



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 8
1595 Wynkoop Street
Denver, Colorado 80202

2013 JUL 29 PM 12:07

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-08-2013-0018, NPDES No. NDR105200

FILED
EPA REGION VIII
HEARING CLERK

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

of America, via certified mail, to:

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

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

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. section 1342.

Docket No: CWA-08-2013-0018

The EPA finds, and Respondent admits, that respondent is subject to section 301(a) of the Act, 33 U.S.C. section 1311, and that the 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.

Respondent agrees and consents that if Respondent fails to pay the penalty amounts required by this Agreement and Final Order, or fails to make corrective measure to obtain compliance, this Agreement and Final Order is null and void, and the EPA may pursue any applicable enforcement options.

The EPA is authorized to enter into this Expedited Settlement Agreement (Agreement) and Final Order under the authority vested in the Administrator of the EPA by section 309(g)(2)(A) of the Act, 33 U.S.C. section 1319(g)(2)(A), and by 40 C.F.R. section 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 \$5,550.00.

This Agreement is binding on the parties signing below and effective when the Agreement and Final Order is issued by the Administrative Law Judge after the public notice period has elapsed.

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. section 1319(g)(2); and (3) appeal pursuant to section 309(g)(8), 33 U.S.C. section 1319(g)(8).

APPROVED BY THE EPA:

[Signature of Gwenette C. Campbell]

Date: 06/27/13

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

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.

[Signature of James Eppers]

Date: 6/27/13

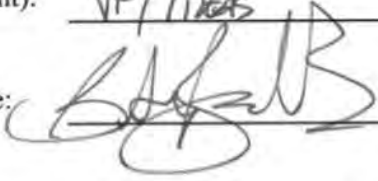
James Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
And Environmental Justice

Respondent certifies that, within ten (10) days of receiving notice from the EPA that the Agreement and Final Order is effective, 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

APPROVED BY RESPONDENT:

Name (print): BRANGY A. BALLWEBER

Title (print): VP/Treas

Signature:  Date: 7/2/13

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

_____ Date _____
Elyana R. Sutin
Regional Judicial Officer

EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

INSTRUCTIONS

The United States Environmental Protection Agency (the EPA) has authority under Section 309 of the Clean Water Act to pursue civil penalties for violations of the storm water regulations. The 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 the 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 the 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 the 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. The 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 the 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 the EPA's ability to file an enforcement action for the violations alleged herein or any other violations. The 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, the EPA will sign and file the Agreement with the Regional Judicial Officer. The EPA will also public notice the proposed Agreement, giving the public 40 days to submit comments. Barring any adverse comments during that time frame, the EPA will request that the Regional Judicial Officer sign the final order.

**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	Bradley A. Ballweber PO Box 1254 3320 E. Century Ave. Bismarck, ND 58502-1254	701-223-6695	NDR105200	
		Inspector Name:	Seth Draper	
		Inspector Agency:	US EPA	
		Entrance Interview Conducted:	Yes	
		Exit Interview Conducted:	Yes	
		Exit Interview given to:	Bradley A. Ballweber	
		Exit Interview time:	11:45	Date: 06/06/2013
LOCATION AND ADDRESS OF SITE				
2	Shiloh Christian School 1915 Shiloh Dr. Bismarck, ND 58503			

FACILITY DESCRIPTION / CONTACT NAMES				
Name of Site Contact (ESO Worksheet recipient):		Bradley A. Ballweber, Vice President - Treasurer - Regional Manager, Northern Improvement Co.		
Name of Authorized Official (40 CFR 122.22):		Bradley A. Ballweber, Vice President - Treasurer - Regional Manager, Northern Improvement Co.		
Inspection Date:		06/06/2013		
Start Construction Date:		10/17/2012		
Estimated Completion Construction Date:		07/15/2013		
If Unpermitted, Number of Months Unpermitted:		0		
Name of Receiving Water Body (Indicate whether 303(d) listed):		Hay Creek		
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan:		13.38		13.38
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?		No		

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3	Operator unpermitted for one month (# months unpermitted equals number of violations). Discharge without a permit.	CWA 301			\$500.00 =	

SWPPP REVIEW						
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)	ND CGP I.C.1			\$5,000.00 =	
5	SWPPP prepared but prepared after construction start (# of months = # of violations)	ND CGP I.C.1			\$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...	ND CGP II.C	Yes	1	\$250.00 =	\$250
7	SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control	ND CGP II.C			\$500.00 =	
8	SWPPP does not have site description, as follows:					
A	Nature of activity in description	ND CGP II.C.1.a			\$100.00 =	
B	Intended sequence of major activities	ND CGP II.C.1.c			\$100.00 =	
C	Total disturbed acreage	ND CGP II.C.1.b			\$100.00 =	
D	General location map	EPA CGP 3.3.B.4	Yes	1	\$100.00 =	\$100
E	Site map	ND CGP II.C.1.f			\$500.00 =	

	F	Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage ageas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)	of equipment storage areas, port-o-let location, or soil stockpiles	ND CGP II.C.1.f.1-6	Yes	4	X	\$50.00	=	\$200
	G	Location/description industrial activities, like concrete or asphalt batch plants		ND CGP II.C.1.f.7				\$500.00	=	
9		SWPPP does not:								
	A	Describe all pollution control measures (e.g. BMPs)		ND CGP II.C.2				\$750.00	=	
	B	Describe sequence for implementation	The site SWPPP Plan, dated October 15, 2012, was reviewed during the inspection. The SWPPP Plan does not describe the timing of the erosion and sediment controls for each major phase of construction.	ND CGP III.C.3	Yes	1		\$250.00	=	\$250
	C	Detail operator(s) responsible for implementation		ND CGP II.C.2.a				\$250.00	=	
10		SWPPP does not describe interim stabilization practices	The SWPPP Plan does not define that the construction entrances/exits will be installed at a later date due to ongoing infrastructure. The SWPPP Plan also does not define when the temporary sediment basin will be installed.	ND CGP II.C.3.b	Yes	1		\$250.00	=	\$250
11		SWPPP does not describe permanent stabilization practices		ND CGP II.C.3.b				\$250.00	=	
12		SWPPP does not describe a schedule to implement stabilization practices		ND CGP II.C.3				\$250.00	=	
13		Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		EPA CGP 3.4.C.1-3				\$250.00	=	
14		SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		EPA CGP 3.4.C				\$500.00	=	
15		SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		EPA CGP 3.4.C				\$500.00	=	
16		SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		EPA CGP 3.4.C				\$500.00	=	
17		SWPPP does not describe measures to minimize off site vehicle tracking and generation of dust		ND CGP II.C.3.a				\$500.00	=	
18		SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		ND CGP II.C.3.b				\$250.00	=	
19		SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		ND CGP II.C				\$500.00	=	
20		SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		ND CGP II.A				\$500.00	=	
21		SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		ND CGP II.C				\$500.00	=	
22		Endangered Species Act documentation is not in SWPPP		EPA CGP 3.7				\$500.00	=	
23		Historic Properties (Reserved)								

24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)	The site did not have available at the time of the inspection a copy of the North Dakota Department of Health general permit.	ND CGP III.B	Yes	1		\$250.00	=	\$250
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		EPA CGP 3.9				\$750.00	=	
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		EPA CGP 3.9				\$250.00	=	
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		ND CGP IV.A.5				\$500.00	=	
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)	The SWPPP Plan was not updated to include the following details: silt fence on east side of site is ineffective, sediment pit has been installed, and the site would not install construction site entrances.	ND CGP II.C.7.c	Yes	3	X	\$50.00	=	\$150
29	Copy of SWPPP not retained on site		ND CGP II.C.7.a				\$500.00	=	
	A SWPPP not made available upon request		ND CGP II.C.7.b				\$500.00	=	
30	SWPPP not signed/certified		ND CGP II.C.7.a				\$500.00	=	
Subtotal SWPPP Deficiencies									\$1,450
INSPECTIONS									
31	Inspections not performed and documented at least once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).	The site operator began soil disturbance operations on October 17, 2012. The site had recorded its first inspection on May 13, 2013. Although the site did not submit a notice indicating the date the soil froze, the EPA is omitting the inspections from November 15, 2012 to April 15, 2013 for the numbe of missed inspections. The total number of missed inspections total four missed inspections. *Note: according to records submitted by the facility, the project broke ground on October 17, 2012. The project ceased construction activity from November 12, 2012 - April 29, 2013. A total of three missed inspections resulted actual project timeframe.	ND CGP III.A.1	Yes	3		\$250.00	=	\$750
	No inspections conducted and documented (if True, then leave elements 32-39 blank)								True or False
	Number of Inspections expected if performed every 7 days:	30							

	Number of Inspections expected if performed bi-weekly:	14							
	If known, number of days of rainfall of >0.5"								
32	Inspections not conducted by qualified personnel		ND CGP II.C.2.a				\$50.00 =		
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		EPA CGP 3.10.E.				\$50.00 =		
34	All pollution control measures not inspected to ensure proper operation	The site's silt fence along the eastern boundary of the disturbed area has been overwhelmed by a storm event(s). The self inspection reports did not include any information about the ineffective silt fence nor the corrective actions taken to set the silt fence back in place.	EPA CGP 3.10.E.	Yes	1		\$50.00 =		\$50
35	Discharge locations are not observed and inspected		EPA CGP 3.10.E.				\$50.00 =		
36	For discharge locations that are not accessible, nearby locations are not inspected		EPA CGP 3.10.E.				\$50.00 =		
37	Entrance/exit not inspected for off-site tracking		EPA 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)	The site self inspection reports do not contain the time of each self inspection for the following dates: 5/14/13, 5/18/13, 5/20/13, and 5/29/13. The self inspection reports also do not contain the BMPs that needed maintenance; nor annotations of where additional BMPs where installed (sediment pit).	ND CGP III.A.2	Yes	6		\$50.00 =		\$300
39	Inspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)		EPA CGP 3.10.G	No			\$50.00 =		
Subtotal Inspections Deficiencies									\$1,100
AVAILABILITY OF RECORDS									
40	Sign/notice not posted		EPA CGP 3.12.B				\$250.00 =		
	A Does not contain copy of complete NOI		EPA 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		EPA CGP 3.12.B				\$50.00 =		
Subtotal Records Deficiencies									\$0
BEST MANAGEMENT PRACTICES									
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		ND CGP II.C.4.b				\$500.00 =		
42	Control measures are not properly:								
	A Selected, installed and maintained	A. The following BMP deficiencies were observed during the EPA inspection: 1. The silt fence along the eastern border of the construction site was overwhelmed by a recent storm. The single layer of silt fence does not appear to be an effective control; 2. The silt fence along the southern and eastern boundary was not installed nor maintained properly; and 3. The construction site neglected to install and/or document the following BMP which would be considered an equivalent BMP as a sediment basin.	ND CGP II.C.3.c	Yes	3	X	\$500.00 =		\$1,500

	B Maintenance not performed prior to next anticipated storm event		ND CGP II.C.5				\$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	Sediment escaped the site and entered the detention basin designed to handle to the stormwater runoff from the Scheels Baseball Complex.	ND CGP II.C.3.d	Yes	1		\$500.00	=	\$500
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.)		ND CGP II.C.2.b			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		ND CGP II.C.3				\$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	B. The total acreage of the site is 13.38 acres. The site's SWPP Plan/Site Map defines that a temporary sediment basin be installed on the site. The site did not install the sediment basin due to the site not being in the correct phase for construction. However, the site did not employ any BMPs which would reduce the stormwater volume to the southeast corner of the site. Instead, the site dug a conveyance channel and directed the runoff to a single layer of silt fence and a sediment pit. The silt fence was observed in place yet showed evidence of a storm event overwhelming the silt fence as the grass next to the silt fence was knocked down and sediment was found along the bank of the detention basin for the Scheels Baseball Complex.	ND CGP II.C.3				\$1,000.00	=	
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries		ND CGP II.C.3	Yes	1		\$1,000.00	=	\$1,000
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		ND CGP II.C.3				\$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)		ND CGP II.C.3				\$500.00	=	
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		ND CGP II.C.3				\$500.00	=	
Subtotal BMP Deficiencies									\$3,000
SMALL BUSINESS EVALUATION									
48	Is the Owner/Operator a Small Business?	The EPA assumes that Northern		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.

Improvement Co. is a small business.

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Total Expedited Settlement:

\$5,550

* Requires Corrective Action

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

Ref: 8ENF-W-NP

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Bradley Ballweber, Vice-President – Treasurer – Regional Manager
Northern Improvement Co.
PO Box 1254
3320 E. Century Avenue
Bismarck, ND 58502-1254

Re: NDR1052000 Inspection Report
Notice of Proposed Expedited Settlement
Agreement

Dear Mr. Ballweber:

The United States Environmental Protection Agency (EPA) inspected the Shiloh Athletic Complex construction site located at 1915 Shiloh Dr., Bismarck, North Dakota on June 6, 2013 for compliance with Clean Water Act (CWA) storm water control requirements. The inspection determined that Northern Improvement Co. (Northern) 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, failing to maintain required documents (e.g., permit coverage letter, the Permit, and notice of intent), failing to develop a complete Storm Water Pollution Prevention Plan (SWPP Plan), failing to maintain the SWPP Plan, failing to conduct inspections, and failing to properly install and maintain storm water best management practices (BMPs) to minimize sediment from leaving the site. 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 \$5,550.00. **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 Northern 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, Northern must correct all the deficiencies identified in the enclosed Expedited Settlement Offer Worksheet Deficiencies Form. The Expedited Settlement Agreement includes a certification that Northern 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,



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: Dallas Grossman, NDDH
Colleen Peterson, City of Fargo



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 Un-permitted, G=general permit, etc. (Use the Remarks columns 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	\ CAFC-Sampling	> Storm Water-MS4-Audit
M Multimedia	= CAFC-Non-Sampling	
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 columns)
B — EPA (Contractor)	P — Other Inspectors, State (Specify in Remarks columns)
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: June 6, 2013	Inspection Type: Construction Stormwater Joint (EPA Lead)
Entry Time: 9:45 a.m.	Exit Time: 11:50 a.m.
NPDES ID Number: NDR105200	
Inspector: Seth Draper	EPA Inspector
Inspector: Lucille Snowden	State Inspector

Facility Location Information:(Name/Location/ Mailing Address)	
Site/Facility Location: Shiloh Athletic Complex 1915 Shiloh Dr. Bismarck, ND 58503	Mail Report to: Bradley A. Ballweber, President Northern Improvement Co. PO Box 1254 3320 E. Century Ave. Bismarck, ND 58502-1254

Contact Information:		
	Name(s)/Title	Telephone
Facility Contacts: <i>(indicate primary lead and present during inspection)</i>	Bradley A. Ballweber, Vice President – Treasurer – Regional Manager, Northern Improvement Co.	701-223-6695
	Craig Hummel, Construction Manager, Northwest Contracting Construction Management Division	701-220-1530
	Wendelin Kuntz, Site Superintendent, Northern Improvement Co.	701-319-7332
Person/Company meeting definition of "Operator"	Bradley A. Ballweber, President, Northern Improvement Company	701-223-6695
Authorized Official(s) (Per NOI or SWMP?)	Bradley A. Ballweber, President, Northern Improvement Company	701-223-6695

Permit Information			
Is the permit on site and available? Yes		Date NOI Submitted: October 19, 2012	
Effective Date: October 19, 2012		Expiration Date: September 30, 2014	
Construction Start Date: October 5, 2012	Percent complete: 75 %	Estimated Completion Date: July 15, 2013	
Disturbed Area: 13.38 acres	Total Project Area: 13.38 acres	Latitude: 46.833	Longitude: -100.758
Receiving Water(s): Hay Creek to Apple Creek to the Missouri River			
If applicable, is waiver certification & approval on file? N/A			
Regulatory Inspector's source of information Site NOI and SWPP Plan/Site Map			

Site Information:

North Dakota NPDES Storm Water Inspection- Construction

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

SWPP Plan Review			
<u>General</u>		Notes:	
Is there a SWPP Plan? (SWPP Date)	Y		
Is a copy of the SWPP Plan onsite?	Y		
SWPP Plan completed prior to NOI submission?	Y		
Copy of permit language?		N	The site did not have the permit language available onsite at the beginning of the inspection. Instead the North Dakota Department of Health provided the Northern Improvement Co. with a copy of the permit language during the inspection.
SWPP Plan identifies all operators and their areas of control?	Y		
Did all "operators" sign/certify the SWPP Plan?	Y		
Is the SWPP Plan up to date?	Y		

<u>Site Description</u>		Notes:	
SWPP Plan identifies potential sources of pollution?	Y		
Is there a site description including the function of the project?	Y		
Total area of site and total area to be disturbed?	Y		
Timetable for soil disturbing activities?	Y		
A description of soil within the disturbed areas?	Y		
Name of Receiving water(s) or MS4 listed?	Y		
Is there a site map?	Y		
Does the site map include drainage patterns?	Y		
Construction site boundaries and areas of soil disturbance?	Y		
Location of structural and non-structural BMPs identified in the SWPP Plan?	Y		

North Dakota NPDES Storm Water Inspection- Construction

Location of stabilization practices?		N	The SWPP Plan/Site Map did not define the location of stabilization practices.
Location of surface water (including wetlands)?	Y		
Location of storm water discharges to a surface water?	Y		
Location of concrete/asphalt batch plants, equipment staging areas, borrow sites or excavated fill disposal areas (on-site or off-site)?		N	The site operator did not define the location of equipment storage areas in their SWPP Plan/Site Map.

SWPP Plan Review			
Controls to Reduce Pollutants		Notes:	
Is there a description of good housekeeping practices to maintain a clean and orderly facility?	Y		
Is there a description of preventative maintenance practices?	Y		
Have spill prevention and response procedures been established where potential spills can occur?	Y		
Has an erosion and sediment control plan been developed to identify the appropriate control measures?	Y		
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?		N	The SWPP Plan/Site Map did not define when the vast majority of erosion and sediment controls should be installed. Notably, the SWPP Plan/Site Map did define that the temporary sediment basin should be completed either Winter 2012 or Spring 2013. At the time of the inspection the sediment basin had not been completed. *Note: According to site personnel on June 17, 2013, the construction site had not reached the appropriate phase of the project for the sediment basin to be constructed.
Are temporary (or permanent) sediment basins used when disturbing 10 or more acres of land which drain to a common location?		N	The SWPP Plan/Site Map indicates that a sediment basin will be used onsite. At the time of the inspection, the facility was using a single line of silt fence and a 'sediment pit' to control the stormwater runoff from the site that drained to a common location. The 'sediment pit' is approximately 20 feet by 4 feet by an unknown depth. The SWPP Plan/Site Map defines a more substantial structure that appears to be larger than the width of a soccer field (approximately 150 feet) and at least 10 feet deep.

North Dakota NPDES Storm Water Inspection- Construction

SWPP Plan Review		
Controls to Reduce Pollutants	Notes:	
<p>Is the sediment basin that drains over 10 acres, is it adequately designed? (3,600 cu.ft/acre x total drainage acres)</p>	N	<p>The SWPP Plan/Site Map features a sediment basin. At the time of the inspection, the site did not employ the use of a sediment basin. Along the eastern border of the facility, a 'sediment pit' was dug. There were no plans or designs for the pit available during the inspection</p> <p>*Note: According to site personnel on June 17, 2013, the construction site had not reached the appropriate phase of the project for the sediment basin to be constructed.</p>
<p>Basin outlets properly designed (e.g. perforated riser pipe wrapped with filter fabric and covered with crushed gravel, pumps or other means)</p>	N	<p>The site operator has constructed a 'sediment pit' near the stormwater discharge concentration point for the site. There is no designed stormwater outlet for the site.</p>
<p>If a sediment basin is not used, is the combination of measures used equivalent?</p>	N	<p>The site concentrates its stormwater runoff discharge to a single line of silt fence and a 'sediment pit' along the eastern border of the facility. The site operator stated that the silt fence had not withstood storm events and was replaced after storm events. The silt fence and sediment pit do not appear to be an equivalent control measure.</p>
<p>Has temporary erosion protection or permanent cover been provided for areas with a continuous positive slope w/in 200 linear feet of surface water occurred within 21 days of completing or ceasing earth moving activities? Note: temp. stockpiles without significant silt, clay or organic components (aggregates, concrete, sand) are exempt.</p>		<p>N/A</p>
<p>Temporary soil stock piles have effective sediment controls and are not placed in surface waters, including curb and gutter systems?</p>	Y	<p>However, the SWPP Plan/Site Map defines that temporary soil stockpiles will be seeded as a preventative maintenance plan. The soil stockpiles viewed onsite during the inspection did not appear to be seeded.</p>
<p>Is the normal wetted perimeter of any temporary or permanent drainage ditch that drains water from the site or diverts water around the site, is stabilized within 200 lineal feet from the property edge, or from the point of discharge to any surface water? Stabilization is to occur within 24 hours of connecting to a surface water.</p>		<p>N/A</p>

North Dakota NPDES Storm Water Inspection- Construction

SWPP Plan Review			
<u>Controls to Reduce Pollutants</u>			Notes:
Were pipe outlets provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water?			N/A
Is there any unbroken slope length of greater than 75 feet for slopes with a grade of 3:1 or steeper?	Y		The southwestern portion of the site features a slope length of 3.5/1.
Does SWPP Plan identify pollutant sources from areas other than construction?	Y		
Does the SWPP Plan describe controls for pollutants from non-construction activities?	Y		

<u>Inspections</u>			Notes:
Does the SWPP Plan identify the inspection schedule? (Every 7 days, or every 14 days within 24 hours of a rain event greater 0.5")	Y		
How is precipitation measured (i.e. rain gauge at site or nearest National Weather Service rain gauge within 10 miles)?	Y		
Are inspections and maintenance activities recording in writing and retained as required in Part IV.D?	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	N		The site started there disturbance activities around October 15, 2012. The first self inspection for the site occurred on May 13, 2013. The site self inspections records are missing the following information: <ul style="list-style-type: none"> • The time of the self inspection is not described in the May 14, May 20, and May 29 inspection reports. • The corrective actions needed for the site are not described in the inspection reports • The notes indicating the SWPP Plan/Site Map was modified or changed were not detailed in the inspection reports.
Are surface waters, including drainage ditches and conveyance systems, inspected for evidence of sediment disposition?	N		The site discharges to the detention pond for the Scheels Baseball Complex (photo 15).

North Dakota NPDES Storm Water Inspection- Construction

<p>Are construction site vehicle exit locations inspected for evidence of off site sediment tracking to paved surfaces?</p>	<p>N</p>	<p>The site personnel stated that street sweeping was used in lieu of the construction entrances/exits. The site did not have any details regarding the dates or times the street was swept for vehicle tracking. The NDDH general permit for construction stormwater activities specifies that ‘deposited sediment must be from all off site paved surfaces within 24 hours or, if applicable, within a shorter period of time specified by local authorities or the Department.’ Furthermore, track-out was observed from both site entrances.</p> <p>*Note: According to site personnel on June 17, 2013, the construction site had not installed the construction entrances/exits due to ongoing work to install infrastructure additions to a neighboring athletic field. The facility used the gravel road immediately adjacent to the construction site, as well as, brooms and blading of the paved road for street sweeping of sediment trackout.</p>
<p>Inspection signed and certified by authorized personnel?</p>	<p>N</p>	<p>The site self inspections records are initialed by the site operator. There is no signature for the site operator on the inspection records</p>
<p>Is SWPP Plan and site map revised when BMPs added/modified within 7 days after inspection reveals problems?</p>	<p>N</p>	<p>According to site personnel, a sediment pit has been added as a stormwater BMP due to the eastern silt fence overwhelmed by previous storm events. The SWPP Plan/Site Map does not detail this addition.</p>

North Dakota NPDES Storm Water Inspection- Construction

SWPP Plan Implementation

Site Description:

The Shiloh Athletic Complex is an addition to the Shiloh Christian School. The project is designed to add a baseball and football field to the neighboring school. The project acreage is 13.38 acres with the entire project being considered disturbed. At the time of the EPA inspection, the site was approximately 75% complete for the operator Northern Improvement Co. Once the Northern Improvement Co. completes their work, the site will be handed over to Northwest Contracting Construction Management Division for completion of the athletic fields. The estimated final completion of the project was stated as Winter 2015 in the SWPP Plan.

The EPA inspection revealed that the SWPP Plan has not been updated to reflect current site conditions. The site operator has installed stormwater BMPs that were not previously defined in, or amended to, the SWPP Plan. Also, the project's Site Map defines that numerous BMPs are to be installed, however, many of these BMPs are not implemented onsite. The SWPP plan/Site Map for the site has defined that the majority of the site should drain southeast towards the defined temporary sediment pond, which was not installed. However, according to site personnel on June 17, 2013, the sediment basin has not yet been installed as the project is not yet in the correct phase for the construction of the sediment basin. The stormwater is then directed to a conveyance ditch and routed to the eastern border of the construction site. The stormwater reaches a low point along the eastern border where the facility has installed a single line of silt fence and an unknown sized 'sediment pit.' The silt fence shows evidence of being overwhelmed by previous storm events. The grass on the downgradient side of the silt fence/sediment pit has been bowed over by stormwater flows. The adjacent off-site detention pond had evidence of siltation of the grass around and in the detention pond. In addition, the site has not been performing site self inspections as defined in the North Dakota Department of Health general permit for stormwater construction. The project began soil disturbance activities in October 2012. The first self-inspection was conducted on May 13, 2013. The self inspection report does not state that the silt fence was repaired due to storm events and is ineffective as a stormwater control measure.

Brad A. Ballweber, Vice President – Treasurer – Regional Manager, sent the EPA on June 11, 2013 an updated site self inspection sheet, an updated site map, repaired silt fence, and photos of the newly installed stormwater BMPs (straw bales and construction entrance/exit). The self inspection reports provided to the EPA are the missing inspections for the site date to the original soil disturbance of the site October 17, 2012 through the present. The site self inspections reports are missing the time the site was inspected. The updated site map includes the dates the new BMPs were installed onsite, straw bales on June 7, 2013. Per the North Dakota Department of Transportation (NDDOT) design sheets, the straw bales appear to have been installed incorrectly as they are not placed in a 68 inch deep trench and are not staked at 1/3 and 2/3 their length. Additionally, the construction entrance/exit is not installed per the NDDOT build sheets requiring entrances/exits to use large aggregate.

North Dakota NPDES Storm Water Inspection- Construction

SWPP Plan Implementation (Site review)							
<u>Structural and Stabilization Practices</u>							
List and describe structural and stabilization practices							
	SWPPP/Site Map			Used On-Site			Comments
Silt Fence (perimeter)	Y			Y			Silt fence was installed at the locations outlined on the SWPP Plan/Site Map. The silt fence was not properly installed nor maintained correctly (photos 9, 10, 13, 17, 18, 19, and 22).
Sedimentation pond	Y			N			<p>A sediment pond is defined in the SWPP Plan and illustrated on the Site Map to be installed at the southeast portion of the construction site. The site operator dug a ditch at the location where the sediment pond was supposed to be placed. The storm water diversion ditch appears to conveying most of the site's stormwater runoff to the eastern border of the construction site (photo 11 and 12) and is required to flow through a single layer of silt fence. The site operator had also dug a 'sediment pit' next to point the stormwater runoff concentrates at the eastern border of the site. No design specifications about the 'sediment pit' were available for review during the inspection.</p> <p>*Note: According to site personnel on June 17, 2013, the construction site had not reached the appropriate phase of the project for the sediment basin to be constructed.</p>
Vehicle track-out pad	Y			N			<p>Construction entrance/exit is defined in the SWPP Plan and illustrated on the Site Map as needing to be installed at the northeast (photo 20) and northwest (photo 23) portions of the construction site. At the time of the inspection, the entrances/exits were not installed.</p>

North Dakota NPDES Storm Water Inspection- Construction

Street sweeping	Y			Y		<p>The site personnel stated that street sweeping was used in lieu of the construction entrances/exits. The site did not have any details regarding the dates or times the street was swept for vehicle tracking. The NDDH general permit for construction stormwater activities specifies that 'deposited sediment must be from all off-site paved surfaces within 24 hours or, if applicable, within a shorter period of time specified by local authorities or the Department.' Furthermore, track-out was observed from both site entrances.</p>
Good housekeeping & waste disposal practices	Y			Y		
Equipment Storage area		N		Y		<p>The northern border of the construction site had equipment stored onsite (photos 20-22). The SWPP Plan/Site Map did not define nor illustrate that this practice would occur or where it would be located.</p>
Port-o-lets		N		Y		<p>The construction site had a port-o-let onsite (photo 7). The SWPP Plan/Site Map did not define nor illustrate that this practice would occur or where it would be located.</p>
Existing vegetation		N		Y		<p>The construction site utilized existing vegetation as a stormwater BMP (photos 6, 7, and 8). The SWPP Plan/Site Map did not define nor illustrate that this practice would occur or where it would be located.</p>
Straw Wattle	Y				N	<p>The SWPP Plan/Site Map defined and illustrated numerous areas where straw wattles would be used. At the time of the inspection, straw wattles were not used at any location.</p>

North Dakota NPDES Storm Water Inspection- Construction

Inlet Protection	Y				N/A	<p>The SWPP Plan/Site Map defined that the sediment basin located at the southeast corner of the site would have an overflow structure that would be protected by inlet protection. At the time of the inspection, the sediment basin was not built nor was their inlet protection.</p> <p>*Note: According to site personnel on June 17, 2013, the construction site had not reached the appropriate phase of the project for the sediment basin and inlet protection to be constructed.</p>
Diversion Ditch	Y			Y		<p>The SWPP Plan/Site Map defined that a series of diversion ditches should be installed to drain the site to the designated but not yet installed sediment basin in the southeast portion of the site. At the time of the inspection, the diversion ditch installed at the site (photos 12-14) conveyed the stormwater to a single line of silt fence and a 'sediment pit'.</p>
Erosion Control Blanket	Y				N	<p>The SWPP Plan/Site Map defined that erosion control blankets should be used on the banks of the sediment pond. At the time of the inspection, no erosion blankets were used in the 'sediment pit' and the sedimentation pond was not yet constructed.</p> <p>*Note: According to site personnel on June 17, 2013, the construction site had not reached the appropriate phase of the project for the sediment basin and erosion blankets to be constructed.</p>
Concrete Washout Area	Y				N/A	<p>The SWPP Plan/Site Map defined that a concrete washout area would be placed near the northwest construction entrance/exit. It appeared that at the time of the EPA inspection, concrete work was not currently ongoing at the site.</p> <p>*Note: According to site personnel on June 17, 2013, the construction site had not reached the appropriate phase of the project for the concrete work to be initiated.</p>

North Dakota NPDES Storm Water Inspection- Construction

Temporary Soil Stockpile Seeding	Y				N	<p> The SWPP Plan/Site Map defined that soil stockpiles would be seeded. At the time of the inspection, the soil stockpiles did not appear to be seeded. *Note: According to site personnel on June 17, 2013, the construction site did not have any soil stockpiles which would be in place for a long period of time. This BMP would have been inappropriate to install as the soil stockpiles are constantly in motion. </p>
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North Dakota NPDES Storm Water Inspection- Construction

SWPP Plan Implementation (Site Review)	
<u>Stabilization Practices</u>	
Any unprotected/exposed slopes/areas without vegetation mulch or matting for more than 14 days after construction activity has ceased?	<i>(e.g., indicate "yes" or "no"; if "yes", how long without stabilization measures?)</i> No, the entire site was being graded so the athletic field construction can begin.
Are stabilization practices properly applied in a timely manner and adequately maintained?	<i>(e.g., indicate "yes" or "no"; if "yes", how long without stabilization measures?)</i> No, the site's silt fence was not maintained. The silt fence and sedimentation pit along the eastern border has been overwhelmed by recent storms.
<u>Structural Practices</u>	
Are structural controls properly installed and maintained?	<i>(e.g., indicate "yes" or "no"; explain if necessary)</i> No, the silt fence was not installed or maintained properly.
Discuss how the structural controls are, or are not appropriate for the site.	<i>(e.g., silt fence installed in a live stream)</i> The eastern border of the facility receives most all of the stormwater runoff from the site. The silt fence has been overwhelmed by recent storms. The site operator dug a small 'sedimentation pit' near the overwhelmed silt fence. The pit is full of water and does not appear it will be functional in a storm event.
<u>Miscellaneous</u>	
Evidence of Sediment Deposition to Surface Waters	<i>(e.g., significant turbidity observed in a receiving water body)</i> The site's eastern border of silt fence was overwhelmed in recent storms. Sediment is evident in the grass and bank of the Scheels Baseball Complex detention pond.
Pollution prevention measures for non-storm water discharges?	<i>(provide brief description)</i> The facility's SWPP Plan/Site Map defines that the facility will use specific areas and handling methods to store materials so that non-stormwater discharges will not occur.
Has implementation of additional/modified BMPs been completed before next anticipated storm event?	<i>(provide brief description)</i> The site operator recently installed additional BMPs such as strawbales and construction entrance/exits. However, the straw bales and construction entrance/exit were not installed per the NDDOT design specifications.

Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 6
Inspection Date 6/6/2013
Photographer Seth Draper
Description Western boundary of the construction site. Photo is facing east.



Photo Number 7
Inspection Date 6/6/2013
Photographer Seth Draper
Description Western boundary of the construction site. Photo is facing south.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 8
Inspection Date 6/6/2013
Photographer Seth Draper
Description Southern border of the construction site. Photo is facing east.



Photo Number 9
Inspection Date 6/6/2013
Photographer Seth Draper
Description Improperly installed silt fence is shown in photo center. Photo is taken from the southern border of the construction site.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 10

Inspection Date 6/6/2013

Photographer Seth Draper

Description Southern border of the construction site. Silt fence along southern border was not maintained at the time of the inspection. Photo is facing east.



Photo Number 11

Inspection Date 6/6/2013

Photographer Seth Draper

Description Upgradient and interior view of the construction site. Majority of the stormwater runoff from the construction site travels directly east, toward photographer. SWPP Plan/Site Map shows a temporary sediment basin should be installed. Photo is facing west.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 12

Inspection Date 6/6/2013

Photographer Seth Draper

Description Construction ditch shown in photo center conveys majority of the stormwater from the construction site to the eastern border of the site. Construction ditch was not listed on the SWPP Plan/Site Map. Photo is facing east.



Photo Number 13

Inspection Date 6/6/2013

Photographer Seth Draper

Description Eastern border of the construction site. Ditch on left of photo is a continuation of ditch shown in photo 12. Note sediment on top of silt fence. Photo is facing north.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 14

Inspection Date 6/6/2013

Photographer Seth Draper

Description Concentration point of stormwater runoff from construction site is shown in photo center. The site recently added a 'sediment pit.' Pooled water left of fence is location of pit. Note grass condition, silt fence has been overwhelmed by storm events.



Photo Number 15

Inspection Date 6/6/2013

Photographer Seth Draper

Description Stormwater that flows over the silt fence in photo 14 flows into detention basin shown in photo center. Detention basin is not part of the construction site. The detention basin shown in photo is part of the Bismarck MS4. Photo is facing northeast.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 16
Inspection Date 6/6/2013
Photographer Seth Draper
Description Sediment deposition from construction site can be seen on the bank of the detention basin.



Photo Number 17
Inspection Date 6/6/2013
Photographer Seth Draper
Description Improperly maintained silt fence located on the eastern border of construction site is shown in photo center. Silt fence shown in photo is the upgradient view of the single line of silt fence shown in photo 14. Photo is facing west.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 18

Inspection Date 6/6/2013

Photographer Seth Draper

Description Improperly maintained and installed silt fence is shown along the eastern border of the construction site. The bottom of the silt fence has not been trenched in allowing stormwater to flow underneath the BMP.



Photo Number 19

Inspection Date 6/6/2013

Photographer Seth Draper

Description Improperly installed silt fence is shown in photo center. Photo was taken along the eastern border of the facility.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 20
Inspection Date 6/6/2013
Photographer Seth Draper
Description SWPP Plan/Site Map detailed that the site would feature a construction entrance/exit at photo location. No construction entrance/exit was installed at time of the inspection. Note trackout from site. Photo is facing southwest.



Photo Number 21
Inspection Date 6/6/2013
Photographer Seth Draper
Description Northern border of construction site is shown in photo center. Equipment storage shown in photo not depicted in SWPP Plan/Site Map. Photo is facing west.



Photographs for Shiloh Athletic Complex - NDR105200

Inspection Type: Stormwater

Photo Number 22

Inspection Date 6/6/2013

Photographer Seth Draper

Description Improperly installed/maintained silt fence is shown in photo center. Silt fence bottom has not been trenched into the soil allowing stormwater to flow underneath. Photo is facing east.



Photo Number 23

Inspection Date 6/6/2013

Photographer Seth Draper

Description SWPP Plan/Site Map detailed that the site would feature a construction entrance/exit at photo location. No construction entrance/exit was installed at time of the inspection. Note trackout from site. Photo is facing west.



Please give me a call if you have any questions.

Seth Draper
EPA Region 8
(303) 312-6763

From: Brad Ballweber [mailto:bballweber@nicnd.com]
Sent: Friday, July 12, 2013 12:21 PM
To: Draper, Seth
Cc: Morris, Brenda; 'Bruce Thompson'; bsquires@nicnd.com; 'Maurice G. McCormick'; 'Tom McCormick'
Subject: RE: Shiloh-Bismarck,ND: Northern Improvement

Seth.....We will be sending you the signed "expedited settlement agreement" on Monday,7/15/13. As we understand, the \$5550.00 penalty payment is to be sent after we receive notice of EPA's acceptance, and a case name and docket number is provided. Is this correct?.....Brad

From: Draper, Seth [mailto:Draper.Seth@epa.gov]
Sent: Friday, June 28, 2013 8:17 AM
To: Brad Ballweber
Cc: Morris, Brenda; 'Bruce Thompson'; bsquires@nicnd.com
Subject: RE: Shiloh-Bismarck,ND: Northern Improvement

Brad,

I reviewed your submittal. Everything appears to be in order for the corrections that are needed for the site and SWPP Plan. We are currently routing the Expedited Settlement Offer (ESO) through the office. I believe we will mail the offer to you either Monday, July 1, or Tuesday, July 2. The settlement offer includes the ESO agreement offer, the ESO cover letter, ESO instructions, the ESO deficiencies form, the EPA inspection report, and the EPA photo log. After you sign and mail the ESO offer back to us, we can initiate the mandated public comment period. The public is granted 40 days to make any pertinent comments about the case. After the public comment period has elapsed, the offer is filed with the Administrative Law Judge. After the agreement is filed with the ALJ and we receive your payment, the case is considered settled and no further action is needed from you. This is basically a restatement from the ESO agreement. More details are within the document that you will receive in the mail.

Please let me know if you have any questions.

Seth Draper
EPA Region 8
(303) 312-6763

From: Brad Ballweber [mailto:bballweber@nicnd.com]
Sent: Thursday, June 27, 2013 5:38 PM
To: Draper, Seth
Cc: Morris, Brenda; 'Bruce Thompson'; bsquires@nicnd.com
Subject: Shiloh-Bismarck,ND: Northern Improvement

Seth.....I trust you received my email to you of 6/24/13 which included our "Expedited Settlement". I believe you said you would be out of the office until 6/25, but, would get back to me on 6/26(Wednesday) or 6/27/13(Thursday). I haven't received a response back from you, so I thought I would touch base with you.....Brad

Bradley A. Ballweber, VP/Treas/Area Manager
Northern Improvement Company
3320 E. Century Ave.
PO Box 1254

Brad Ballweber

From: Draper, Seth [Draper.Seth@epa.gov]
Sent: Friday, June 28, 2013 8:17 AM
To: Brad Ballweber
Cc: Morris, Brenda; 'Bruce Thompson'; bsquires@nicnd.com
Subject: RE: Shiloh-Bismarck,ND: Northern Improvement

Brad,

I reviewed your submittal. Everything appears to be in order for the corrections that are needed for the site and SWPP Plan. We are currently routing the Expedited Settlement Offer (ESO) through the office. I believe we will mail the offer to you either Monday, July 1, or Tuesday, July 2. The settlement offer includes the ESO agreement offer, the ESO cover letter, ESO instructions, the ESO deficiencies form, the EPA inspection report, and the EPA photo log. After you sign and mail the ESO offer back to us, we can initiate the mandated public comment period. The public is granted 40 days to make any pertinent comments about the case. After the public comment period has elapsed, the offer is filed with the Administrative Law Judge. After the agreement is filed with the ALJ and we receive your payment, the case is considered settled and no further action is needed from you. This is basically a restatement from the ESO agreement. More details are within the document that you will receive in the mail.

Please let me know if you have any questions.

Seth Draper
EPA Region 8
(303) 312-6763

From: Brad Ballweber [mailto:bballweber@nicnd.com]
Sent: Thursday, June 27, 2013 5:38 PM
To: Draper, Seth
Cc: Morris, Brenda; 'Bruce Thompson'; bsquires@nicnd.com
Subject: Shiloh-Bismarck,ND: Northern Improvement

Seth.....I trust you received my email to you of 6/24/13 which included our "Expedited Settlement". I believe you said you would be out of the office until 6/25, but, would get back to me on 6/26(Wednesday) or 6/27/13(Thursday). I haven't received a response back from you, so I thought I would touch base with you.....Brad

Bradley A. Ballweber, VP/Treas/Area Manager
Northern Improvement Company
3320 E. Century Ave.
PO Box 1254
Bismarck, ND 58503
Office: 701-223-6695
Cell: 701-319-7310
Fax: 701-224-0937
email: bballweber@nicnd.com



Home Office
Fargo, North Dakota
4000-12th Avenue North
58102-2910
PO Box 2846
58108-2846
Phone 701-277-1225
Fax 701-277-1516

Office
Bismarck, North Dakota
PO Box 1254
58502-1254
Phone 701-223-6695
Fax 701-224-0937

Office
Dickinson, North Dakota
PO Box 1035
58602-1035
Phone 701-225-5197
Fax 701-225-0207

IMPROVEMENT COMPANY

Thomas M^CCormick, President/CEO
Steve M^CCormick, Executive Vice-President

June 21, 2013

Mr. Seth Draper, Environmental Scientist
NPDES Unit
Water Technical Program
EPA Region 8
1595 Wynkoop St.
Denver, CO 80202

RE: "Expedited Settlement Offer Worksheet"
Shiloh Christian School
Bismarck, ND
NPDES #NDR105200

Dear Mr. Draper:

This letter is in response to the "Expedited Settlement Offer Worksheet" as discussed on June 17, 2013. We accept the settlement offer of \$5,550.00. We will send a check to the EPA in St. Louis, MO as directed in the instruction. As per the instructions, I will address each deficiency by item number and explain the corrective action.

Item #6—The clarification to the SWPP Plan dated June 17, 2013 addresses this item (see attached).

Item #8D—Hay Creek is located approximately 2,500' east of the site (the report indicates 1,200'). This information is on page 4 letter F, of our SWPP Plan. We have included a Google Map which shows the Hay Creek proximity to the site in our Clarification to the SWPP Plan dated June 17, 2013.

Item #8F—The site plan has been revised to indicate the sediment pit, the equipment storage, port-o-let, and stockpile area locations.

Item #9B—The SWPP Plan timetable is addressed in Item #1d showing phased construction, however, it does not indicate the timing of erosion control measures. This is addressed in our Clarification on the SWPP Plan dated June 17, 2013 (see attached).



- Item #10—The construction entrances/exits is addressed in the Clarification to the SWPP Plan dated June 17, 2013 (see attached).
- Item #24—A copy of the ND Department of Health Permit was received at our onsite meeting of June 6, 2013 from Ms. Luci Snowden and is now a part of our documentation.
Permit #NDR105200 (copy enclosed).
- Item #28—The silt fence on the southeast corner of the project was reinforced with bales on the backside of the fence to prevent water flow from damaging the fence. A sediment pond was installed on the upstream side of the silt fence adjacent to the fence to capture sediment. This is indicated on the revised site plan. The construction site entrances are addressed on the Clarification to the SWPP Plan dated June 17, 2013.
- Item #31—Your report indicates three missed inspections. We have improved our reporting log form to include the requested information. We will be more diligent in our inspection frequency and documentation in the future.
- Item #34—See answer on Item #28.
- Item #38—See answer on Item #31.
- Item #42A1—See answer on Item #28.
- Item #42A2—Additional silt fence was placed to fill in the inadequate overlap.
- Item #42A3—We have documented the sediment basin and additional bale checks which were installed to control flow and sediment (photos are attached.)
- Item #43—Additional bales were installed up stream to prevent sediment from entering adjacent retention pond. Bale support was added to the downstream side of the silt fence to prevent storm water from topping the silt fence.
- Item #46B—As previously discussed, the retention pond at the south end of the football field was partially constructed in the fall of 2012 to serve as a temporary sediment pond. We have installed bale checks in the temporary sediment pond to collect storm water flow and sediment (photos attached).
- Item #48—Northern Improvement is not a small business as defined by the EPA.

I trust we have answered/complied with the "Expedited Settlement Offer Worksheet" and instructions. As previously discussed, this project has changed in scope since the original intent.

The project is now managed by Northwest Contracting. I hand carried the "Notice of Transfer" to Craig Hummel, Project Manager for Northwest Contracting on June 14, 2013 (copy enclosed).

Very truly yours,



NORTHERN IMPROVEMENT COMPANY

Bradley A. Ballweber

Vice President/Treasurer

cc:

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	Bradley A. Ballweber PO Box 1254 3320 E. Century Ave. Bismarck, ND 58502-1254	701-223-6695	NDR105200
		Inspector Name:	Seth Draper
		Inspector Agency:	US EPA
		Entrance Interview Conducted:	Yes
		Exit Interview Conducted:	Yes
		Exit Interview given to:	Bradley A. Ballweber
		Exit Interview time:	11:45
		Date:	06/06/2013
LOCATION AND ADDRESS OF SITE			
2	Shiloh Christian School 1915 Shiloh Dr. Bismarck, ND 58503		

FACILITY DESCRIPTION / CONTACT NAMES		
Name of Site Contact (ESO Worksheet recipient):		Bradley A. Ballweber, Vice President - Treasurer - Regional Manager, Northern Improvement Co.
Name of Authorized Official (40 CFR 122.22):		Bradley A. Ballweber, Vice President - Treasurer - Regional Manager, Northern Improvement Co.
Inspection Date:		06/06/2013
Start Construction Date:		10/17/2012
Estimated Completion Construction Date:		07/15/2013
If Unpermitted, Number of Months Unpermitted:		0
Name of Receiving Water Body (Indicate whether 303(d) listed):		Hay Creek
Acres Currently Disturbed Acres to be Disturbed in Whole Common Plan:		13.38 13.38
Has Operator Requested Rainfall Erosivity or TMDL Waiver per 44 CFR 122.26(b)(15)?		No

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3	Operator unpermitted for one month (# months unpermitted equals number of violations). Discharge without a permit.	CWA 301			\$500.00 =	

SWPPP REVIEW						
4	SWPPP not prepared (If no SWPPP, leave elements 5 - 30 blank)	ND CGP I.C.1			\$5,000.00 =	
5	SWPPP prepared but prepared after construction start (# of months = # of violations)	ND CGP I.C.1			\$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...	The SWPP Plan does not identify that port-o-lets, equipment storage, and soil stockpiles would be used onsite.	ND CGP II.C	Yes	1	\$250.00 = \$250
7	SWPPP does not identify all operators for the project site and the areas of the site over which each operator has control		ND CGP II.C			\$500.00 =
8	SWPPP does not have site description, as follows:	D. The SWPP Plan/Site Map does not include a general location map which identifies the location of the nearest surface water. Hay Creek is located 1,200 feet east of the site.				
A	Nature of activity in description		ND CGP II.C.1.a			\$100.00 =
B	Intended sequence of major activities		ND CGP II.C.1.c			\$100.00 =
C	Total disturbed acreage		ND CGP II.C.1.b			\$100.00 =
D	General location map	F. The site map does not define the installation of the sediment pit along the eastern border of the facility, the location	EPA CGP 3.3.B.4	Yes	1	\$100.00 = \$100
E	Site map		ND CGP II.C.1.f			\$500.00 =

	F	Site map does not show drainage patterns, slopes, areas of disturbance, locations of major controls, structural practices shown, stabilization practices, offsite materials, waste, borrow or equipment storage areas, surface waters, discharge points, areas of final stabilization (count each omission under 8F as 1 violation)	of equipment storage areas, port-o-let location, or soil stockpiles	ND CGP II.C.1.f.1-6	Yes	4	X	\$50.00	=	\$200
	G	Location/description industrial activities, like concrete or asphalt batch plants		ND CGP II.C.1.f.7				\$500.00	=	
9		SWPPP does not:								
	A	Describe all pollution control measures (e.g. BMPs)		ND CGP II.C.2				\$750.00	=	
	B	Describe sequence for implementation	The site SWPP Plan, dated October 15, 2012, was reviewed during the inspection. The SWPP Plan does not describe the timing of the erosion and sediment controls for each major phase of construction.	ND CGP III.C.3	Yes	1		\$250.00	=	\$250
	C	Detail operator(s) responsible for implementation		ND CGP II.C.2.a				\$250.00	=	
10		SWPPP does not describe interim stabilization practices	The SWPP Plan does not define that the construction entrances/exits will be installed at a later date due to ongoing infrastructure. The SWPP Plan also does not define when the temporary sediment basin will be installed.	ND CGP II.C.3.b	Yes	1		\$250.00	=	\$250
11		SWPPP does not describe permanent stabilization practices		ND CGP II.C.3.b				\$250.00	=	
12		SWPPP does not describe a schedule to implement stabilization practices		ND CGP II.C.3				\$250.00	=	
13		Following dates are not recorded: major grading activities; construction temporarily or permanently ceased; stabilization measures initiated (count each omission under 13 as 1 violation)		EPA CGP 3.4.C.1-3				\$250.00	=	
14		SWPPP does not have description of structural practices to divert flows from exposed soils, retain flows, or limit runoff from exposed areas		EPA CGP 3.4.C				\$500.00	=	
15		SWPPP does not have a description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur AFTER construction operations have been completed		EPA CGP 3.4.C				\$500.00	=	
16		SWPPP does not describe measures to prevent discharge of solid materials to waters of the US, except as authorized by 404 permit		EPA CGP 3.4.C				\$500.00	=	
17		SWPPP does not describe measures to minimize off site vehicle tracking and generation of dust		ND CGP II.C.3.a				\$500.00	=	
18		SWPPP does not include description of construction or waste materials expected to be stored on site w/updates re: controls used to reduce pollutants from these materials		ND CGP II.C.3.b				\$250.00	=	
19		SWPPP does not have description of pollutant sources from areas other than construction (asphalt or concrete plants) w/ updates re: controls to reduce pollutants from these materials		ND CGP II.C				\$500.00	=	
20		SWPPP does not identify allowable sources of non-storm water discharges listed in subpart 1.3.B of the CGP		ND CGP II.A				\$500.00	=	
21		SWPPP does not identify/ensure implementation of pollution prevention measures for non-storm water discharges		ND CGP II.C				\$500.00	=	
22		Endangered Species Act documentation is not in SWPPP		EPA CGP 3.7				\$500.00	=	
23		Historic Properties (Reserved)								

24	Copy of permit and/or NOI not in SWPPP (count each omission under 24 as 1 violation)	The site did not have available at the time of the inspection a copy of the North Dakota Department of Health general permit.	ND CGP III.B	Yes	1		\$250.00	=	\$250
25	SWPPP is not consistent with requirements specified in applicable sediment and erosion site plans or site permits, or storm water management plans or site permits approved by State, Tribal or local officials (e.g., MS4 requirements)		EPA CGP 3.9				\$750.00	=	
26	SWPPP has not been updated to remain consistent with changes applicable to protecting surface waters in State, Tribal or local erosion plans		EPA CGP 3.9				\$250.00	=	
27	Copies of inspection reports have not been retained as part of the SWPPP for 3 years from date permit coverage terminates		ND CGP IV.A.5				\$500.00	=	
28	SWPPP has not been updated/modified to reflect change at site effecting discharge, or where inspections identify SWPPP/BMPs as ineffective, updates to SWPPP regarding modifications to BMPs not made within 7 days of such inspection (count each omission under under 28 as 1 violation)	The SWPP Plan was not updated to include the following details: silt fence on east side of site is ineffective, sediment pit has been installed, and the site would not install construction site entrances.	ND CGP II.C.7.c	Yes	3	X	\$50.00	=	\$150
29	Copy of SWPPP not retained on site		ND CGP II.C.7.a				\$500.00	=	
	A SWPPP not made available upon request		ND CGP II.C.7.b				\$500.00	=	
30	SWPPP not signed/certified		ND CGP II.C.7.a				\$500.00	=	
Subtotal SWPPP Deficiencies									\$1,450
INSPECTIONS									
31	Inspections not performed and documented at least once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: temp stabilization; runoff unlikely due to winter conditions; construction during arid periods in arid areas) (Count each failure to inspect and document as one violation).	The site operator began soil disturbance operations on October 17, 2012. The site had recorded its first inspection on May 13, 2013. Although the site did not submit a notice indicating the date the soil froze, the EPA is omitting the inspections from November 15, 2012 to April 15, 2013 for the numbe of missed inspections. The total number of missed inspections total four missed inspections. *Note: according to records submitted by the facility, the project broke ground on October 17, 2012. The project ceased construction activity from November 12, 2012 - April 29, 2013. A total of three missed inspections resulted actual project timeframe.	ND CGP III.A.1	Yes	3		\$250.00	=	\$750
	No inspections conducted and documented (if True, then leave elements 32-39 blank)						True or False		
	Number of Inspections expected if performed every 7 days:	30							

	Number of Inspections expected if performed bi-weekly:	14						
	If known, number of days of rainfall of >0.5"							
32	Inspections not conducted by qualified personnel		ND CGP II.C.2.a				\$50.00 =	
33	All areas disturbed by construction activity or used for storage of materials and which exposed to precipitation not inspected		EPA CGP 3.10.E.				\$50.00 =	
34	All pollution control measures not inspected to ensure proper operation	The site's silt fence along the eastern boundary of the disturbed area has been overwhelmed by a storm event(s). The self inspection reports did not include any information about the ineffective silt fence nor the corrective actions taken to set the silt fence back in place.	EPA CGP 3.10.E.	Yes	1		\$50.00 =	\$50
35	Discharge locations are not observed and inspected		EPA CGP 3.10.E.				\$50.00 =	
36	For discharge locations that are not accessible, nearby locations are not inspected		EPA CGP 3.10.E.				\$50.00 =	
37	Entrance/exit not inspected for off-site tracking		EPA 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)	The site self inspection reports do not contain the time of each self inspection for the following dates: 5/14/13, 5/18/13, 5/20/13, and 5/29/13. The self inspection reports also do not contain the BMPs that needed maintenance; nor annotations of where additional BMPs where installed (sediment pit).	ND CGP III.A.2	Yes	6		\$50.00 =	\$300
39	Inspection reports not properly signed/certified (count each failure to to sign/certify as 1 violation)		EPA CGP 3.10.G	No			\$50.00 =	
Subtotal Inspections Deficiencies								\$1,100
AVAILABILITY OF RECORDS								
40	Sign/notice not posted		EPA CGP 3.12.B				\$250.00 =	
	A Does not contain copy of complete NOI		EPA 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		EPA CGP 3.12.B				\$50.00 =	
Subtotal Records Deficiencies								\$0
BEST MANAGEMENT PRACTICES								
41	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		ND CGP II.C.4.b				\$500.00 =	
42	Control measures are not properly:	A. The following BMP deficiencies were observed during the EPA inspection:						
	A Selected, installed and maintained	1. The silt fence along the eastern border of the construction site was overwhelmed by a recent storm. The single layer of silt fence does not appear to be an effective control; 2. The silt fence along the southern and eastern boundary was not installed nor maintained properly; and 3. The construction site neglected to install and/or document the following BMP which would be considered an equivalent BMP as a sediment basin.	ND CGP II.C.3.c	Yes	3	X	\$500.00 =	\$1,500

	B Maintenance not performed prior to next anticipated storm event		ND CGP II.C.5			\$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	Sediment escaped the site and entered the detention basin designed to handle to the stormwater runoff from the Scheels Baseball Complex.	ND CGP II.C.3.d	Yes	1	\$500.00	=	\$500	
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.)		ND CGP II.C.2.b		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		ND CGP II.C.3			\$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	B. The total acreage of the site is 13.38 acres. The site's SWPP Plan/Site Map defines that a temporary sediment basin be installed on the site. The site did not install the sediment basin due to the site not being in the correct phase for construction. However, the site did not employ any BMPs which would reduce the stormwater volume to the southeast corner of the site. Instead, the site dug a conveyance channel and directed the runoff to a single layer of silt fence and a sediment pit. The silt fence was observed in place yet showed evidence of a storm event overwhelming the silt fence as the grass next to the silt fence was knocked down and sediment was found along the bank of the detention basin for the Scheels Baseball Complex.	ND CGP II.C.3			\$1,000.00	=		
	A Where sedimentation basin not attainable, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries		ND CGP II.C.3	Yes	1	\$1,000.00	=	\$1,000	
	B Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		ND CGP II.C.3			\$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)		ND CGP II.C.3			\$500.00	=		
	A Sediment not removed from sediment trap when design capacity reduced by 50% or more		ND CGP II.C.3			\$500.00	=		
Subtotal BMP Deficiencies									\$3,000
SMALL BUSINESS EVALUATION									
48	Is the Owner/Operator a Small Business?	The EPA assumes that Northern		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.

Improvement Co. is a small business.

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Total Expedited Settlement:

\$5,550

* Requires Corrective Action

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



BRANDY A BALLWEBER VP/TREAS

EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

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**) 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 below 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.

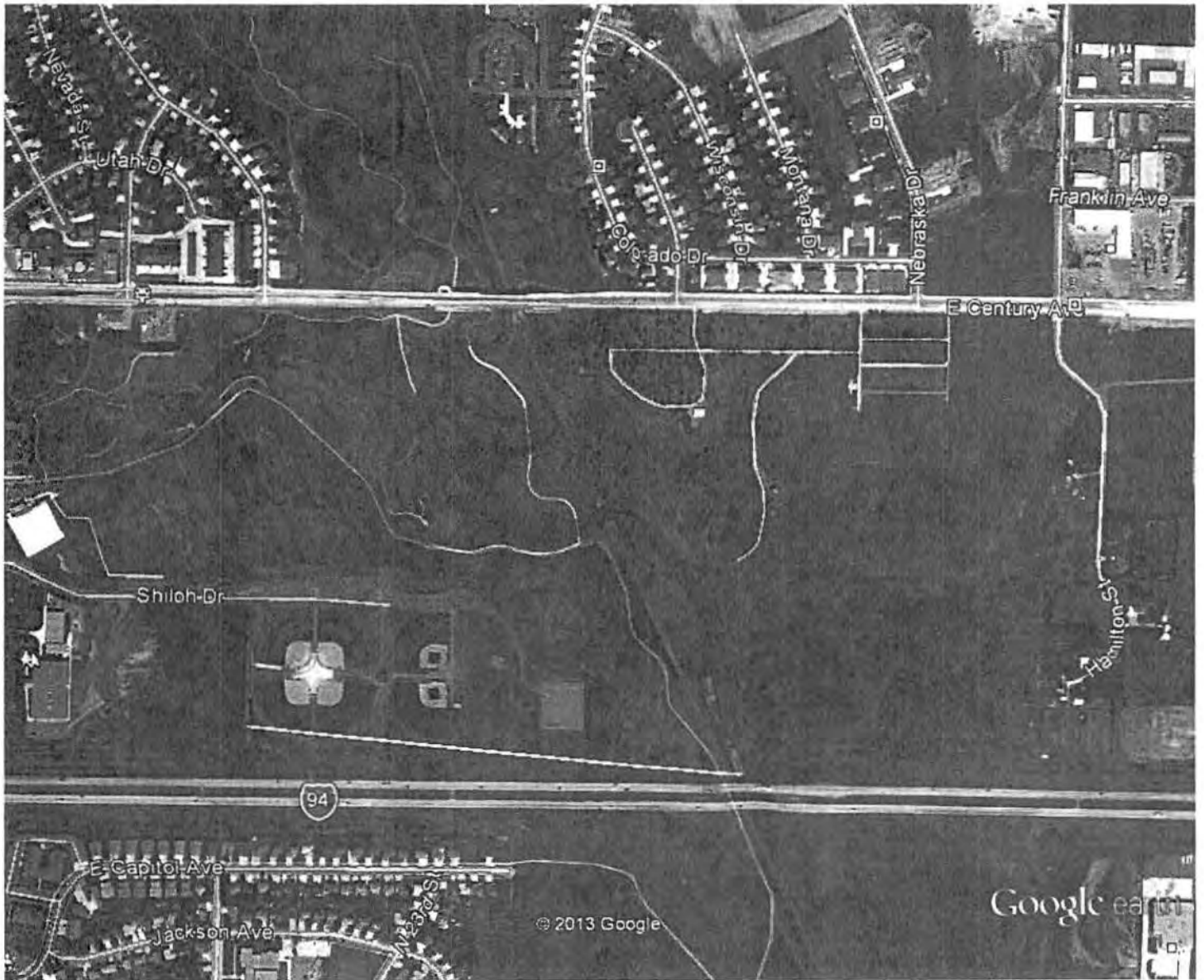
If you choose to sign and return the Agreement, you waive your opportunity for a hearing and to appeal pursuant to Section 309 of the Clean Water Act. If you choose not to sign and return the Agreement, or contact EPA, within THIRTY (30) days, the Agreement will be automatically withdrawn, without prejudice 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, EPA will sign and file the Agreement 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.

Stormwater Pollution Prevention Plan (SWPPP)

SWPPP Revision Documentation

<u>Item Revised</u>	<u>Revision Made</u>	<u>Date</u>	<u>Initials</u>
SWPPP PLAN AS PER RECOMMENDATION OF EPA		6/6/13	JAR
CLARIFICATION OF SWPPP PLAN AS PER EPA		6/17/13	JAR



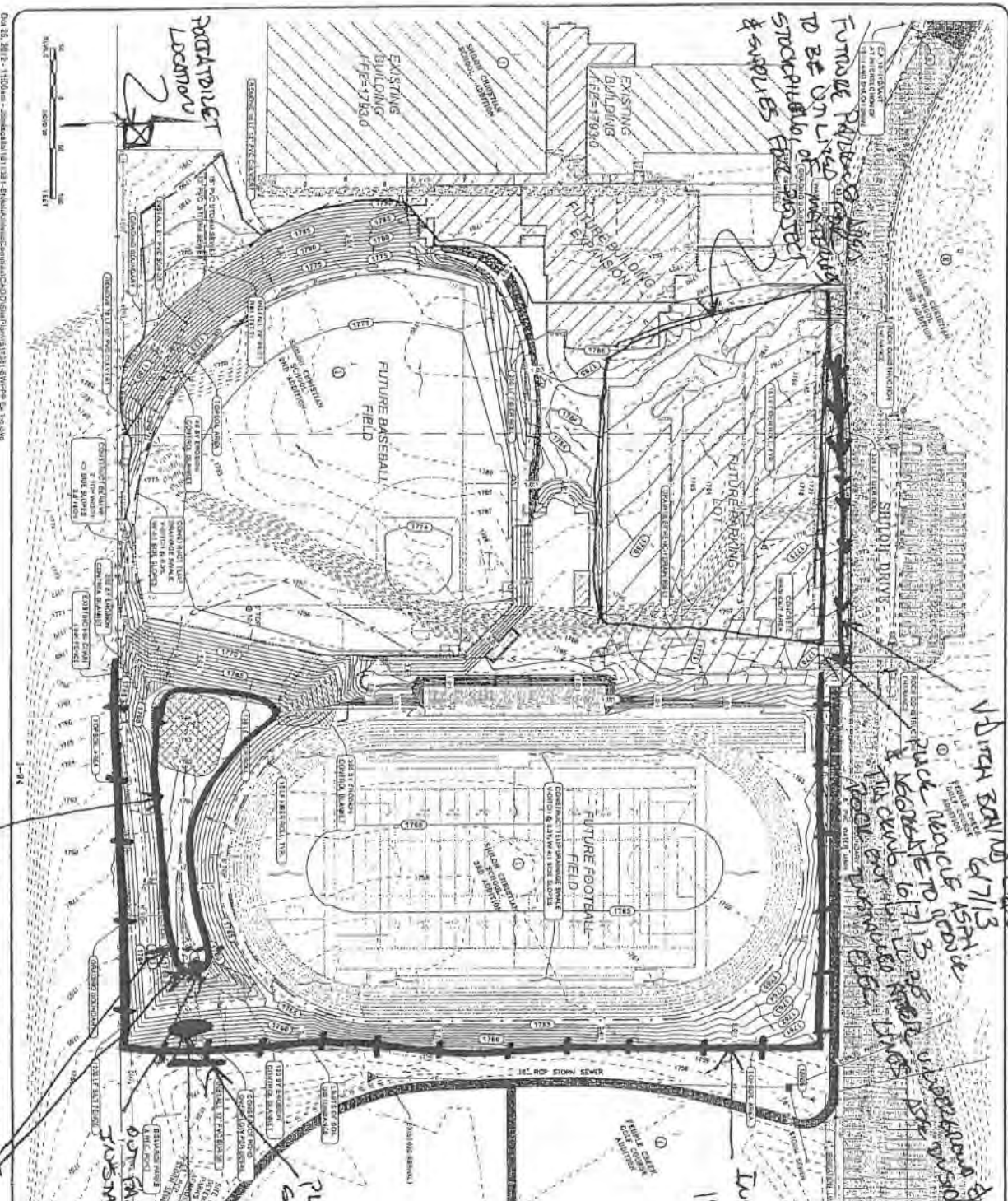
Google earth

feet
meters



Distance as the "crow fly's" from the Shiloh Porject to Haycreek is ± 2500 lineal feet. If we follow the flow of the drainge is ± 2600 lineal feet.

Future Parking Garage
to be on line of existing
structure for existing
& supplies



ADDITIONAL CONSTRUCTION OF RESTORATION POND FALL 2012 TO CONTROL SEDIMENT

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ADDITIONAL CONSTRUCTION OF RESTORATION POND FALL 2012 TO CONTROL SEDIMENT

1. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BISMARCK, NORTH DAKOTA AND THE STATE OF NORTH DAKOTA PRIOR TO THE START OF CONSTRUCTION.

2. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BISMARCK, NORTH DAKOTA AND THE STATE OF NORTH DAKOTA PRIOR TO THE START OF CONSTRUCTION.

3. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BISMARCK, NORTH DAKOTA AND THE STATE OF NORTH DAKOTA PRIOR TO THE START OF CONSTRUCTION.

4. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BISMARCK, NORTH DAKOTA AND THE STATE OF NORTH DAKOTA PRIOR TO THE START OF CONSTRUCTION.

5. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF BISMARCK, NORTH DAKOTA AND THE STATE OF NORTH DAKOTA PRIOR TO THE START OF CONSTRUCTION.

NO.	DATE	REVISION
1	08/13/2012	ISSUED FOR PERMITS
2	08/13/2012	ISSUED FOR PERMITS
3	08/13/2012	ISSUED FOR PERMITS

SHILOH ATHLETIC COMPLEX
SHILOH CHRISTIAN SCHOOL
BISMARCK, NORTH DAKOTA

SWPPP EXHIBIT 1-B

SHILOH - WEST BACE CHECK
IN TEMP. SEDIMENT.

POUND 6/20/13
PWB

INSTALLED
6/17/13

INSTALLED
6/19/13



SHILOH - WEST BALE CHECK IN
TEMP. SEEDING POND

6/20/13

[Signature]

EAST BALE
CHECK



← BALE CHECK OF
6/11/13 REMAINS
IN HAND

SILKON OUTPOST
CHECK IN TEMP.
SEDIMENT POND
6/20/13
PJS



SW1004 - East Bore
IN TERN 5500
6/

PL



INSPECTORS LOG FOR STORM WATER PERMITS

Estimator / Superintendent

BRAD BAYLOR Wendy Kuntz
 (THE BELOW INFORMATION IS GIVEN TO THE BEST OF MY KNOWLEDGE)

Job #

12513

Location

SHILOH

Date of Inspection	Initials of inspector	Type of inspection				Time of inspection	Areas to be inspected				Comments		
		Routine Weekly	24 hour after a rain event	Monthly	Daily		Yearly	Insignificant rainfall, no inspection needed	AM	PM		All erosion and sedimentation control BMP's	Temporary Sedimentation basins
5/13/13	WB								*	*			REVIEWED BMP'S SET UP W/ALCOF 2012 - NEED SILT FENCE REPAIR. RETENTION POND IS OK
5/14/13	WB					9:00			*				WENDY K & GREG REPAIRED SILT FENCE AROUND PROJECT
5/15/13	WB												BRAD & PACE ADDITIONAL CHECKED ASPHALT ON CURVE PORTION OF SHILOH DR. TO IMPROVE CURB AND LESSEN TRACKING TO DIRT ON TO PARKED VEHICLES
5/16/13	WB												BROOM TRACKING DIRT ON SHILOH DR & 19th ST
5/18/13	WB					9:30							HEAVY RAIN ± 1.5" OVERNIGHT - ALL BMP'S LOOKED GOOD
5/20/13	WB												HEAVY RAIN GUT ± 3.0" OVERNIGHT - ALL BMP'S LOOKED GOOD

Job # 12513
 Location SAILOR

INSPECTORS LOG FOR STORM WATER PERMITS
 Estimator / Superintendent

Bruce Kuntz / Wendy Kuntz
 (THE BELOW INFORMATION IS CORRECT TO THE BEST OF MY KNOWLEDGE)

Date of Inspection	Initials	Type of Inspection					Time of Inspection	Areas to be Inspected				Inspectors should initial inspection form, enter type, date, time in blanks provided. Make necessary comments in blanks below.		
		Initials of Inspector	Routine Weekly	24 hour after a rain event	Monthly	Daily		Yearly	Insignificant rainfall, no inspection needed	AM	PM		All erosion and sedimentation control BMPs	Temporary Sedimentation basins
5/23/13	WK										*			Wendy & Crew constructed an additional sediment basin on east end of retention pond in an effort to control sediment from heavy rain events
5/29/13	WK	*								*				Some of the silt fence was loose/down in areas. Wendy & crew reset/repairs/installed new silt fence.
6/6/13	WK						± 10:00			*	*	*	*	On site inspection by Scott Raport, EPA & Luci Snowden, NDHD. Bruce, Wendy, K, Craig H. attended. We provided them w/ SWPP & inspection log. We reviewed the plan & learned what was expected as far as reports, updating plans & documentation. We then walked the site to review BMPs. Concluded inspection at approx 11:15 & departed as follows:
														- Rock outflow has not been installed onto SAILOR Dr. Sewer. Water & Elec. need to be installed by others not under our control/contract
														- We need to devote the sediment pond Wendy installed on the site plan
														- Add road way sweepings & repair notes to inspection log.
														- REVISE SITE PLAN AS CHANGES OCCUR
														- REVISED LOG SHEET TO ALLOW MORE SPACE FOR DETAIL

INSPECTORS LOG FOR STORM WATER PERMITS
Estimator / Superintendent

Bradford [Signature] / [Signature] Kuntz
(THE BEANS INFORMATION IS CORRECT TO THE BEST OF MY KNOWLEDGE)

Job # 12513
Location SHILOH

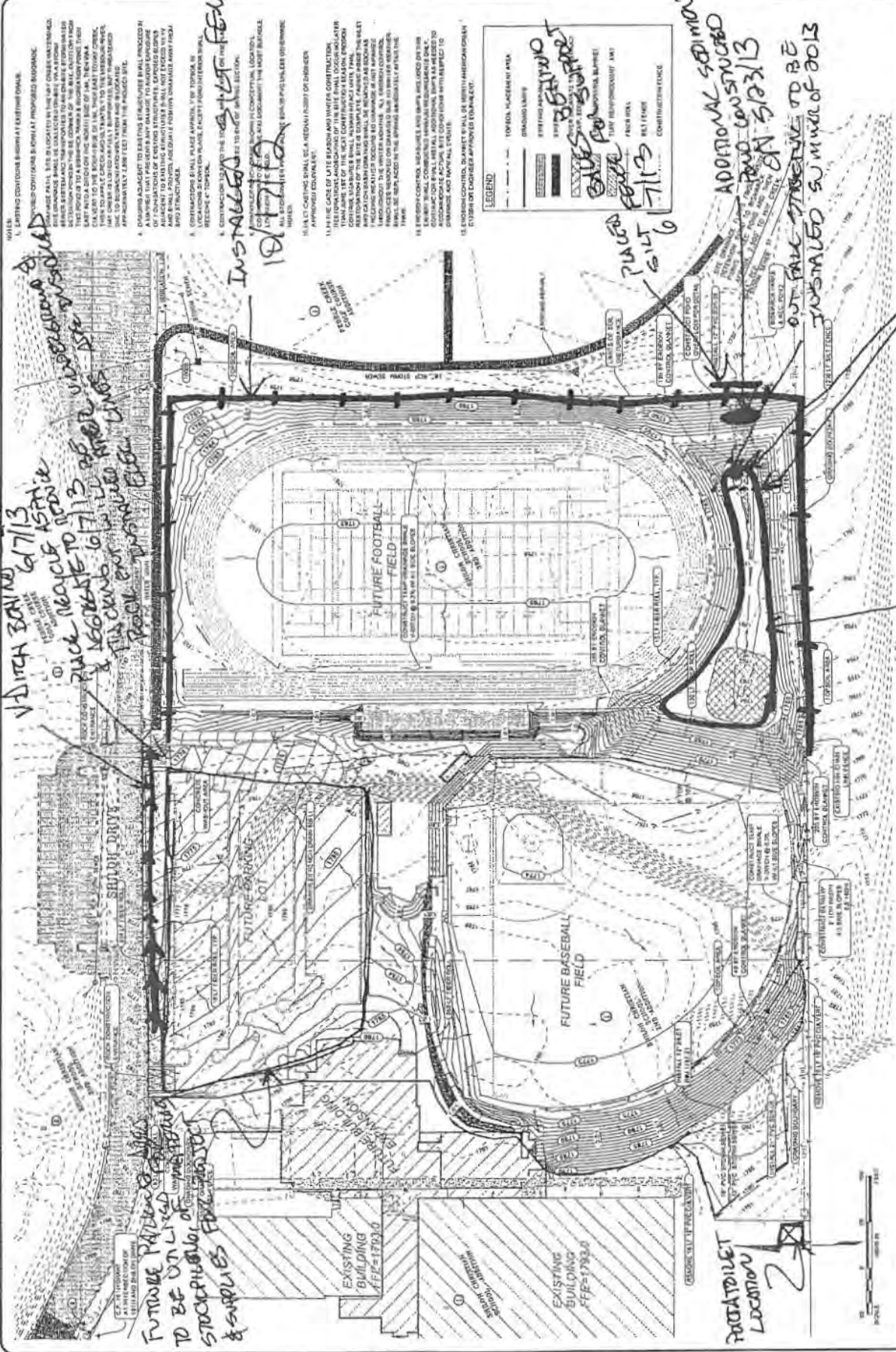
Date of Inspection	Initials of Inspector	Type of Inspection				Time of Inspection	Areas to be Inspected				Comments	
		Routine Weekly	24 hour after a rain event	Monthly	Daily		Yearly	All erosion and sedimentation control BMP	Temporary Sedimentation basins	Drainage ditches and other water of the State		Construction site exists
6/5/13	[Signature]	*				PM	*					Two LIBRERS FROM TIM H CRAW SPENT 2 1/2 HRS REPAIRING SILT FENCE
6/7/13	[Signature]					AM	*					CUT V-DRAIN BEHIND CURB ALONG SHILOH DR. PER SETN D. - EPA PUMP RECYCLED ASPHALT IN GRASS TEMP. DR. TO HELP CONTROL OILER BURNER AND PREVENT ASPHALT TO SHILOH DR. ADDED SILT FENCE. A SEAM OVERLAPS IN AREAS WHICH WERE SHORT. INSTALLED RAILS BEYOND SILT FENCE IN SE CORNER OF PLOT TO SUPPORT SILT FERT DURING HEAVY RAIN EVENTS. PLACED RAILS CORERS AT TWO LOCATIONS AS PER RECOMMENDATION OF EPA (SETN). ONE AT EAST END OF PETERSON ROAD & ONE AT MOUTH OF COMMERCIAL DITCH
6/8/13	[Signature]	*				10:00	*	*	*	*		WE HAD ± 0.20 OF RAIN LAST NIGHT. WALKED THESITE & TOOK PICTURES. ALL LOOKS GOOD. WENDY ADDED GRANULE TO EXIT ON TO SHILOH DRIVE TO REDUCE TRACKING. WE WILL SWEEP STATION & PLOTS WHEN WE ARE DONE HANDLING FOR TODAY

Job # 12513
 Location SHILOH

INSPECTORS LOG FOR STORM WATER PERMITS
 Estimator / Superintendent

Brian Ballweber / Wendy Kuntz
Patricia
 (THE BELOW INFORMATION IS
 COLLECT TO THE BEST OF MY
 KNOWLEDGE)

Date of inspection	Initials		Type of inspection					Time of inspection		Areas to be inspected				Inspectors should initial inspection form, enter type, date, time In blanks provided. Make necessary comments in blanks below.	
	Inspector	Supervisor	Routine Weekly	24 hour after a rain event	Monthly	Daily	Yearly	Insignificant rainfall, no inspection needed	AM	PM	All erosion and sedimentation control BMP's	Temporary Sedimentation basins	Drainage ditches and other water of the State		Construction site exists
6/9/13	<u>RB</u>		*					* 10:30			*	*		*	WE RECEIVED ± 0.40" OF SLOW STEADY RAIN YESTERDAY. I CHECKED THE SITE ON SUNDAY MORNING & BMP'S & POUNDS WERE ALL GOOD
6/13/13	<u>RB</u>							13:30			RECEIVED A CALL FROM EPA SETA D & MS MORRIS				DISCUSSED 6/6/13 SITE INSPECTION. SETA SENT EMAIL WITH REPORT & STANDARD GUIDELINES I WILL REVIEW & RESPOND
6/14/13	<u>RB</u>							11:30							GAVE "NOTICE OF TRANSFER" FORM TO CRAIG HENNING OF NORTHWEST CONTRACTORS.
6/17/13	<u>RB</u>							2:00							PHONE CALL WITH BRENDA MORRIS & SETA WRAPER OF EPA. REVIEW INSPECTION REPORT OF 6/6/13 (BRIAN BALLWEBER & BRUCE THOMPSON) WE WILL REVISE SWPP PLAN TO INCLUDE FIBERS OF CONCRETE
6/18/13	<u>RB</u>							1:30							AN OIL LEAK DEVELOPED ON THE SHEEPSFOOT. APPROX 1-2 GALS OF OIL LEAKED ON TO GROUND. OIL/SOIL WAS SCOOPED UP & HAWK TO OUR RECYCLE SERVICES STOCKPILE FOR DISPOSAL



Handwritten notes:
 VITICH BOUND 6/7/13
 BLACK REPAIRS AS NOTED
 & REGRATE TO 6/7/13
 THIS WORK WILL BE COMPLETED
 ROCK REPAIRS TO BE COMPLETED
 INSTALLED 6/7/13

Handwritten notes:
 INSTALLED 6/7/13
 19112013

Handwritten notes:
 PLANT 6/7/13
 ADDITIONAL SEDIMENTATION
 POND CONSTRUCTED
 ON 5/23/13

Handwritten notes:
 OUT FENCE TO BE
 INSTALLED SUMMER OF 2013

Handwritten notes:
 FUTURE PARKING TO BE UNLINED
 STOCKPILE OF SUPPLIES & EQUIPMENT

Handwritten notes:
 FUTURE BASEBALL FIELD
 FUTURE FOOTBALL FIELD

Handwritten notes:
 FUTURE BASEBALL FIELD
 FUTURE FOOTBALL FIELD

Handwritten notes:
 FUTURE BASEBALL FIELD
 FUTURE FOOTBALL FIELD

Handwritten notes:
 FUTURE PARKING TO BE UNLINED
 STOCKPILE OF SUPPLIES & EQUIPMENT

Handwritten notes:
 FUTURE BASEBALL FIELD
 FUTURE FOOTBALL FIELD

Handwritten notes:
 FUTURE BASEBALL FIELD
 FUTURE FOOTBALL FIELD

Handwritten notes:
 FUTURE BASEBALL FIELD
 FUTURE FOOTBALL FIELD

Handwritten notes:
 PARTIAL CONSTRUCTION OF
 RETENTION POND FALL 2012
 TO CONTROL SEDIMENT
 FADDED ABOVE CHECK DAMS TO REDUCE
 FLOW & CATCH SEDIMENT 6/7/13
 * TWO ADDITIONAL CHECK DAMS
 WERE INSTALLED 6/19/13



**NOTICE OF TRANSFER/MODIFICATION OF COVERAGE UNDER
(NDPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES
ASSOCIATED WITH CONSTRUCTION ACTIVITY (NDR10-0000)
NORTH DAKOTA DEPARTMENT OF HEALTH
DIVISION OF WATER QUALITY
SFN 54242 (02/10)**

For Dept. Use Only

Date Received: / /

This form may be used to modify existing permit information for a permitted site. The form also may be used when an owner or operator of a construction project changes (see Part I.F of NDR10-0000). The new owner or operator may implement the original SWPP plan or develop a new SWPP plan. New permittees must ensure either directly or through coordination with others that their SWPP plan will meet the terms and conditions of the permit and will not interfere with another party's SWPP plan.

PERMIT ID NUMBER: NDR10-5200

REASON FOR MODIFICATION:			
<input type="checkbox"/> Add Owner	<input type="checkbox"/> Add Contractor	<input checked="" type="checkbox"/> Remove Contractor	
<input type="checkbox"/> Change from Sole-Permittee to Co-Permittee			
MODIFICATION INFORMATION			
Company Name <u>NORTHERN IMPROVEMENT CO</u>	Contact Person (Mr/Ms) <u>BRADLEY A BALLWEBER</u>	Phone No. <u>223-6695</u>	
Mailing Address <u>3320 E. CENTURY AVE</u>	City <u>BISMARCK</u>	State/Province <u>ND</u>	Zip Code <u>58503</u>
OR:			
<input type="checkbox"/> New Owner	<input checked="" type="checkbox"/> New Contractor	<input type="checkbox"/> Address Change	<input type="checkbox"/> Company Name Change
OLD INFORMATION			
Company Name <u>NORTHERN IMPROVEMENT CO</u>	Contact Person (Mr/Ms) <u>BRADLEY A BALLWEBER</u>	Phone No. <u>223-6695</u>	
Mailing Address <u>3320 E. CENTURY AVE</u>	City <u>BISMARCK</u>	State/Province <u>ND</u>	Zip Code <u>58503</u>
NEW INFORMATION			
Company Name <u>NORTHWEST CONTRACTING</u>	Contact Person (Mr/Ms) <u>CRIS HUMMEL</u>	Phone No. <u>255-7727</u>	
Mailing Address <u>3320 E. CENTURY AVE</u>	City <u>BISMARCK</u>	State/Province <u>ND</u>	Zip Code <u>58503</u>
OTHER:			
<input type="checkbox"/> New Project Name:			
<input type="checkbox"/> Other:			

CERTIFICATION STATEMENT	
Return Completed Application to: North Dakota Department of Health Division of Water Quality, 4 th 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	Title
Signature	Date

(Attach additional pages if needed)

**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 Shiloh Athletic Complex, being constructed by Northern Improvement Co. at PO Box 1254, 3320 E. Century Avenue, Bismarck, ND 58502-1254 (Burleigh 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 June 24, 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:

Northern Improvement Co.
PO Box 1254
3320 E. Century Avenue
Bismarck, ND 58502-1254

EPA Docket Number: **CWA-08-2013-0018**

Proposed penalty in the Complaint: \$5,550.00

Alleged violations: (1) Failing to maintain a complete storm water pollution prevention plan, (2) failing to conduct required self-inspections, and (3) failing to install and maintain best management practices to minimize discharges of sediment and other pollutants into waters of the United States.

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: **CWA-08-2013-0018**.

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.