

Enforcement Methods & Experiences

City of Pewaukee



What Works

- Well-developed plan
- Collaboration with the contractors while developing the plan
- Upfront discussions with WDNR & City Staff



What doesn't work?

- Late season construction
- A static plan
- Plans developed without contractors input



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)



February 20, 2006

Subject
Erosion Control

NOTICE OF NON-COMPLIANCE

Dear Mr.

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

Enclosure

P:\Development

notice of noncompliance.doc



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.





Department of Public Works

W240N3035 Pewaukee Road
Pewaukee, WI 53072

DPW Main Office: (262) 691-0804 Fax: 691-5779
Water & Sewer Division: 691-0804 Fax: 691-5729
Highway Division: 691-0771 Fax: 691-7988
Engineering Division: 691-0770 Fax: 691-7988

April 26, 2007

Subject: Erosion Control Compliance

NOTICE OF VIOLATION

Dear M

This letter serves as the NOTICE OF VIOLATION of construction site erosion control measures for the Palomino Point 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: Jeffrey Weigel, P.E., City of Pewaukee
Jeffrey Faber, City of Pewaukee
Arlyn Kurl, Ruckert/Mielke (via email)
Melinda Backs, Ruckert/Mielke (via email)

Director Jeffrey L. Weigel, P.E.



Enforcement Procedure

- Notice of Citation
 - 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.





Department of Public Works

W240N3085 Pewaukee Road
Pewaukee, WI 53072

DPW Main Office: (262) 691-0804 Fax: 691-5729
Water & Sewer Division: 691-0804 Fax: 691-5729
Highway Division: 691-0771 Fax: 691-1798
Engineering Division: 691-0770 Fax: 691-1798

May 1, 2007

Subject: Erosion Control Violation

NOTICE OF CITATION

Dear Mr. _____:

This letter serves as the NOTICE OF CITATION of construction site erosion control measures for the Palomino Golf Development. In accordance with our letter dated April 26, 2007, filing 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 filing 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,

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

CC: Jeffrey Weigel, P.E., Director of Public Works
Jeffrey Taber, City of Pewaukee
Aryn Kirby, Tucker M. Miko (via email)
Melinda Banks, Tucker Mielke (via email)

Director Jeffrey L. Weigel, P.E.



Pols-02533

N 430598 WISCONSIN UNIFORM MUNICIPAL COURT CITATION AND COMPLAINT

Defendant Permitted Cash \$670.00 Civil (For Court Use only)

You Are Notified To Appear
 Is this a mandatory appearance? () Yes (X) No
 Must be served 100' of this citation () Yes () No
 Date 4-19-06
 Time 0800 X AM () PM
 Venue DEWAUKEE Municipal Court

W240 N306S DEWAUKEE RD
 DEWAUKEE WI 53072

Plaintiff: (X) City () Village () Town
 OF: DEWAUKEE
 Defendant Violated:
 Ordinance No. 19.17(P)
 Defining State Statute No.

Detection of Violation
CONSTRUCTION SITE EROSION CONTROL
 Week Day Month Day Year Time (X) AM () PM
 TUES 12-19-06 0900
 Location Served () Personally (X) Mailed to defendant's address
 () Left with person making defendant's residence: Name _____ Age _____
 P.O. Box No. _____ Department _____ I.D. No. _____
 DAVID SPANKOWSKI DEWAUKEE P.D. 90 Date Citation Issued 2-23-06
 To appear before at _____ Court No. _____ Legal Custodian # 1071789

MD-2006, 100C COURT COPY

Please be advised that if you receive a citation, it begins with the date indicated thereon and continues as independent and separate violations for each day thereafter that the violation continues.

Further, be advised that the City ordinances allow and specifically delineate that each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.

Although you will not be receiving independent separate daily citations for this alleged offense, be advised that the City will be prosecuting this offense as separate violations from the date as indicated thereon until this matter is resolved.



Storm Water Facilities

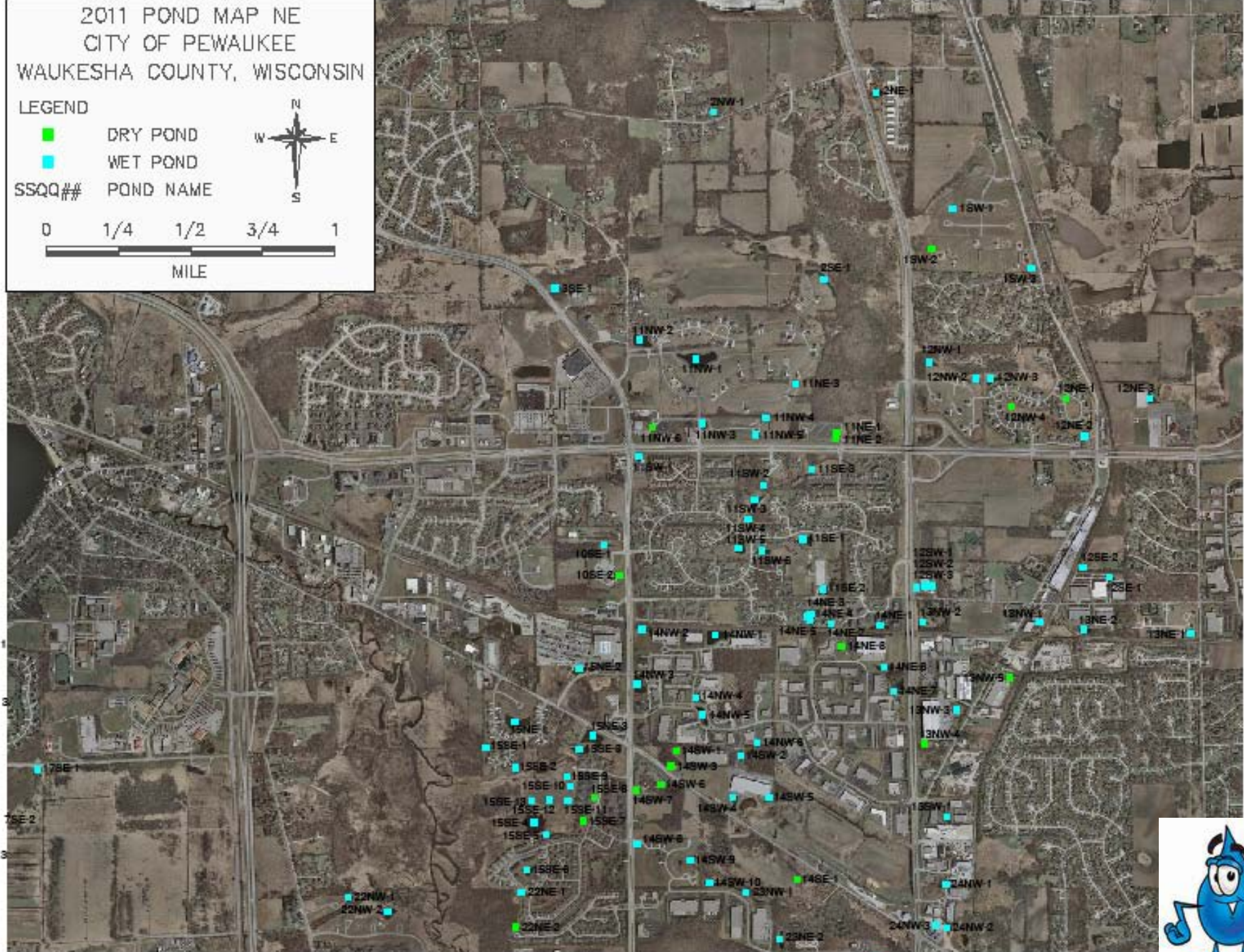
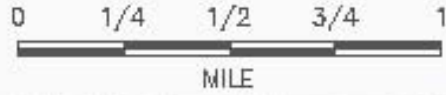
- 190 constructed ponds (1941 to 2010)
 - Additional 60 natural ponds
- Most ponds installed as part of Developer's Agreement
- Ponds were required for water quantity control (water quality optional until 2004).
- City owns only 2 of the facilities.



2011 POND MAP NE
CITY OF PEWAUKEE
WAUKESHA COUNTY, WISCONSIN

LEGEND

- DRY POND
- WET POND
- SSSQ## POND NAME



Maintenance Agreements

- Maintenance agreements are embedded in Developer's agreements which transfer to Homeowner's Associations.
- Post-2006 ponds have formal Operation and Maintenance Agreements.



Maintenance Agreements

- Requires an as-built of the facility.
- Location map
- Cross Section & Details of facility
- Minimum yearly inspection
- Allow for City to require maintenance and if not performed, then assess cost back to property owners.



Inspection Reports

- Review pond for erosion and vegetation growth
- Check spillways & outfalls for erosion, clogs, debris, failure of material
- Measure sediment levels in ponds



EXHIBIT E

Chad Botzler
Quentin Schuster
John Siepmann
STORMWATER MANAGEMENT MEASURES
OPERATIONS AND MAINTENANCE REPORT

Inspected by: John Siepmann Date: 11-24-10

Weather conditions: 31° Cloudy Rainfall in past 24 hours: 0 in.

POND A

Inspect embankments and side slopes for subsidence, erosion, cracking, tree growth	<u>See Note #1</u>
Inspect emergency spillway and overland flow path for obstructions	<u>OK</u>
Inspect for obvious accumulation of sediment	<u>OK</u>
Inspect outlet control structure for clogs, debris, failure of materials	<u>OK</u>
Inspect upstream and downstream channels for erosion	<u>OK</u>
Inspect riprap at outlet control structures for displacement and undermining	<u>OK</u>
Measure sediment depth at outlet control structure	<u>0</u> in.
Measure sediment depth at _____	<u>N/A</u> in.

Comments/repair needs/recommendations: #1 Pond banks need to be repaired immediately southwest of clubhouse. Woody growth removed in Summer of 2010. Minor mole rat burrowing observed

POND B

Inspect embankments and side slopes for subsidence, erosion, cracking, tree growth	<u>OK</u>
Inspect emergency spillway and overland flow path for obstructions	<u>OK</u>
Inspect for obvious accumulation of sediment	<u>OK</u>
Inspect outlet control structure for clogs, debris, failure of materials	<u>OK</u>
Inspect upstream and downstream channels for erosion	<u>See #1 below</u>
Inspect riprap at outlet control structures for displacement and undermining	<u>OK</u>
Measure sediment depth at outlet control structure	<u>0</u> in.
Measure sediment depth at _____	<u>N/A</u> in.

Comments/repair needs/recommendations: #1 Riprap at storm outlet pipe south of SMTB needs to be replaced. Woody growth removed in Summer of 2010.

POND C

Inspect embankments and side slopes for subsidence, erosion, cracking, tree growth	<u>OK</u>
Inspect emergency spillway and overland flow path for obstructions	<u>OK</u>
Inspect for obvious accumulation of sediment	<u>OK</u>
Inspect outlet control structure for clogs, debris, failure of materials	<u>OK</u>
Inspect upstream and downstream channels for erosion	<u>OK</u>
Inspect riprap at outlet control structures for displacement and undermining	<u>OK</u>
Measure sediment depth at outlet control structure	<u>0</u> in.
Measure sediment depth at _____	<u>N/A</u> in.

Comments/repair needs/recommendations: Pond slopes in excellent condition.



What about the Pre-2006 ponds?

- Program just beginning.
- Inventory, location, and current conditions documented in 2010.
- Historical data being researched (install date, standards built to, developer agreements, maintenance agreements, and current owner contact).



Enforcement for Ponds

- Post-2006 ponds have the O&M agreements to require work to be completed or City will charge.
 - To date, no ponds have had any enforcement action taken or major maintenance activities.
- Pre-2006 ponds program is being developed. Will be seeking formal legal opinion on existing language in the old developer's agreement.



Lessons Learned Erosion Control

- Develop working relationships with Developers, Contractors, Engineers, and WDNR staff
- Enforce the plan and its amendments
- Know the regulations and permit conditions for the site
- Support your inspectors



Lessons Learned Erosion Control

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



Lessons Learned “Challenges” Ponds

- Historical files can be sketchy at best.
- Huge education component to come with residents who own the facilities.
- Varying levels of homeowner’s associations activeness.
- Implementing maintenance agreements on older ponds.
- Cost of maintenance activities.



Lessons Learned Ponds

- Stay tuned...



Questions?

- **Contact Information:**
 - Maggie Wagner, P.E.
 - City of Pewaukee
 - W240N3065 Pewaukee Road
 - Pewaukee, WI 53072
 - (262) 691- 0804
 - wagner@pewaukee.wi.us
 - www.cityofpewaukee.us/stormwater-utility.php

