: Development Name
Erosion Control Compliance

NOTICE OF VIOLATION

Dear Mr. Still Not in Compliance:

This letter serves as the NOTICE OF VIOLATION of construction site erosion control measures for the Development project. A recent site inspection revealed that your site is out of compliance with erosion control measures and attempts to repair were not in compliance with the Department of Natural Resources Technical Standards.

Please find the attached erosion control inspection report dated April 25, 2007. In accordance with our letter dated April 9, 2007, your site will be issued a fine of \$500 per day beginning today, April 26, 2007. Your site will be inspected each day and fined every day that it is not in compliance.

In accordance with DNR Technical Standards and City Ordinance Chapter 19, all erosion control measures are to be repaired within 24 hours of notification.

If you have any questions or concerns, please feel free to contact Jeffrey Weigel, P.E., Director of Public Works, or myself at 262-691-0804.

Sincerely,

Magdelene J. Wagner, P.E.
Assistant City Engineer

cc: The World

Enforcement Procedure

- Notice of Citation (NOC)
 - Upon correction of all violations, the fine is calculated based on the \$/day in the NOV and the number of days to reach compliance.
 - Fine is a ticket issued by the Sheriff under our Chapter 19 Ordinance.



NOC Sample

Developer Name
Developer Company
1234 Erosion Avenue
Any Clue, NO 53005

Subject: Development Name
Erosion Control Violation

NOTICE OF CITATION

Dear Mr. Still Not in Compliance:

This letter serves as the NOTICE OF CITATION of construction site erosion control measures for the Development. In accordance with our letter dated April 26, 2007, fining of your site began on April 26, 2007 for not meeting the compliance date of April 25, 2007 as outlined in our April 9, 2007 letter. A site visit on April 30, 2007 revealed the site was now in compliance with the items addressed in our previous letters.

April 30, 2007 was your last day of fining for this violation. Therefore you have 5 days of non compliance fines in accordance with the City of Pewaukee Chapter 19.17(F) at \$500 per day. The total fine is \$2,500 plus court fees. The citation will be issued to your site in the near future.

Please note that future erosion control inspections may require action from you to remain in compliance. All erosion control measures must be repaired within 24 hours of notification.

If you have any questions or concerns, please feel free to contact Jeffrey Weigel, P.E., Director of Public Works, or myself at 262-691-0804.

Sincerely,

Magdelene J. Wagner, P.E.
Assistant City Engineer

CC: The World

Be Proactive to Avoid Enforcement

- Develop working relationships with Developers, Contractors, Engineers, and WDNR staff
- Enforce the plan and its amendments
- Call an emergency meeting to deal with sensitive issues immediately – require the developer and contractor to be in attendance
- Shut the job down if possible
- Support your inspectors



Be Proactive to Avoid Enforcement

- Don't hesitate to contact the WDNR for assistance (formal & informal)
- Use your ordinance
- Be creative...think outside the box for solutions



Questions?

- Contact Information:
 - Maggie Wagner, P.E.
 - Assistant City Engineer
 - City of Pewaukee
 - W240N3065 Pewaukee Road
 - Pewaukee, WI 53072
 - (262) 691- 0804
 - wagner@pewaukee.wi.us