



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
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EPA REGION VIII
HEARING CLERK

MAY 21 2019

Ref: 8ENF-W-NW

CERTIFIED MAIL #7012 2210 0000 5371 2083
RETURN RECEIPT REQUESTED

Craig Pelton
Dunn County Commission Chairman
205 Owens Street, P.O. Box 105
Manning, North Dakota 58642-0105

Re: Administrative Order Closure, EPA Docket No. CWA-08-2009-0013

Dear Mr. Pelton:

The U.S. Environmental Protection Agency (EPA) is providing you this written notification of the closure of the EPA administrative order (AO) referenced above. The AO was issued to Dunn County on May 14, 2009. It alleged that Dunn County had discharged dredged or fill material to the Little Knife River near Manning in Dunn County, North Dakota, without an appropriate section 404 permit, in violation of section 301 of the Clean Water Act.

Based on information contained in the case file, including the annual monitoring report prepared by KLJ on Dunn County's behalf and submitted to the EPA on October 24, 2017, supplemental information KLJ provided the EPA on April 11, 2018, and the enclosed report of a July 27, 2018, site inspection, the EPA has determined that there are no remaining obligations under the AO and that the success criteria identified in the EPA-approved restoration plan have been met. Accordingly, the AO is now considered closed.

Please be advised that closure of this AO does not relieve or change Dunn County's obligation to comply with the Clean Water Act and all applicable federal, state, and local laws. The EPA encourages Dunn County to continue to manage weeds as indicated in its EPA-approved restoration plan and to continue maintaining the site by addressing any problems such as erosion, sedimentation, dumping of trash or debris, etc.

I appreciate the efforts Dunn County has made to resolve this matter. If you have any technical questions, please contact Monica Heimdal, Section 404 Enforcement Officer, at (303) 312-6359 or



heimdal.monica@epa.gov. Any questions from counsel should be directed to Peggy Livingston, Senior Enforcement Attorney, at (303) 312-6858 or livingston.peggy@epa.gov.

Sincerely,



Stephanie DeJong, Chief
NPDES and Wetlands Enforcement Section
Enforcement and Compliance Assurance Division

Enclosure

cc: Melissa Haniewicz, EPA, Regional Hearing Clerk
Justin Hyndman, KLJ (via email, w/enclosure)
Joseph McMahan, U.S. Army Corps of Engineers (via email)
Patricia McQuery, U.S. Army Corps of Engineers (via email)

Clean Water Act Section 404 Inspection Report

U.S. ENVIRONMENTAL PROTECTION AGENCY--REGION 8

INSPECTOR: Monica Heimdal		DATE: 07/27/18	TIME: 10:00 AM – 11:15 AM
CASE IDENTIFICATION: Dunn County			
INSPECTION PURPOSE/CASE INFORMATION:			
<input checked="" type="checkbox"/> Review of restoration and/or mitigation site <input checked="" type="checkbox"/> AO, AOC, and/or Consent Decree Docket #: CWA-08-2009-0013 <input checked="" type="checkbox"/> ICIS ID #: 1400021344 <input checked="" type="checkbox"/> Corps ID #: NOW-2008-02477-BIS <input checked="" type="checkbox"/> Annual Monitoring Year: Year 3 (2017) <input type="checkbox"/> Other:			
SITE LOCATION			
State: ND		Section: 29, 30	
City: Near Manning		Township: 144 North	
County: Dunn		Range: 96 West	
Latitude: 47.269565		Longitude: -102.884655	
Name of Water Body or Adjacent Water Body and Description of Work Location:			
Little Knife River. The Little Knife River is a tributary to the Knife River, which flows into the Missouri River. From north Manning, travel ~5.4 miles west on 12 th Street SW and 2 miles north on 113 th Avenue SW.			
OWNER		OPERATOR (Contractor)	
Name: Dunn County		Name:	
Address: 205 Owens Street, P.O. Box 105		Address:	
City: Manning		City:	
State: ND	Zip: 58642-0105	State:	Zip:
Phone: 701-573-4448		Phone:	

PERSONS PRESENT AT INSPECTION		
NAME	AFFILIATION	PHONE
Donna Scott	County Commission Chairperson	701-573-4448
Justin Hyndman	KLJ (Dickinson, ND)	701-456-3187
Monica Heimdahl	USEPA Region 8, Lead Inspector	303-312-6359
DESCRIPTION OF RESTORATION/MITIGATION		
Description of Required Wetland Restoration and/or Mitigation: N/A		
Description of Required Stream Restoration and/or Mitigation: Reconstruction of approximately 2000 feet of the channel of the Little Knife River following an unauthorized channel realignment of the river in violation of Clean Water Act Section 404. The restoration project was designed to stabilize the stream banks, reduce erosion, and improve the stream channel function.		
Restoration/Mitigation Start Date: August 18, 2014	Restoration/Mitigation Completion Date: (construction and planting) October 30, 2014	% Complete: 100%
Review of As-Built Report: The first annual monitoring report and as-built were received December 29, 2014. They were initially reviewed by Julia McCarthy and subsequently reviewed by Monica Heimdahl. Subsequent annual monitoring reports were reviewed by Ms. Heimdahl.		
Visual Observations: Overall, the site was well-vegetated, robust. There was little sign of erosion of stream banks. Observed rock riffles appeared to be intact and stable.		
Owner/Operator Statement: When asked by the inspector about possible "margin of error" in the surveying results, Mr. Hyndman of KLJ replied the cross-sections were surveyed using GPS and the tolerance may be ±0.1 foot.		

Review of Required Success Criteria: Based upon the most recent annual report, dated October 24, 2017, and the July 27, 2018, inspection, it appears the restoration meets success criteria.
Recommended Corrective Actions: N/A
See Wetland Determination Data Sheets If Data Points Are Collected During Field Inspection. N/A
ATTACHMENTS
<input type="checkbox"/> Maps and Sketches <input checked="" type="checkbox"/> Photographs and Locations <input type="checkbox"/> Additional Comments and Notes <input type="checkbox"/> Other – Specify
ADDITIONAL NOTES AND/OR FIELD SKETCH (Include information regarding environmental conditions that may have an impact on the inspection findings or the interpretation of those findings.)
<p>There were no environmental conditions present at the time of the inspection that might have an impact on the findings or interpretation of those findings. Air temperature was approximately 68° F; sky was clear and sunny. Camera did not task satellites for lat/long readings.</p> <p>The EPA recommends that Duane County personnel familiar with the project continue to monitor the site periodically to assess bank stability, signs of erosion, condition of riffles, excessive channel migration, presence of suitable vegetation versus weeds, etc., and take corrective measures, as warranted.</p>
INSPECTOR SIGNATURE: <u></u> DATE: 09/14/18

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 1: Station -1+00, looking southwest (upstream).

By: Monica Heimdal
File: DSCN1033.JPG
Date/Time Shot: 7/27/2018 10:23:33 AM
Heading: 207.54 (M)

Nikon Coolpix AW100
“(M)” indicates magnetic north.
Camera did not task satellites for lat/long readings.

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 2: Station -1+00, looking northeast (downstream).

By: Monica Heimdal
File: DSCN1034.JPG
Date/Time Shot: 7/27/2018 10:24:12 AM
Heading: 30.43 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 3: Station 1+00, looking east (downstream).

By: Monica Heimdal
File: DSCN1035.JPG
Date/Time Shot: 7/27/2018 10:27:27 AM
Heading: 65.34 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 4: Downstream of station 1+00, looking east-southeast (downstream). Note lush vegetation along stream; little sign of erosion.

By: Monica Heimdal
File: DSCN1036.JPG
Date/Time Shot: 7/27/2018 10:31:20 AM
Heading: 124.66 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 5: Station 3+00, upstream of culvert, looking southeast.

By: Monica Heimdal
File: DSCN1037.JPG
Date/Time Shot: 7/27/2018 10:33:51 AM
Heading: 118.67 (M)

Nikon Coolpix AW100
“(M)” indicates magnetic north.
Camera did not task satellites for lat/long readings.

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 6: Station 3+00, looking southwest.

By: Monica Heimdal
File: DSCN1038.JPG
Date/Time Shot: 7/27/2018 10:35:17 AM
Heading: 233.46 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 7: From top of road (113th Ave. SW), looking west (upstream).

By: Monica Heimdahl
File: DSCN1039.JPG
Date/Time Shot: 7/27/2018 10:36:43 AM
Heading: 256.14 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 8: From top of road (113th Ave. SW), looking east (downstream).

By: Monica Heimdal
File: DSCN1040.JPG
Date/Time Shot: 7/27/2018 10:38:07 AM
Heading: 95.78 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 9: From top of road (113th Ave. SW), looking east (downstream).

By: Monica Heimdal
File: DSCN1041.JPG
Date/Time Shot: 7/27/2018 10:39:11 AM
Heading: 80.95 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 10: From top of road (113th Ave. SW), looking east (downstream). Note riparian vegetation along bank. Telephoto setting used.

By: Monica Heimdahl
File: DSCN1042.JPG
Date/Time Shot: 7/27/2018 10:40:08 AM
Heading: 80.29 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 11: Station 5+00, looking northwest (upstream).

By: Monica Heimdal
File: DSCN1043.JPG
Date/Time Shot: 7/27/2018 10:45:48 AM
Heading: 309.01 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 12: Station 5+00, looking east (downstream).

By: Monica Heimdal
File: DSCN1044.JPG
Date/Time Shot: 7/27/2018 10:46:45 AM
Heading: 68.98 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 13: Station 7+00 (approximate), looking east.

By: Monica Heimdal
File: DSCN1045.JPG
Date/Time Shot: 7/27/2018 10:59:57 AM
Heading: 81.93 (M)

Nikon Coolpix AW100
“(M)” indicates magnetic north.
Camera did not task satellites for lat/long readings.

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 14: Between stations 7+00 and 9+00, looking south-southeast (downstream). Note rock riffle.

By: Monica Heimdal
File: DSCN1046.JPG
Date/Time Shot: 7/27/2018 11:01:00 AM
Heading: 136.62 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 15: Station 9+00, looking north-northeast (upstream).

By: Monica Heimdal
File: DSCN1047.JPG
Date/Time Shot: 7/27/2018 11:04:35 AM
Heading: 0.78 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 16: Station 9+00, looking east-southeast (downstream).

By: Monica Heimdal
File: DSCN1048.JPG
Date/Time Shot: 7/27/2018 11:04:43 AM
Heading: 94.06 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 17: Between stations 9+00 and 11+00, looking east-northeast (downstream). Note riffle.

By: Monica Heimdal
File: DSCN1049.JPG
Date/Time Shot: 7/27/2018 11:07:32 AM
Heading: 28.58 (M)

Photo Log – Dunn County – CWA-08-2009-0013 – 07/27/18



Photo 18: Station 9+00 (approximate), looking east (downstream).

By: Monica Heimdal
File: DSCN1050.JPG
Date/Time Shot: 7/27/2018 11:12:57 AM
Heading: 65.65 (M)