

OCT 17 2013



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Office of Enforcement, Compliance and Environmental Justice (Water)  
Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2014-0001, NPDES No. NDR105200

Smiley Construction (Respondent) is a "person," within the meaning of Section 502(5) of the Clean Water Act (Act), 33 U.S.C. 1362(5), and 40 C.F.R. 122.2.

Attached is an Expedited Settlement Offer Deficiencies Form (Form), which is incorporated by reference. By its signature, Complainant (EPA) finds that Respondent is responsible for the deficiencies specified in the Form.

Respondent failed to comply with its National Pollutant Discharge Elimination System (NPDES) storm water permit issued under Section 402 of the Act, 33 U.S.C. 1342.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. 1311, and that EPA has jurisdiction over any person who discharges pollutants from a point source to waters of the United States. Respondent neither admits nor denies the deficiencies specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order (Agreement) under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. 1319(g)(2)(A), and by 40 C.F.R. 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of \$5,500.00.

Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. 1319(g)(2); and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected. Respondent shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondent certifies that, within ten (10) days of receiving notice from EPA that the Agreement is effective (thirty (30) days from the date it is signed by the Regional Judicial Officer), Respondent shall submit a bank, cashiers or certified check, with case name and docket number noted, for the amount specified above payable to the Treasurer, United States of America, via

certified mail, to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 69197-9000  
In the Matter of: Smiley Construction

Docket No: CWA-08-2014-0001

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective forty (40) days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. 1319(g)(4)(A), and EPA has received no comments concerning this matter.

APPROVED BY EPA:

Date: 10/23/13

Gwen Campbell, Acting Unit Chief  
NPDES Enforcement Program  
Office of Enforcement, Compliance  
And Environmental Justice

Date: 10/22/13

James Eppers, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
And Environmental Justice

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APPROVED BY RESPONDENT:

Name (print): Jody J. Sangula

Title (print): owner

Signature:  Date: 9-18-13

Having determined that this Agreement is authorized by law,  
IT IS SO ORDERED:

\_\_\_\_\_ Date \_\_\_\_\_  
Elyana R. Sutin  
Regional Judicial Officer

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8  
1595 Wynkoop Street, Denver, CO 80202-1129**

**PUBLIC NOTICE OF PROPOSED EXPEDITED SETTLEMENT AGREEMENT AND  
OPPORTUNITY TO COMMENT ON CWA COMPLAINT**

**Action:** The EPA is providing notice of a proposed expedited settlement agreement and the opportunity to comment on the proposed agreement for alleged violations of the Clean Water Act (CWA) at the Boulder Ridge #5 and #6 developments, being constructed by Smiley Construction, P.O. Box 135, Napoleon, ND 58501 (Logan County).

**Summary:** The EPA is authorized by section 309(g)(2) of the CWA, 33 U.S.C. § 1319(g)(2) and by 40 C.F.R. § 22.13(b), to issue an order assessing a civil administrative penalty for violations of certain provisions of the CWA, after providing (1) an opportunity for the person to be assessed the penalty (the Respondent) to request a hearing to contest the penalty, and (2) notification to the public of its rights to submit written comments and to participate in any hearing. The deadline for the public to submit comments is forty days after issuance of this notice.

On September 18, 2013 the EPA commenced a civil administrative action by offering an expedited settlement offer against the Respondent identified below, alleging violations of the CWA and its regulations. Pursuant to section 309(g)(4) of the CWA, the EPA hereby notifies the public of the EPA's proposed penalty assessment against:

Smiley Construction  
PO Box 135  
Napoleon, ND 58561

EPA Docket Number: **CWA-08-2014-0001**

Proposed penalty in the Complaint: \$5,500.00

Alleged violations: (1) Failing to acquire a stormwater construction permit, and (2) failing to create and maintain a stormwater pollution prevention plan.

**PUBLIC COMMENTS**

Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of forty (40) days after the publication of this notice. Written comments submitted by the public will be available for public review. Any person submitting written comments has a right to participate in a hearing, if one is held. The Complaint is available for review between 9:00 a.m. and 4:00 p.m. at the address listed below and on the internet at: <http://www.epa.gov/region8/compliance/publicnotice> under EPA Docket Number:

Please submit written comments to:

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129.  
Telephone: (303) 312-6765

**FOR FURTHER INFORMATION:** Persons wishing to receive a copy of the complaint or other documents in this proceeding (such as the regulations in 40 C.F.R. part 22, which establish procedures for the hearing), or to comment upon the proposed penalty assessment or upon any other aspect of the matter, should contact the Regional Hearing Clerk identified above. No action will be taken by the EPA to finalize a settlement in this matter until 40 days after this public notice.

## EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS

### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

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#### INSTRUCTIONS

The United States Environmental Protection Agency (EPA) has authority under Section 309 of the Clean Water Act to pursue civil penalties for violations of the storm water regulations. EPA encourages the expedited settlement of certain violations of storm water requirements, such as the violations cited in the Expedited Settlement Agreement (**Agreement**) and Final Order for which these instructions are provided.

You may resolve this matter quickly by: (1) correcting all deficiencies identified by EPA in the *Deficiencies Form*; (2) detailing your corrective actions in a written report; (3) signing the original Agreement; and (4) submitting your penalty payment by check with case name and docket number noted.

Within THIRTY (30) DAYS from your receipt of the Agreement, you must send the original, signed Agreement, which includes a certification that you will submit your penalty payment within TEN (10) days from the date you receive notice from EPA that the Agreement is effective, and the report detailing your corrective actions via certified mail, to:

U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129  
Attn: Seth Draper (8ENF-W-NP)

Within TEN (10) days from the date you receive notice from EPA that the Agreement is effective, you must send your original check with the case name and docket number noted and a copy of the Agreement, via certified mail, to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 69197-9000

Please retain copies of the signed agreement, the report detailing your corrective actions and the penalty check for your own records.

You may contact the person listed above and request an extension. EPA will consider whether to grant an extension on a case-by-case basis. If you believe that the alleged violations are without merit (and you can provide evidence contesting the allegations) you must provide such information to EPA as soon as possible but no later than THIRTY (30) days from your receipt of the Agreement.

If you choose to sign and return the Agreement, you waive your opportunity for a hearing and to appeal the final order pursuant to Section 309 of the Clean Water Act. If you choose not to sign and return the Agreement, or contact the EPA, within THIRTY (30) days, the Agreement will be automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations alleged herein or any other violations. EPA may choose to pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to a maximum penalty of \$37,500 per day per violation. Failure to return the Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations.

If you choose to sign and return the Agreement, it will be routed through EPA management for concurrence and signature. Once signed, the Agreement will be filed with the Regional Judicial Officer. EPA will also public notice the proposed Agreement, giving the public 40 days to submit comments. Barring any adverse comments during that time frame, EPA will request that the Regional Judicial Officer sign the final order.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

SEP 12 2013

Ref: 8ENF-W-NP

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Jody J. Jangula, President  
Smiley Construction  
204 South Prairie Lane  
Mandan, ND 58554

Re: NDR10# (Pending) Inspection Report Notice of Proposed Expedited Settlement Agreement

Dear Mr. Jangula:

The United States Environmental Protection Agency (EPA) inspected the Boulder Ridge #5 and #6 construction site located at Granite Drive and Boulder Ridge Road, Bismarck, North Dakota on August 16, 2013 for compliance with Clean Water Act (CWA) storm water control requirements. The inspection determined that Smiley Construction (Smiley) had violated the North Dakota Department of Health's North Dakota Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit (the Permit) by failing to obtain permit coverage prior to site disturbance and failing to develop a Storm Water Pollution Prevention Plan (SWPP Plan). A copy of the permit is available at: <http://www.ndhealth.gov/WQ/Storm/Construction/NDR10per20091001F.pdf>; see also <http://www.ndhealth.gov/WQ/Storm/Construction/ConstructionHome.htm>.

A copy of the EPA's inspection report is attached. Please pay special attention to the Summary of Findings section of the report, and implement all the corrective actions as soon as possible. The inspectors discussed their observations and concerns with you during the exit interview.

Section 309 of the Clean Water Act (Act), 33 U.S.C. §1319, gives the EPA the authority to obtain civil penalties for violations of NPDES permits. The EPA is offering to settle the cited violations through an Expedited Settlement Agreement. The enclosed Expedited Settlement Agreement and Expedited Settlement Agreement Instructions explain the process in detail. The proposed settlement amount for the violations is \$5,500.00. **Signing and returning the Expedited Settlement Agreement and providing a check for the amount of the penalty will resolve this civil penalty claim for the violations noted.** If Smiley does not sign and return the Expedited Settlement Agreement within 30 days of receipt, the Expedited Settlement will be automatically withdrawn, and the EPA may file an enforcement action for the violations cited above or any other violations, which can include penalties of up to \$37,500 per day per violation.

Before signing the Expedited Settlement Agreement, Smiley must correct all the deficiencies identified in the enclosed Expedited Settlement Offer Worksheet Deficiencies Form. The Expedited Settlement

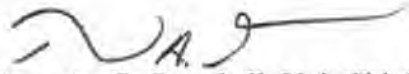
Agreement includes a certification that Smiley has made these corrections. The 30-day period for making corrections is the same as the 30-day period for signing and returning the Expedited Settlement Agreement.

Please send the signed Expedited Settlement Agreement to:

U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202  
Attn: Seth Draper (8ENF-W-NP)

Please review the enclosed information carefully. If you have any questions regarding this letter, the inspection report, the Expedited Settlement Agreement, or any other matters regarding compliance with the Act, please contact Seth Draper at 303-312-6763.

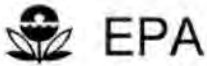
Sincerely,

*for*   
Gwenette C. Campbell, Unit Chief  
NPDES Enforcement Program Unit  
Office of Enforcement, Compliance  
And Environmental Justice

Enclosures: 1) Inspection Report, Photo Log, EPA 3560 Form  
2) Expedited Settlement Agreement  
3) Expedited Settlement Agreement Instructions  
4) Expedited Settlement Offer Worksheet Deficiencies Form

cc: Karl Rockeman, NDDH  
Dallas Grossman, NDDH  
Colleen Peterson





United States Environmental Protection Agency  
Washington, D.C. 20460

**Water Compliance Inspection Report**

**Section A: National Data System Coding (i.e. PCS)**

Transaction Code 1 <b>N</b> 2 <b>5</b>	NPDES 3 <b>U n p e r m i t t e d</b> 11	yr/mo/day 12 <b>1 3 0 8 1 6</b> 17	Inspection Type 18 <b>}}</b>	Inspector 19 <b>J</b>	Fac Type 20 <b>2</b>
Remarks 21 _____ 66					
Inspection Work Days 67 _____ 69	Facility Self-Monitoring Evaluation Rating 70 <b>U</b>	BI 71 _____	QA 72 _____	Reserved 73 _____ 74 _____ 75 _____ 80	

**Section B: Facility Data**

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number)  Boulder Ridge #5 and #6 Granite Drive and Boulder Ridge Road Bismarck, ND 58503	Entry Time/Date 9:45 a.m. / 8/16/13	Permit Effective Date Unpermitted
	Exit Time/Date 11:10 a.m. / 8/16/13	Permit Expiration Date State General Permit Expires 9/30/2014
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Numbers  Jody J. Jangula / Smiley Construction / 701-321-1817 Mark Klien / Superintendent / 309-706-2745	Other Facility Data (e.g., SIC, NAICS, and other descriptive information) SIC 1794 Lat. 46.8624 Long. -100.7894	
Name, Address of Responsible Official/Title/Phone and Fax Number Jody J. Jangula Smiley Construction 204 South Prairie Lane Mandan, ND 58554	Unpermitted under NDR10#####  Contacted <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

**Section C: Areas Evaluated During Inspection (Check only those areas evaluated)**

<input checked="" type="checkbox"/> Permit	<input checked="" type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> MS4
<input checked="" type="checkbox"/> Records/Reports	<input type="checkbox"/> Compliance Schedule	<input type="checkbox"/> Pollution Prevention	
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Laboratory	<input checked="" type="checkbox"/> Storm Water	
<input type="checkbox"/> Effluent/Receiving Waters	<input checked="" type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> Combined Sewer Overflow	
<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Sludge Handling/Disposal	<input type="checkbox"/> Sanitary Sewer Overflow	

**Section D: Summary of Findings/Comments**

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

SEV Codes	SEV Description
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Seth Draper <i>Seth Draper</i>	EPA/303-312-6763	9/12/13
Lucille Snowden <i>E-Rovick</i>	NDDH/701-328-5239	
David Gwisdalla	EPA/303-312-6193	



**INSTRUCTIONS**

**Section A: National Data System Coding (i.e., PCS)**

**Column 1: Transaction Code:** Use N, C, or D for New, Change, or Delete. All inspections will be new unless there is an error in the data entered.

**Columns 3-11: NPDES Permit No.** Enter the facility's NPDES permit number - third character in permit number indicates permit type for Unpermitted, General permit, etc. (Use the Remarks column to record the State permit number, if necessary.)

**Columns 12-17: Inspection Date.** Insert the date entry was made into the facility. Use the year/month/day format (e.g., 04/10/01 = October 01, 2004).

**Column 18: Inspection Type\*** Use one of the codes listed below to describe the type of inspection:

A Performance Audit	U IU Inspection with Pretreatment Audit	Pretreatment Compliance (Oversight)
B Compliance Biomonitoring	X Toxics Inspection	@ Follow-up (enforcement)
C Compliance Evaluation (non-sampling)	Z Sludge - Biosolids	{ Storm Water-Construction-Sampling
D Diagnostic	# Combined Sewer Overflow-Sampling	} Storm Water-Construction-Non-Sampling
F Pretreatment (Follow-up)	\$ Combined Sewer Overflow-Non-Sampling	: Storm Water-Non-Construction-Sampling
G Pretreatment (Audit)	+ Sanitary Sewer Overflow-Sampling	- Storm Water-Non-Construction-Non-Sampling
I Industrial User (IU) Inspection	& Sanitary Sewer Overflow-Non-Sampling	< Storm Water-MS4-Sampling
J Complaints	\ CAFO-Sampling	- Storm Water-MS4-Non-Sampling
M Multimedia	= CAFO-Non-Sampling	> Storm Water-MS4-Audit
N Spill	2 IU Sampling Inspection	
O Compliance Evaluation (Oversight)	3 IU Non-Sampling Inspection	
P Pretreatment Compliance Inspection	4 IU Toxics Inspection	
R Reconnaissance	5 IU Sampling Inspection with Pretreatment	
S Compliance Sampling	6 IU Non-Sampling Inspection with Pretreatment	
	7 IU Toxics with Pretreatment	

**Column 19: Inspector Code.** Use one of the codes listed below to describe the lead agency in the inspection.

A — State (Contractor)	O — Other Inspectors, Federal/EPA (Specify in Remarks column)
B — EPA (Contractor)	P — Other Inspectors, State (Specify in Remarks column)
E — Corps of Engineers	R — EPA Regional Inspector
J — Joint EPA/State Inspectors—EPA Lead	S — State Inspector
L — Local Health Department (State)	T — Joint State/EPA Inspectors—State lead
N — NEIC Inspectors	

**Column 20: Facility Type.** Use one of the codes below to describe the facility.

- 1 — Municipal. Publicly Owned Treatment Works (POTWs) with 1987 Standard Industrial Code (SIC) 4952.
- 2 — Industrial. Other than municipal, agricultural, and Federal facilities.
- 3 — Agricultural. Facilities classified with 1987 SIC 0111 to 0971.
- 4 — Federal. Facilities identified as Federal by the EPA Regional Office.
- 5 — Oil & Gas. Facilities classified with 1987 SIC 1311 to 1399.

**Columns 21-66: Remarks.** These columns are reserved for remarks at the discretion of the Region.

**Columns 67-69: Inspection Work Days.** Estimate the total work effort (to the nearest 0.1 work day), up to 99.9 days, that were used to complete the inspection and submit a QA reviewed report of findings. This estimate includes the accumulative effort of all participating inspectors; any effort for laboratory analyses, testing, and remote sensing; and the billed payroll time for travel and pre and post inspection preparation. This estimate does not require detailed documentation.

**Column 70: Facility Evaluation Rating.** Use information gathered during the inspection (regardless of inspection type) to evaluate the quality of the facility self-monitoring program. Grade the program using a scale of 1 to 5 with a score of 5 being used for very reliable self-monitoring programs, 3 being satisfactory, and 1 being used for very unreliable programs.

**Column 71: Biomonitoring Information.** Enter D for static testing. Enter F for flow through testing. Enter N for no biomonitoring.

**Column 72: Quality Assurance Data Inspection.** Enter Q if the inspection was conducted as followup on quality assurance sample results. Enter N otherwise.

**Columns 73-80:** These columns are reserved for regionally defined information.

**Section B: Facility Data**

This section is self-explanatory except for "Other Facility Data," which may include new information not in the permit or PCS (e.g., new outfalls, names of receiving waters, new ownership, other updates to the record, SIC/NAICS Codes, Latitude/Longitude).

**Section C: Areas Evaluated During Inspection**

## North Dakota NPDES Storm Water Inspection - Construction

NATIONAL DATABASE INFORMATION	
Inspection Date: <b>August 16, 2013</b>	Inspection Type: <b>Stormwater Construction</b>
Entry Time: <b>9:45 AM</b>	Exit Time: <b>11:20 AM</b>
NPDES ID Number: <b>Unpermitted</b>	
Inspector: <b>Seth Draper</b>	<b>Environmental Protection Agency</b>
Inspector: <b>Lucy Snowden</b>	<b>North Dakota Department of Health</b>

Facility Location Information:	
Site/Facility Location: <b>Boulder Ridge #5 and #6</b> <b>Granite Drive and Boulder Ridge Road</b> <b>Bismarck, ND 58503</b> <b>46.8624° North, 100.7894° West</b>	Mail Report to: <b>Jody J. Jangula, President</b> <b>Smiley Construction</b> <b>204 South Prairie Lane</b> <b>Mandan, ND 58554</b>

Contact Information:		
	Name(s)/Title	Telephone
Facility Contacts: <i>(indicate primary lead and present during inspection)</i>	<b>Jody J. Jangula / President / Smiley Construction</b>	<b>701-321-1817</b>
	<b>Mark Klein / Superintendent / Smiley Construction</b>	<b>309-706-2745</b>
Person/Company meeting definition of "Operator"	<b>Jody J. Jangula / President / Smiley Construction</b>	<b>701-321-1817</b>
Authorized Official(s) (Per NOI or SWMP?)	<b>No SWPPP was available for review at time of the inspection</b>	

Permit Information:			
Is the permit on site and available? <b>No</b>		Date NOI Submitted: <b>N/A, no NOI was submitted</b>	
Effective Date: <b>N/A</b>		Expiration Date: <b>N/A</b>	
Construction Start Date: <b>July 3, 2013</b>	Percent complete: <b>~10 %</b>	Estimated Completion Date: <b>October 2013</b>	
Disturbed Area: <b>40 acres</b>	Total Project Area: <b>40 acres</b>	Latitude: <b>46.8624° North</b>	Longitude: <b>100.7894° West</b>
Receiving Water(s): <b>Unnamed tributary to Hay Creek to the Missouri River</b>			
If applicable, is erosivity waiver certification & approval on file? <b>N/A</b>			
Regulatory Inspector's source of information: <b>Field investigation and Aerial Photos</b>			

Site Information:							
Nature of Project	Residential	Commercial/Industrial	Roadway	Private	Federal	State/Municipal	Other
Construction Stage	<b>Clearing/Grubbing</b>	<b>Rough Grading</b>	Infrastructure	Building Const.	Final Grading	Final Stabilization	

## North Dakota NPDES Storm Water Inspection - Construction

### Site Description

**Site description:** The inspection was conducted to determine Smiley Construction's compliance with North Dakota's stormwater general permit requirements. The inspection was unannounced. At approximately 9:45 a.m., EPA inspector, Seth Draper, and North Dakota Department of Health (NDDH) inspector, Lucille Snowden met with Jody J. Jangula, President of Smiley Construction, for the Boulder Ridge #5 and #6 construction site (the site). The EPA and NDDH inspectors had an opening conference to explain the purpose of the inspection.

The current phase of the site consists of grading the development to grade so basic infrastructure can be built. The location of the site is on the north side of Bismarck, ND near other existing home developments. The site generally flows east toward Hay Creek. The site was substantially disturbed. At the time of the EPA inspection, the site was in the process of installing silt fence around the perimeter of the site.

**Inspection details:** The inspection of the construction site was led by Seth Draper from the U.S. EPA's Region 8 along with Lucille Snowden from the North Dakota Department of Health's (NDDH's), Division of Water Quality. The inspection was a joint inspection between the State and the EPA, with the EPA leading the inspection. EPA and NDDH inspectors entered the site with the site's operator, Jody J. Jangula from Smiley Construction. The inspectors conducted the inspection of this site immediately following their inspection of an adjacent site, the Bismarck Public School Liberty Elementary project. Mr. Jangula stated that an NOI was not submitted to the state for permit coverage for the Boulder Ridge #5 and #6 development. Six self-inspection records were made available at the time of the inspection. A close-out meeting was held to illustrate the findings of the inspection related to stormwater controls for the site construction practices. The issues discussed in the close-out meeting include: permit requirements related to the NOI application, the SWPP plan management and inspections, as well as, the installation and management of best practices.

<u>SWPP Plan General</u>	<u>Notes:</u>	
Is there a SWPP plan? (SWPP plan Date) <b>Part I.D.2.c and I.C.1</b>	N/A	The site was unpermitted at the time of the inspection.
Is a copy of the SWPP plan onsite? <b>Part III.B and II.C.7.a</b>	N/A	
Is a copy of the signed NOI and coverage letter from the NDDH onsite? <b>Part III.B</b>	N/A	
SWPP plan completed prior to NOI? <b>Part I.D.2.c</b>	N/A	
Copy of the general permit onsite? <b>Part III.B</b>	N/A	
SWPP plan identifies all permittees and their areas of control? <b>Part II.C</b>	N/A	
Did all permittees sign/certify the SWPP plan? <b>Part II.C.7.a</b>	N/A	

## North Dakota NPDES Storm Water Inspection - Construction

<u>SWPP Plan Site Description</u>		Notes:
SWPP plan identifies potential sources of pollution? <b>Part II.C</b>	N/A	The site was unpermitted. The questions here and below are not applicable.
Is there a site description including the function of the project? <b>Part II.C.1.a</b>	N/A	
Total area of site and total area to be disturbed? <b>Part II.C.1.b</b>	N/A	
Timetable for soil disturbing activities? <b>Part II.C.1.c</b>	N/A	
A description of soil within the disturbed areas? <b>Part II.C.1.d</b>	N/A	
Name of Receiving water(s) or MS4 listed? <b>Part II.C.1.e</b>	N/A	
Is there a site map? <b>Part II.C.1.f</b>	N/A	
Does the site map include drainage patterns? <b>Part II.C.1.f.1</b>	N/A	
Construction site boundaries and areas of soil disturbance? <b>Part II.C.1.f.2</b>	N/A	
Location of structural and non-structural BMPs identified in the SWPP plan? <b>Part II.C.1.f.3</b>	N/A	
Location of stabilization practices? <b>Part II.C.1.f.4</b>	N/A	
Location of surface water (including wetlands)? <b>Part II.C.1.f.5</b>	N/A	
Location of storm water discharges to a surface water? <b>Part II.C.1.f.6</b>	N/A	
Location of concrete/asphalt batch plants, equipment staging areas, borrow sites or excavated fill disposal areas (on-site or off-site)? <b>Part II.C.1.f.7</b>	N/A	

<u>SWPP Plan Controls to Reduce Pollutants</u>		Notes:
Identify person to oversee implementation of the SWPP plan? <b>Part II.C.2.a</b>	N/A	The site was unpermitted. The questions here and below are not applicable.
Is there a description of good housekeeping practices to maintain a clean and orderly facility? <b>Part II.C.2.b</b>	N/A	
Is there a description of preventative maintenance practices? <b>Part II.C.2.c</b>	N/A	
Have spill prevention and response procedures been established where potential spills can occur? <b>Part II.C.2.d</b>	N/A	

## North Dakota NPDES Storm Water Inspection - Construction

<b>SWPP Plan Controls to Reduce Pollutants</b>		<b>Notes:</b>
Annual employee training to include spill response, good housekeeping and sediment control practices? <b>Part II.C.2.e</b>	N/A	
Has an erosion and sediment control plan been developed to identify the appropriate control measures in accordance with Appendix 1? <b>Part II.C.3</b>	N/A	
Does the erosion and sediment control plan identify when each control measure will be implemented during the project for each major phase of the site activity? <b>Part II.C.3</b>	N/A	
Are temporary (or permanent) sediment basins used when disturbing 10 or more acres of land which drain to a common location? <b>Appendix 1.A.1</b>	N/A	
Is the sediment basin that drains over 10 acres, is it adequately designed? (3,600 cu.ft/acre x total drainage acres) <b>Appendix 1.A.1</b>	N/A	
Basin outlets properly designed (e.g. perforated riser pipe wrapped with filter fabric and covered with crushed gravel, pumps or other means) <b>Appendix 1.A.1</b>	N/A	
If a sediment basin is not used, is the combination of measures used equivalent? <b>Appendix 1.A.2</b>	N/A	

<b>SWPP Plan Implementation (Site review)</b>				
<b>Structural and Stabilization Practices</b>				
<b>List and describe structural and stabilization practices</b>				
	SWMP/Site Map	Used On-Site		Comments
Silt Fence	N/A	Y		The facility had installed silt fence in many locations around the site (photos 170, 171, 175, 176). The site is planning to install additional silt fence along the eastern portion of the site (photo 172). Additionally, the site had installed silt fence within the drainage to Hay Creek (photos 167 and 171).
Material Storage	N/A	Y		The site was in the process of stockpiling top soil for future use around completed homes.

## North Dakota NPDES Storm Water Inspection - Construction

Existing vegetation	N/A	Y		The site has kept large expanses of existing vegetation for use as a supplemental stormwater BMP (photos 167, 170, 171, 172, 175, 176, and 177).
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<u>Inspections</u>			<u>Notes:</u>
Does the SWPP plan identify the inspection schedule? Permit requires every 14 days and within 24 hours of a rain event greater 0.5" <b>Part III.A.1</b>	N/A		The site was unpermitted. No SWPP Plan was prepared for the site.
How is precipitation measured (i.e. rain gauge at site or nearest National Weather Service rain gauge within 10 miles)? <b>Part III.A.1</b>	N/A		Unknown.
Are inspections and maintenance activities recording in writing and retained as required in Part III.B? <b>Part III.A.2</b>	Y		
Do the inspection/maintenance reports include: 1. date/time of inspection; 2. names of person conducting inspection; 3. findings of the inspection; 4. recommendations of corrective actions; 5. corrective actions (dates, times and party completing action); 6. date and amount of all rainfall >0.5 inches; 7. documentation that the SWPP plan has been amended <b>Part III.A.2</b>	N		The facility did produce records of self-inspections. The self-inspections included nearly all of the items required in the permit. The site stated that they had made repairs to installed stormwater BMPs. These repairs were not included in the self-inspection reports.
Are erosion and sediment controls inspected to ensure that they are operating correctly and in serviceable condition? <b>Part II.C.6 and Appendix 1.B.1</b>	Y		
Are control devices similar to silt fence or fiber rolls repaired, replaced or supplemented within 24 hours of discovery when they become nonfunctional or the sediment reaches 1/3 of the height of the device? <b>Appendix 1.B.1</b>	N/A		

## North Dakota NPDES Storm Water Inspection - Construction

<b>Inspections</b>		<b>Notes:</b>
Are temporary and permanent sedimentation basins drained and the sediment removed within 72 hours of discovery when the depth of the sediment collected in the basin reaches ½ the storage volume? <b>Appendix 1.B.1</b>	N/A	
Are discharge outlets from areas used for storage of materials, permanent stormwater controls and vehicle maintenance areas inspected? <b>Part II.C.6</b>	N/A	
Are surface waters, including drainage ditches and conveyance systems inspected for evidence of sediment deposition? <b>Appendix 1.B.2</b>	N/A	
Are construction site egress locations inspected for evidence of sediment trackout? <b>Appendix 1.B.3</b>	N/A	
Are accumulations of vehicle trackout removed from all off-site paved surfaces within 24 hours of discovery? <b>Appendix 1.B.3</b>	N/A	

## North Dakota NPDES Storm Water Inspection - Construction

**Identify dates of stormwater inspections by owner or operator of site:** Inspection records for site inspections were provided during the inspection. These dates are marked below Dates of required inspections based upon the 14-day inspection frequency and rainfall event date from the Bismarck Municipal Airport (KBIS) are marked below.

- = site self-inspection
- = rainfall > 0.5 inches
- ⊕ = Inspection required; note with two consecutive days of rain a blue mark was replaced with a red mark.

# 2013

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## North Dakota NPDES Storm Water Inspection - Construction

SWPP Plan Implementation (Site Review)	
<u>Stabilization Practices</u>	
<p>Are stabilization practices properly installed and adequately maintained?</p> <p><b>Part II.C.3.b and Appendix I.A.3</b></p>	<p><i>(e.g., indicate "yes" or "no"; if "yes", how long without stabilization measures?)</i></p> <p>Yes, the silt fence at the site was properly installed. The site also used existing vegetation to supplement the silt fence.</p>
<p>Provide temporary erosion protection or permanent cover for the exposed soil areas where activities have been completed or temporarily ceased. For those areas with a continuous positive slope within 200 lineal feet of a surface water, temporary erosion protection or permanent cover must be applied within 21 days of completing or ceasing earth moving activities. These areas include pond embankments, ditches, berms and soil stockpiles. Temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles) are exempt from this requirement.</p>	
Structural Practices	
<p>Are structural controls properly installed and maintained?</p> <p><b>Part II.C.5 and Part II.C.3.c</b></p>	<p><i>(e.g., indicate "yes" or "no"; explain if necessary)</i></p> <p>Yes, at the time of the EPA and NDDH inspection, the structural controls at the site were properly installed.</p>

**Expedited Settlement Offer Worksheet  
Deficiencies Form**

Consult instructions regarding eligibility criteria  
and procedures prior to use

version 10.3.4



LEGAL NAME AND MAILING ADDRESS OF OPERATOR		Telephone Number	NPDES Permit Number
1	Jody J. Janguia 204 South Prairie Lane Mandan, ND 58554	701-321-1817	Unpermitted
		Inspector Name:	Seth Draper
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	Yes
		Exit Interview Conducted:	Yes
		Exit Interview given to:	Jody J. Janguia
		Exit Interview time:	11:10 Date: 08/16/2013
LOCATION AND ADDRESS OF SITE			
2	Boulder Ridge #5 and #6 Granite Drive and Boulder Ridge Road Bismarck, ND 58503 (Lat/Long: 46.8624° North, 100.7894° West)		

FACILITY DESCRIPTION / CONTACT NAMES	
	Name of Site Contact (ESO Worksheet recipient): Jody J. Janguia, President, Smiley Construction
	Name of Authorized Official (40 CFR 122.22): Jody J. Janguia, President, Smiley Construction
	Inspection Date: 08/16/2013
	Start Construction Date: 07/03/2013
	Estimated Completion Construction Date: 10/01/2013
	If Unpermitted, Number of Months Unpermitted: 2
	Name of Receiving Water Body (Indicate whether 303(d) listed): Hay Creek
	Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan: 40.00   40.00
	Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)? No

PERMIT COVERAGE	Findings	Citation Reference**	R A*	No. of C Deficien- cies	Dollar Amount	Total
3 Operator unpermitted for one month (# months unpermitted equals number of violations). Discharge without a permit.	The construction site did not submit a permit application to the North Dakota Department of Health prior to beginning construction activity. Smiley Construction began earth disturbing activities on July 3, 2013. According to NDDH, Smiley Construction submitted an NOI for the site on August 22, 2013.	CWA 301	Yes	1	\$500.00 =	\$500

SWPPP REVIEW						
4	SWPPP not prepared (if no SWPPP, leave elements 5 - 30 blank)	At the time of the EPA inspection, a SWPPP Plan had not been prepared for the construction site.	CGP 3.1.A	Yes	1	\$5,000.00 = \$5,000
5	SWPPP prepared but prepared after construction start (# of months = # of violations)		CGP 3.1.A	Yes		\$75.00 =
6	SWPPP does not identify all potential sources of pollution to include: porta-pottys, fuel tanks, staging areas, waste containers, chemical storage areas, concrete cure, paints, solvents, etc...		CGP 3.1.B	Yes		\$250.00 =
7	SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		CGP 3.3.A			\$500.00 =

	Number of inspections expected if performed bi-weekly:	3						
	If known, number of days of rainfall of >0.5"							
32	Inspections not conducted by qualified personnel		CGP 3.10.D			\$50.00	=	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		CGP 3.10.E			\$50.00	=	
34	All pollution control measures not inspected to ensure proper operation		CGP 3.10.E			\$50.00	=	
35	Discharge locations are not observed and inspected		CGP 3.10.E			\$50.00	=	
36	For discharge locations that are not accessible, nearby locations are not inspected		CGP 3.10.E			\$50.00	=	
37	Entrance/exit not inspected for off-site tracking		CGP 3.10.E			\$50.00	=	
38	Site inspection report does not include: date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates (count each omission under 38 as 1 violation)		CGP 3.10.G			\$50.00	=	
39	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		CGP 3.10.G			\$50.00	=	
<b>Subtotal Inspections Deficiencies</b>								<b>\$0</b>
<b>AVAILABILITY OF RECORDS</b>								
40	Sign/notice not posted		CGP 3.12.B			\$250.00	=	
	A Does not contain copy of complete NOI		CGP 3.12.B			\$50.00	=	
	B Location of SWPPP or contact person for scheduling viewing times where on-site location for SWPPP unavailable not noted on sign		CGP 3.12.B			\$50.00	=	
<b>Subtotal Records Deficiencies</b>								<b>\$0</b>
<b>BEST MANAGEMENT PRACTICES</b>								
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		CGP 3.13.F			\$500.00	=	
42	Control measures are not properly:							
	A Selected, installed and maintained		CGP 3.13.A		X	\$500.00	=	

	B Maintenance not performed prior to next anticipated storm event		CGP 3.6.B			\$250.00	=	
	(count each failure to select, install, maintain each BMP as one violation)							
43	When sediment escapes the site, it is not removed at a frequency necessary to minimize off-site impacts		CGP 3.13.B			\$500.00	=	
44	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)		CGP 3.13.C		X	\$500.00	=	
45	Stabilization measures are not initiated as soon as practicable on portions of the site where construction activities have temporarily or permanently ceased within 14 days after such cessation		CGP 3.13.D			\$500.00	=	
	*Exceptions:							
	(a) Snow or frozen ground conditions							
	(b) Activities will be resumed within 14 days							
	(c) Arid or Semi-arid areas (<20 inches per year)							
46	Common Drainage of 10+ acres does not have a sedimentation basin for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained		CGP 3.13.E.1			\$1,000.00	=	
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries		CGP 3.13.E.2			\$1,000.00	=	
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		CGP 3.6.C			\$500.00	=	
47	Common Drainage less than 10 acres does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 46 above)		CGP 3.13.E.3			\$500.00	=	
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		CGP 3.6.C			\$500.00	=	
<b>Subtotal BMP Deficiencies</b>								<b>\$0</b>
<b>SMALL BUSINESS EVALUATION</b>								
48	Is the Owner/Operator a Small Business?	The EPA assumes that Smiley		Yes	Yes			

A *small business* is defined by EPA's Small Business Compliance Policy as: "a person, corporation, partnership, or other entity that employs 100 or fewer individuals (across all facilities and operations owned by the small business)." The number of employees should be considered as full-time equivalents on an annual basis, including contract employees (see 40 CFR 372.3). A full time employee unit is 2000 hours worked per year.

Construction is a small business.

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Total Expedited Settlement:

**\$5,500**

\* Requires Corrective Action

\*\* NPDES General Permit, 68 FR 39087, issued by EPA on July 1, 2003, <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

# Photographs for Boulder Ridge #5 and #6: Unpermitted

## Inspection Type: Stormwater

---

*Photo Number* 167

*Inspection Date* 8/16/2013

*Photographer* Seth Draper

*Description* Northeastern corner of construction site. Silt fence has been placed within the drainage of the small unnamed tributary to Hay Creek. Photo is facing north.



*Photo Number* 168

*Inspection Date* 8/16/2013

*Photographer* Seth Draper

*Description* Interior view of the construction site. Photo is facing northwest.



# Photographs for Boulder Ridge #5 and #6: Unpermitted

## Inspection Type: Stormwater

---

*Photo Number* 173  
*Inspection Date* 8/16/2013  
*Photographer* Seth Draper  
*Description* Interior view of construction site. Photo is facing south.



*Photo Number* 174  
*Inspection Date* 8/16/2013  
*Photographer* Seth Draper  
*Description* Southeast corner of the construction site is shown in photo. Photo is facing south.



# Photographs for Boulder Ridge #5 and #6: Unpermitted

## Inspection Type: Stormwater

---

*Photo Number* 169  
*Inspection Date* 8/16/2013  
*Photographer* Seth Draper  
*Description* Interior view of the construction site. Photo is facing southwest.



*Photo Number* 170  
*Inspection Date* 8/16/2013  
*Photographer* Seth Draper  
*Description* Northern portion of the construction site. Note the silt fence and existing vegetation in photo center. Photo is facing west.





# Photographs for Boulder Ridge #5 and #6: Unpermitted

## Inspection Type: Stormwater

---

**Photo Number** 171  
**Inspection Date** 8/16/2013  
**Photographer** Seth Draper  
**Description** Corner of the northwest portion of the construction site. Note the silt fence at the bottom of the soil stockpile (photo bottom). Also, silt fence is installed within the flow lines of the unnamed tributary to Hay Creek(background). Photo is facing east.



**Photo Number** 172  
**Inspection Date** 8/16/2013  
**Photographer** Seth Draper  
**Description** View of the eastern portion of the construction site. Site personnel stated that they will install silt fence along the disturbed area. Photo is facing south.



# Photographs for Boulder Ridge #5 and #6: Unpermitted

## Inspection Type: Stormwater

---

*Photo Number* 173  
*Inspection Date* 8/16/2013  
*Photographer* Seth Draper  
*Description* Interior view of construction site. Photo is facing south.



*Photo Number* 174  
*Inspection Date* 8/16/2013  
*Photographer* Seth Draper  
*Description* Southeast corner of the construction site is shown in photo. Photo is facing south.



# Photographs for Boulder Ridge #5 and #6: Unpermitted

## Inspection Type: Stormwater

---

**Photo Number** 175  
**Inspection Date** 8/16/2013  
**Photographer** Seth Draper  
**Description** Southeast corner of the construction site is shown in photo. Photo is facing southeast.



**Photo Number** 176  
**Inspection Date** 8/16/2013  
**Photographer** Seth Draper  
**Description** Northern portion of the construction site. Silt fence and existing vegetation has been employed as a stormwater BMP in photo center. Photo is facing west.



# Photographs for Boulder Ridge #5 and #6: Unpermitted

Inspection Type: Stormwater

---

*Photo Number* 177

*Inspection Date* 8/16/2013

*Photographer* Seth Draper

*Description* Western portion of the construction site. Site personnel stated that they will install silt fence along the disturbed area. Photo is facing north.





**APPLICATION (NOTICE OF INTENT) TO OBTAIN  
 COVERAGE UNDER NDPDES GENERAL PERMIT  
 FOR STORMWATER DISCHARGES ASSOCIATED  
 WITH CONSTRUCTION ACTIVITY (NDR10-0000)**  
 NORTH DAKOTA DEPARTMENT OF HEALTH  
 DIVISION OF WATER QUALITY  
 SFN 19145 (01/10)

FOR DEPT. USE ONLY

Application No.
Date Received <b>8/20/2013</b>

**GENERAL INFORMATION**

Name of Owner of Construction Project <b>Boulder Ridge Dev, Inc</b>	Contact Person Name (Mr/ Ms) <b>Jack Knutson</b>	Contact Phone No. <b>701-259-3464</b>
Mailing Address <b>4308 BOULDER RIDGE RD</b>	City <b>Bismarck</b>	State/Province Zip Code <b>NO 58503</b>
Name of Operator Working at Site (attach additional, if needed) <b>Smiley Construction</b>	Contact Person Name (Mr/ Ms) <b>Jody Jangula</b>	Contact Phone No. <b>701-321-1817</b>
Mailing Address <b>P.O. Box 135</b>	City <b>Napoleon</b>	State/Province Zip Code <b>NO 58561</b>

**PROJECT INFORMATION**

Name of Construction Project <b>Boulder Ridge 5th &amp; 6th Additions</b>			
Brief Description of Construction Activity <b>Removing Topsoil, Building of Streets, And Lots, Then replacing Topsoil &amp; seeding</b>			
Project Start Date <b>7/3/2013</b>	Estimated Completion Date <b>10/1/2013</b>	Estimated Total Area of Site (acres) <b>59</b>	Estimated Area of Disturbance (acres) <b>59</b>
Project Location	Street Address		City
	OR	Township <b>139</b>	Range <b>80</b>
		Section <b>16</b>	NW 1/4 1/4 1/4 <b>Burleigh</b>
	Latitude		Longitude
Receiving Waters	Name of Municipal Storm Sewer System, Including Receiving Water <b>CITY OF Bismarck</b>		
	OR	Name or Description of Receiving Water <b>Tributary of Hay Creek</b>	

**Stormwater Pollution Prevention Plan (SWPPP) Requirements**

Has a SWPPP been developed in accordance with Part II.C of NDR10-0000? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	STOP: A SWPPP must be prepared and available for review at the time of application. See Part I.D.2 of NDR10-0000 for submittal information.
SWPPP Contact (NDR10-0000, Part II.C.2.a) <b>MARK Klein 309-706-2745</b>	SWPPP Contact Phone No. <b>WORK TRUCK</b>
SWPPP Location (NDR10-0000, Part III.B) <b>WORK TRUCK</b>	

**Signature Information**

<b>RETURN COMPLETED APPLICATION TO:</b>  North Dakota Department of Health Division of Water Quality, 4 <sup>th</sup> Floor 918 East Divide Avenue Bismarck, ND 58501-1947  Telephone: (701) 328-5210 Fax: (701) 328-5200	I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.	
	Printed Name of Owner(s) <b>JACK KNUTSON</b>	Title <b>SECRETARY</b>
	Signature of Owner(s) <i>Jack Knutson</i>	Date <b>8/19/13</b>
	Printed Name of Operator(s) <b>Jody Jangula</b>	Title <b>president</b>
Signature of Operator(s) <i>Jody Jangula</i>	Date <b>8/16/2013</b>	

(Attach additional pages if needed)



September 17, 2013

North Dakota Pollutant Discharge Elimination System (NDPDES)  
General Permit for Stormwater Discharges from Construction Activity  
NOTICE OF COVERAGE

Permittee(s)

Owner Contact: Jack Knutson  
Boulder Ridge Development Inc  
1291 Eagle Crest Loop  
Bismarck, ND 58503

Operator Contact: Jody Jangula  
Smiley Construction  
PO Box 135  
Napoleon, ND 58561

Coverage under the 2009 reissued construction general permit (NDR10-0000) is identified as follows:

Permit ID: **NDR105661**      Site Name: **Boulder Ridge 5th & 6th Additions**

Please remember to update the Stormwater Pollution Prevention (SWPP) plan as appropriate for site conditions. The best management practices (BMPs) and temporary structures must be inspected, maintained and adjusted until the site is stabilized following construction activities. Once the site is stabilized as outlined in the general permit, you may end permit coverage by filing a termination notice. Cities or counties may impose additional requirements and/or specific BMPs for construction affecting their storm drainage system. Please check with the local officials to be sure all local stormwater management considerations are addressed.

Additional Information

The permit conditions, forms and related information may be found on our web site at:

[www.ndhealth.gov/wq/Storm/Construction/ConstructionHome.htm](http://www.ndhealth.gov/wq/Storm/Construction/ConstructionHome.htm)

Should you have any questions on the permit, please contact a stormwater staff person listed below.

Lucille Snowden  
Division of Water Quality  
701.328.5239  
[lsnowden@nd.gov](mailto:lsnowden@nd.gov)



**STORMWATER POLLUTION PREVENTION PLAN TEMPLATE**  
NORTH DAKOTA DEPARTMENT OF HEALTH  
DIVISION OF WATER QUALITY  
SFN 19388 (12/2010)

## Stormwater Pollution Prevention Plan

For:

Project Name: Boulder Ridge 5<sup>th</sup> & 6<sup>th</sup> Additions  
Site Location/Address: Township: 139 Range 80: Section 16: NW 1/4  
  
City: Bismarck North Dakota  
County: Burleigh  
Site Telephone Number: N/A  
(if applicable)

Owner(s):

Company or Organization: Knutson Homes Inc  
Contact Name: Jack Knutson  
Mailing Address: 4310 Boulder Ridge Rd  
City, State, Zip Code: Bismarck ND 58503  
Telephone Number: 701-258-3464  
Fax: N/A  
E-mail: N/A

SWPPP Preparation Date:

08/20/2013

NDPDES Permit Coverage Number:

NDR10-0000



Foreword:

All construction projects covered by the North Dakota Pollutant Discharge Elimination System General Permit associated with stormwater discharges from construction activity, NDR10-0000, shall prepare and implement a stormwater pollution prevention (SWPP) plan as part of the permit requirements. The SWPP plan and revisions are subject to review by the North Dakota Department of Health. The objectives of the plan are to identify potential sources of stormwater pollution from construction activity and to ensure practices are implemented to minimize the contribution of pollutants to stormwater runoff. Stormwater management measures developed under other regulatory programs (e.g., Spill Prevention, Control and Countermeasure requirements) can be included in the SWPP plan or incorporated by reference.

The SWPP plan may identify more than one permittee and may specify the responsibilities of each permittee by task, area, and/or timing. Permittees may coordinate and prepare more than one SWPP plan to accomplish this. However, in the event there is a requirement under the SWPP plan for which responsibility is ambiguous or is not included in the SWPP plan, each permittee shall be responsible for implementation of that requirement. Each permittee is also responsible for ensuring that its activities do not render another permittee's controls ineffective.

The SWPP plan is an enforceable document; the purpose of the plan is not for regulators to review but for owners and operators to implement.

The SWPP plan shall include the following information:

1. Site description
2. Operational controls
3. Erosion and sediment controls
4. Stormwater management
5. Maintenance
6. Inspections
7. Records location and retention
8. Plan review and revisions
9. Final stabilization
10. Construction stormwater general permit, NDR10-0000
11. Copy of the notice of intent
12. Coverage letter from the North Dakota Department of Health
13. Guidelines, specifications or manuals for selected best management practices

1. **Site Description.** The plan must include a description of the construction site and potential pollutant sources.

a. Project location. Please complete one of the selections.

Street Address: n/a City: Bismark  
 Subdivision (if known): Boulder Ridge

Township: 139 Range: 80  
 Section: 16 --- nw  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$ ; or ABCD: \_\_\_\_\_

Latitude: n/a Longitude: n/a

General Location: located on the NE corner of the intersection of 43<sup>rd</sup> st, and Washington st

b. Describe the overall project and type of construction activity. Attach additional pages if needed and label 1-b.

Road building and grading for residential subdivision  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

c. Estimated total area of the project and total area expected to be disturbed by excavation, grading, grubbing or other activities. Include the estimated total area of offsite support activities that will be covered by the construction general permit. This includes concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas not already covered by another stormwater permit.

Total area of project: 59 acres

Total area expected to be disturbed: 59 acres

d. Provide a proposed timetable of soil disturbing activities for major portions of the site (for example; excavation, grading, grubbing, building, temporary stabilization, final stabilization). A construction schedule may be used if available. Attach additional pages if needed and label 1-d.

Phase	Timetable
<u>Grubbing</u>	<u>07/3/2013 to 9/01/2013</u>
<u>Excavation</u>	<u>07/08/2013 to 10/01/2013</u>
<u>Grading</u>	<u>08/03/2013 to 10/01/2013</u>
_____	_____
_____	_____
_____	_____

e. Describe the soil within the disturbed area(s). Attach additional pages if need and label 1-e. (Soil survey information may be found at [websoilsurvey.nrcs.usda.gov/app/](http://websoilsurvey.nrcs.usda.gov/app/).)

topsoil and a sandy loam clayl  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- f. Provide the drainage path runoff takes as it leaves the site. Include the municipal, county or state-operated storm sewer or drainage ditch, as well as the first named waterbody or wetland (if known) to which the site drains. Attach additional pages if need and label 1-f.

Also include whether or not the waterbody is listed in the most recent *North Dakota Integrated Section 305(b) Water Quality Assessment Report and Section 303(d) List of Water Needing Total Maximum Daily Loads* or if a total maximum daily load (TMDL) has been developed for the waterbody.

The Integrated Report and a list of waterbodies with a TMDL may be found at:  
[www.ndhealth.gov/WQ/SW/Z2\\_TMDL/default.htm](http://www.ndhealth.gov/WQ/SW/Z2_TMDL/default.htm).

- If the waterbody is listed in the Integrated Report in the Section 303(d) List as impaired due to sedimentation/siltation, then distance to the waterbody must be included.
- If a TMDL allocation has been developed for the waterbody or overall watershed, then a list of the particular pollutants must be included and the SWPP Plan must be developed to satisfy Part I.B.5 of NDR10-0000. The pollutants of concern often are referenced in the title of the TMDL document.

For example: The site drains to the Bismarck storm sewer and discharges into a tributary of Hay Creek. Hay Creek is listed as impaired for sediment and is 1,000 feet from the site.

The site drains into a tributary of Hay Creek. Hay Creek is listed as impaired for sediment and is 1000 ft from site

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- g. Provide a site map showing the following items. Please note: Items 1 through 10 all must be shown on the site map. Label as 1-g.
  - 1) Drainage patterns, including flow direction, dividing lines, existing grade and final grade
  - 2) Construction site boundaries
  - 3) Areas of soil disturbance
  - 4) Location of major structural controls identified in this plan
  - 5) Location of major nonstructural controls identified in this plan
  - 6) Location of areas that will be stabilized
  - 7) Surface waters, including an aerial extent of wetland acreage
  - 8) Locations where stormwater is discharged to surface waters
  - 9) Locations where stormwater enters municipal storm sewer systems
  - 10) If part of the project, additional site maps of:
    - Off-site concrete/asphalt batch plants
    - Equipment staging areas
    - Borrow sites
    - Offsite material disposal sites

**2. Operational Controls.** The plan must describe the best management practices (BMPs) used in day-to-day operations on the project site that reduce the contribution of pollutants in stormwater runoff.

- a. **SWPP plan contact.** The SWPP plan contact must be an individual who is knowledgeable and experienced in the application of erosion and sediment control BMPs who will oversee the implementation of the SWPP plan and the installation, inspection and maintenance of the erosion and sediment control BMPs before and during construction. The contact may be identified by name or title.

SWPPP contact: Mark Klein Phone: 309-706-2745

Title: superintendant

- b. **Chain of responsibility.** A chain of responsibility must be developed by the owner with all operators on site to ensure the SWPP plan will be implemented and remains in effect until (1) the project is complete, (2) final stabilization has been achieved, and (3) a notice of termination (NOT) has been submitted to the department.

Smiley construction is responsible till, final stabillization is achieved, and a notice of termination has ben submitted to the department

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- c. **Good housekeeping.** Describe good housekeeping practices used to maintain a clean and orderly project.

Properly handle construction debris and waste materials. The appropriate containers for debris and waste material must be provided until disposal. Litter and debris must be picked up regularly to reduce the chance of being carried away by wind or water. Collected material must be taken to the appropriate facility for disposal or recycling.

Liquid or soluble material (i.e., oil, fuel, paint and hazardous substances) must be stored properly to prevent spills, leaks or discharges off-site. Restricted access to storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste must be in compliance with applicable regulations.

- 1) Describe how the following items will be properly handled to minimize exposure to stormwater and not be carried offsite by wind or water. Attach additional pages if needed and label 2-c-1.
  - Litter
  - Debris
  - Chemicals
  - Parts

litter and debris are captured in approved bags and hauled off site. chemicals are stored in plastic containers in a secured location.. parts are stored in secure location.

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- 2) Describe how off-site accumulations of tracked sediment caused by vehicles and equipment leaving the project will be reduced and cleaned up. Attach additional pages if needed and label 2-c-2.

Note: The general permit NDR10-0000 requires you to removed accumulated sediment tracked onto off-site paved surfaces within 24 hours or within a shorter time period specified by local authorities or the department. Be sure to check with local authorities, most specify either the end of the day or within 24 hours. You also should consider whether public safety will be an issue.

Basalt st, leaving the site will be swept with hyd broom if any debris is present.

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- 3) Describe how dust generation will be reduced and how off-site accumulations will be cleaned up. Attach additional pages if needed and label 2-c-3.

Use of a 4000 gallon water truck

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- d. **Preventative maintenance.** Describe what preventative maintenance practices are used, including routine inspections and maintenance, to ensure the proper operation of the following. Attach additional pages if needed and label 2-d.

- Stormwater management devices (for example: oil-water separators, catch basins, fiber rolls, etc.)

routine visual inspections, silt fence, straw wattles, earth buffers, vegetation buffers, catch basins.

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- **(Preventative maintenance-continued)** Equipment used on-site, such as a pre-startup inspection

a side by side to drive site to do a prestart inspection

- e. **Spill prevention and response procedures.** Describe spill prevention and response procedures used in areas where spills could occur. Bulk storage of petroleum products and other chemicals must have adequate leak and spill protection to prevent spilled material from entering waters of the state or storm sewer systems or from draining onto adjacent property.

Include, where appropriate:

- Specific handling procedures.
- Storage requirements.
- Spill containment procedures.
- Spill cleanup procedures.

*Reportable spills* are those that:

- Threaten or are in a position to threaten waters of the state, such as surface or ground water.
- Cause immediate danger to human health or safety.
- Cause harm or threaten to harm wildlife or aquatic life.
- Are releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

Note: CFR stands for *Code of Federal Regulations*, and CERCLA stands for *Comprehensive Environmental Response, Compensation, and Liability Act*.

### Spill Reporting

Report any spill that may seriously endanger health or the environment as soon as possible, but no later than 24 hours from the time you became aware of the spill. The report must be made to EPA-Region 8, Emergency Response Branch, at 800.424.8802 and the state of North Dakota, Division of Homeland Security, at 800.472.2121.

Some releases may require immediate response by trained emergency personnel. This may be coordinated through the Department of Health, Department of Emergency Services and any other state or local emergency response agencies that may be needed. **If there is any question as to proper response, call the Department of Health at 701.328.5210 or the North Dakota hazardous materials emergency assistance and spill reporting number (800.472.2121) and provide all relevant information about the incident.**

North Dakota Department of Health:

Division of Water Quality	701.328.5210
Division of Waste Management	701.328.5166
Division of Air Quality	701.328.5188
Division of Municipal Facilities	701.328.5211

North Dakota hazardous materials emergency assistance and spill reporting:  
800.472.2121 (24-hour hotline)

Nonemergency releases may be reported by filling out the online [Environmental Incident Report Form](http://www.ndhealth.gov/WQ/GW/spills.htm) at [www.ndhealth.gov/WQ/GW/spills.htm](http://www.ndhealth.gov/WQ/GW/spills.htm).

Stormwater Pollution Prevention Plan (SWPPP)

Material/Chemical	Quantity	Handling Procedures	Storage Requirements	Spill Containment Procedures	Spill Clean-up Procedures
Deisel fuel	7000 gallons	tanker truck	tanker truck	earth berm	

Attach additional pages if needed

- f. **Employee training.** Describe how personnel are informed about their responsibility in implementing the practices and controls in the plan. Employee training can include spill response procedures, good housekeeping practices, and erosion and sediment control practices. Note: Employee training must be provided at least annually, as new employees are hired or as necessary to ensure compliance with the plan and the general permit, NDR10-0000. Attach additional pages if needed and label 2-f.

Employee training, job site walk around once every 14 days or after substantial rain fall. To address any problems that may of occurred

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- g. **Concrete wash water, grindings and slurry.** Concrete wash water may not be discharged to any water of the state or any storm sewer system or allowed to drain onto adjacent properties. Disposal must be limited to a defined area or an area designated for cement washout. The area must be sufficient to contain the wash water and residual cement.

Please note that as the project progresses, the wash out area will probably move. Be sure to keep the current position of the wash out area up-to-date on the site map.

Describe what practices will be used to prevent concrete wash water, grindings and slurry from entering waters of the state and storm sewer systems, or draining onto adjacent property. Attach additional pages if needed and label 2-g.

N/A

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- h. **Dewatering and basin draining operations.** These operations must not adversely affect receiving waters or downstream landowners. The operation should be inspected daily and a record should be maintained. The following conditions apply to dewatering activities covered by the construction general permit:

- Dewatering is limited to stormwater and groundwater that may collect on site, and the following allowable non-stormwater sources: fire-fighting, fire hydrant flushing, potable water line flushing, infrequent building and equipment wash down without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.

Note: You are allowed to discharge the non-stormwater discharges sources only if you describe what measures will be used to minimize their impact to water quality.

A temporary dewatering permit, NDG07-0000, is required for other sources such as hydrostatic testing, contaminated groundwater or surface water. Information about the temporary dewatering permit may be found at: [www.ndhealth.gov/WQ/Dewatering/DewateringHome.htm](http://www.ndhealth.gov/WQ/Dewatering/DewateringHome.htm). Discharging wastewater from processing operations or sanitary facilities is not authorized by the construction general permit, NDR10-0000.

- The operation must not lead to sediment deposits within storm sewers, ditches and surface waters. The operation must not cause or potentially cause a visible plume in a surface water.

Describe how dewatering operation will be operated to minimize the release of sediment and amount of erosion caused by the discharge.

N/A

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3. **Erosion and Sediment Controls.** An erosion and sediment control plan must be developed for the project. The plan must identify the appropriate control measures and when they will be implemented during each major phase of the project (e.g., clearing, grading, and building phases).

The basic requirements of an erosion and sediment control plan are:

- a. Sediment basins – or an appropriate combination of equivalent sediment controls such as smaller sediment basins, and/or sediment traps, silt fences, fiber logs, vegetative buffer strips, berms, etc. – are required for all down-slope boundaries of the disturbance area and for those side-slope boundaries as may be appropriate for site conditions.
- b. Temporary erosion protection (such as cover crop planting or mulching) or permanent cover must be provided where activities have been completed or temporarily ceased. For areas with a continuous positive slope within 200 lineal feet of a surface water, this must be accomplished within 21 days. These areas include graded slopes, pond embankments, ditches, berms and soil stockpiles.

A general rule of thumb is that seed germination will occur when the soil temperature is above 50°F. Soil temperature information may be found at [ndawn.ndsu.nodak.edu](http://ndawn.ndsu.nodak.edu).

- c. All control measures must be properly selected, installed and maintained in accordance with the manufacturer’s specifications and good engineering practices. Include with this plan a copy of the use or installation directions for measures that are used during the project. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, it must be replaced or modified for the situation. You may deviate from the manufacturer’s specifications and erosion and sediment control guidelines below if you provide justification for the deviation and document the rationale for the deviation in your SWPP plan.
- d. If sediment escapes from the site, off-site accumulations of sediment must be removed in a manner and at a frequency sufficient to minimize off-site impacts. The plan must be modified to prevent further sediment deposition off-site.
- e. Stormwater controls are expected to withstand and function properly up to a two-year, 24-hour precipitation event. Visible erosion and/or off-site sediment deposits should be minimal. A two-year, 24 hour rain event in North Dakota ranges from 1.9 inches in the west to 2.3 inches in the east.
- f. If the project discharges to a waterbody that has a TMDL allocation for sediment, suspended solids or turbidity, this plan must be consistent with the requirements of the TMDL. If the TMDL requires certain practices be used to meet the waste load allocation (WLA), then the practices must be included in this plan.

The erosion and sediment control plan must conform to the guidelines outlined in Appendix 1 of NDR10-0000 for designing, implementing and maintaining effective erosion and sediment controls. The following questions break down the requirements of Appendix 1.

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>1. Where practical, temporary or permanent sediment basins must be provided when 10 or more acres of disturbed area drains to a common location. The basins must be provided prior to runoff leaving the site or entering surface waters. The use of sediment basins is encouraged, but not required, in areas with steep slopes or highly erodible soils even if less than 10 acres drains to one area.</p> <p>Is the use of sediment basins practical for the project? If no, skip to question #10. Things to consider include public safety, soil type, slope and available area.</p>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>2. Where appropriate, are temporary sediment basins installed in areas with steep slopes or highly erodible soils?</p>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>3. Are all basins sized or designed to meet one of the following guidelines?</p> <ul style="list-style-type: none"> <li>• Basins must be sized to provide 3,600 cubic feet of storage for every acre of disturbed area draining to the basin; or</li> <li>• Basins must be designed to provide storage for a two-year, 24-hour storm event plus more than 1,800 cubic feet of storage from each disturbed acre that drains to the basin.</li> </ul>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>4. Are basin outlets designed to avoid short-circuiting? Short-circuiting usually occurs when the outlet is near the inlet. This causes water to exit the basin immediately upon entering and little treatment is achieved.</p>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>5. Are basin outlets designed to avoid the discharge of floating debris?</p>
<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>6. Are the basins designed to allow complete drawdown for maintenance activities? Examples of drawdown devices include perforated riser pipes, pumps, skimmers or other means.</p>



<input type="checkbox"/> Yes <input type="checkbox"/> No	7. Is the drawdown designed to release the storage volume in a 24-hour or longer period?
<input type="checkbox"/> Yes <input type="checkbox"/> No	8. Does the basin have a stabilized emergency overflow to prevent failure of pond integrity?
<input type="checkbox"/> Yes <input type="checkbox"/> No	9. Does the basin outlet have an energy dissipater?
<input type="checkbox"/> Yes <input type="checkbox"/> No	10. If temporary sediment basins are not practical in areas where 10 or more acres of disturbed area drains to a common location, then a combination of erosion and/or sediment controls with equivalent storage must be used for all down-slope construction boundaries and side-slope boundaries as appropriate. Examples of additional controls include smaller sediment basins, sediment traps, silt fences, vegetative buffer strips, etc.  Have erosion and sediment controls been provided that have the same sediment-control capabilities as the sediment basins they replaced?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	11. Has temporary erosion protection been provided for exposed soil areas where activities have been completed or will temporarily cease?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	12. Has permanent cover been provided for exposed soil areas where activities have been completed or will temporarily cease?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	13. For areas with a continuous positive slope within 200 lineal feet of a surface water, does the plan address how temporary erosion protection or permanent cover will be applied within 21 days of completing or ceasing earthmoving activities in these areas (pond embankments, ditches, berms, soil stockpiles)?  Temporary stockpiles without significant silt, clay or organic components, such as clean aggregate stockpiles, demolition concrete stockpiles, and sand stockpiles, are exempt.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	14. Do temporary soil stockpiles have effective sediment controls?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan address how temporary soil stockpiles will not be placed in surface waters, stormwater conveyance systems, curb and gutter systems, conduits or ditches?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	15. Are there any temporary or permanent drainage ditches that drain water from the construction site or divert water around the site?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the plan address how the normal wetted perimeter of these ditches will be stabilized within 200 lineal feet of the property edge or point of discharge to a surface water?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Does the plan address how the normal wetted perimeter will be stabilized within 24 hours of connecting to a surface water?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	16. Does the plan address how pipe outlets will be provided with temporary or permanent energy dissipation within 24 hours of connecting to a surface water?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	17. Where applicable, are splash pads and/or downspout extensions provided for roof drains to prevent erosion?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	18. For slopes with a grade of 3:1 or steeper, is the slope length broken up every 75 feet?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	19. Do temporary or permanent drainage ditches and sediment basins that are part of a treatment system have appropriate sediment controls?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	20. Are all storm drain inlets within the project limits and in the immediate vicinity of the site protected? This includes inlets affected by sediment tracked from the site.

	<p>Note: Inlet protection is a last line of defense. Additional sediment and erosion control practices must be used on-site. Inlet protection must conform to local ordinances or regulations. Maintenance and cleaning of inlet protection must be performed in a timely manner.</p> <p>Inlet protection may be removed for a particular inlet if a specific concern, such as street flooding/freezing or snow removal, has been identified and documented in the SWPP plan. In these situations, additional erosion and sediment control practices must be used in place of the lost inlet protection.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	21. Do inlet protection devices provide adequate drainage to prevent excessive flooding?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>22. Do vegetative buffers have a minimum width of 25 feet for every 125 feet of disturbed area that drains to the buffer? For each additional 5 feet of disturbance, an additional 1 foot of buffer must be added.</p> <p>The buffer should have a slope of 5 percent or less, and the area draining to the buffer should have a slope of 6 percent or less.</p> <p>Note: In some instances, a minimum width of 25 feet may not be necessary based on past experience with buffers. In those cases, a short explanation about what your experience has shown should be included in this plan.</p>
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	23. Are concentrated flows being minimized throughout the vegetative buffer?
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	24. Do vegetative buffers consist of dense, grassy vegetation? Dense, grassy vegetation is 3 to 12 inches tall with uniform coverage over 90 percent of the buffer. No more than 10 percent of the buffer may consist of woody vegetation.

**4. Stormwater Management.** The plan must identify what permanent practices will be used to control pollutants in stormwater discharges once construction is complete. This refers to post-construction controls like permanent infiltration devices or low-impact development practices. This does not refer to devices used to stabilize the site as a result of construction activity, such as silt fence or erosion control blanket, so this section may not apply to all projects.

Maintenance of on-site stormwater management features is your responsibility until a notice of termination has been submitted or the feature is accepted by the party responsible for long-term maintenance (e.g., a municipality accepts a stormwater pond built during the project). In the site map identify:

- a. Stormwater ponds; flow reduction practices that use open vegetated swales and natural depressions; infiltration of on-site runoff; and sequential systems that combine several practices.
- b. Velocity / energy dissipation devices placed at discharge locations (e.g., riprap) and appropriate erosion protection for outfall channels and ditches (e.g., hard armor or soft armor practices).

**5. Maintenance.** All erosion and sediment control (ESC) measures and other protective measures identified in the plan must be maintained in effective operating condition. The plan must indicate the appropriate maintenance or cleanout interval for selected erosion and sediment controls. Attach additional pages if needed and label 5.

If site inspections identify BMPs that are not operating effectively, maintenance must be arranged and accomplished as soon as practicable.

When describing the maintenance and cleanout frequency of selected measures, try not to use vague terms like "as needed." Instead describe what is meant by "as needed," such as when one-third full or at the end of each work day.

ESC Measure	Maintenance Frequency	Cleanout Frequency
SILT FENCE	daily	after substantial rain fall
STRAW WADDLES	when needed	after substantial rain fall
EARTH BARRIERS	daily	n/a
VEGETATION BARRIERS	when needed	n/a

**Maintenance Considerations:**

- a. All erosion prevention and sediment control practices must be inspected to ensure integrity and effectiveness. All nonfunctional practices must be repaired, replaced or supplemented with functional practices.
- b. At a minimum, you must investigate and comply with the following maintenance requirements:
  - All control devices that function similarly to silt fence or fiber rolls must be repaired, replaced or supplemented with effective controls when they become nonfunctional or the sediment reaches one-third the height of the device. These repairs must be made within 24 hours of discovery or as soon as field conditions allow access.
  - Sediment that has collected within temporary or permanent sedimentation basins must be removed when one-half of the sediment storage volume has been reached. Drainage and removal must be completed within 72 hours of discovery or as soon as field conditions allow access.
- c. All sediment deltas and deposits must be removed from surface waters, drainage ways, catch basins and other drainage systems. All areas where sediment removal resulted in exposed soil must be restabilized. The removal and stabilization must take place immediately, but no more than seven (7) days after the discovery unless precluded by legal, regulatory or physical access constraints. All reasonable efforts must be used to obtain access. Once access is obtained, removal and stabilization must take place immediately, but no more than seven (7) days later. You are responsible for contacting all of the appropriate authorities and receiving the applicable permits prior to conducting any work.
- d. Accumulations of tracked and deposited sediment must be removed from off-site paved surfaces within 24 hours or sooner if required. Sediment tracking must be minimized by the appropriate management practice, like a dedicated site exit with an aggregate surface or designated off-site parking area. You are responsible for street sweeping and/or scraping if your practices are not adequate to prevent sediment from being tracked from the site.
- e. Off-site accumulations of sediment must be removed in the manner and frequency sufficient to minimize off-site impacts; for example, fugitive sediment in the street could be washed into the storm sewer by the next rain event and/or pose a safety hazard to users of public streets.
- f. If a vegetative buffer is silt covered, contains rills, or is otherwise rendered ineffective, other control measures must be implemented. Any eroded areas have to be repaired and stabilized.

**6. Inspections.** Site inspections must be conducted to monitor the condition of stormwater discharge outlets and the effectiveness of erosion and sediment controls and other best management practices. Personnel conducting inspections must be familiar with the permit conditions and the proper installation and operation of erosion and sediment control measures. At a minimum, inspections must be performed and recorded once every 14 calendar days and within 24 hours of a 0.50-inch or more rain event. You may use a rain gauge or the nearest National Weather Service precipitation gauge station; each must be within 5 miles of the project. Inspection frequency may be reduced based on site conditions. Refer to part III.A of the construction general permit for more information.

All erosion and sediment control measures **identified in the plan** must be inspected to ensure they are operating correctly and in serviceable condition.

Surface waters, drainage ditches and conveyance systems must be inspected for sediment deposits.

Exit points from the construction site (onto paved surfaces) must be inspected for sediment being tracked by vehicles or equipment.

Vegetative buffers must be inspected for the proper distribution of flows, sediment accumulation and signs of rill formation.

Erosion and sediment controls found in need of maintenance between inspections need to be repaired or supplemented with appropriate measures as soon as possible.

Discharge outlets from material storage areas, vehicle maintenance areas and permanent stormwater control measures must be inspected. Look for evidence of, or the potential for, pollutants entering a drainage system. The plan must be revised if any deficiencies are noted.

## Stormwater Pollution Prevention Plan (SWPPP)

- a. Some erosion and sediment control measures may require more frequent inspections based on location or as a result of a recurring maintenance issue. The measure, location and inspection frequency should be outlined below:

ESC Measure	Location	Inspection Frequency
silt fence	north side Flint street	daily
silt fence	north side Mica street	daily

- b. Location of rain gauge being used: N/W corner off the end of Basalt street
- c. In some instances, more than one inspector may be responsible for reviewing different areas of the site, or there may be different inspectors involved with different phases.

Inspector(s)	Area of Inspection	Construction Phase of Inspection	Start Date	End Date
NO	N/A	N/A	N/A	N/A

- e. All inspections and maintenance activity must be recorded in writing. Records of each inspection and maintenance activity shall include:
- 1) The date and time of the inspection.
  - 2) The name of the person(s) conducting the inspection.
  - 3) The findings of the inspection, including recommendations for corrective actions.
  - 4) Any corrective actions taken (including dates, times and party completing the maintenance activity).
  - 5) The date and amount of all rainfall events greater than 0.05 inches in 24 hours.
  - 6) Documentation that the SWPP plan was amended when substantial changes were made to erosion and sediment controls or other best management practices.

### 7. Records Location and Retention.

- a. The following documents must be kept in a field office, trailer, shed or vehicle that is on-site during normal working hours:
- 1) A completed and signed copy of the notice of intent
  - 2) The permit coverage letter from the North Dakota Department of Health
  - 3) The stormwater pollution prevention plan
  - 4) Site inspection records
  - 5) A copy of the North Dakota Pollutant Discharge Elimination System General Permit associated with stormwater discharges from construction activity, NDR10-0000
- b. If a reasonable on-site location is not available, then the documents may be retained at a readily available alternative location, preferably with the SWPP plan contact. If the site is inactive, then the documents may be stored at a local office.
- c. All records and information must be kept for at least three years or longer if requested by the North Dakota Department of Health or United States Environmental Protection Agency.

### 8. Plan Review and Revisions.

- a. The plan must be signed in accordance with Part IV-E of NDR10-0000.
- b. The plan must be made available, upon request, to the North Dakota Department of Health, United States Environmental Protection Agency, or operator of the local municipal separate storm sewer system.
- c. The plan must be amended whenever there is a change in design, construction, operation or maintenance that could have a significant effect on the potential for the discharge of pollutants to the waters of the state. It also must be amended if it is found to be ineffective in controlling pollutants present in stormwater.

**SWPPP Revision Documentation**

<u>Item Revised</u>	<u>Revision Made</u>	<u>Date</u>	<u>Initials</u>
N/A	N/A		

**9. Final Stabilization.**

Final stabilization means that:

- a. All soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of 70 percent of the native cover for unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions or geotextiles) has been achieved.
- b. For areas with an average annual rainfall of less than 20 inches only, all soil-disturbing activities at the site have been completed and temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed and installed, along with an appropriate seed base to provide erosion control for at least three years and achieve 70 percent vegetative coverage within three years without active maintenance.
- c. For soil-disturbing activities on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its pre-disturbance agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to waters of the state, and areas that are not being returned to their pre-disturbance agricultural use must meet the final stabilization criteria in (a) or (b) above.

Final stabilization has been achieved when one of the criteria above has been met and:

- a. All drainage ditches constructed to drain water from the site following construction have been stabilized to preclude erosion.
- b. All temporary, synthetic and structural erosion and sediment controls have been removed.
- c. Sediment has been removed from all stormwater conveyances and basins used for permanent water quality management. Removed sediment must be stabilized to prevent subsequent erosion in the future.

Final stabilization also can be achieved when a new permittee has assumed control of the site.

In the case of residential construction, final stabilization is achieved when erosion protection and down-gradient perimeter controls for individual lots have been installed and the residence has been transferred to the homeowner. In addition, a "homeowner fact sheet" must be given to the homeowner to inform them of the need for, and benefit of, stabilizing their property. You also must demonstrate that the homeowner received the fact sheet.

Stormwater Pollution Prevention Plan (SWPPP)

The individual(s) described below is(are) responsible for the following portion(s) of the Stormwater Pollution Prevention Plan:

<u>Mark Klein</u> Name	<u>Smiley Construction</u> Company	<u>superintendent</u> Title
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same as above  
SWPP Plan Responsibility

_____ Name	_____ Company	_____ Title
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\_\_\_\_\_  
SWPP Plan Responsibility

_____ Name	_____ Company	_____ Title
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\_\_\_\_\_  
SWPP Plan Responsibility

_____ Name	_____ Company	_____ Title
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\_\_\_\_\_  
SWPP Plan Responsibility

_____ Name	_____ Company	_____ Title
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\_\_\_\_\_  
SWPP Plan Responsibility

Attach additional pages if needed.

# CERTIFICATION

## Certification Instructions:

The stormwater pollution prevention plan (SWPPP) must be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.

The SWPPP may be signed by a duly authorized representative of the individual described above if:

- The authorization is made in writing by the person described above and submitted to the North Dakota Department of Health; and
- The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the plant manager, the superintendent, a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If the authorization is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the Department of Health prior to or together with any reports, information or applications signed by the authorized representative.

## Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name Mark Klein Title superintendant

Signature \_\_\_\_\_ Date \_\_\_\_\_



**Michael Copeland, P.E.**  
CDR USPHS  
Water Security Coordinator  
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*"You can always count on Americans to do the right thing - after they've tried everything else."*

*-Winston Churchill*

*"At Chrysler, there is no substitute for quality." <they've tried everything else>*

*-Click and Clack*

