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LESSONS LEARNED FROM THE FIELD

EPA EDITION!

This was a surprise inspection, but the signs were everywhere.





Locusts = Periodic Cicadas

BROOD X EMERGENCE MAPS JUST SO
HAPPEN TO RESEMBLE THE EPA
REGION 3 JURISDICTIONAL MAPS



Pandemic
=Plague?

The Rivers and streets ran red with Sediment- well, maybe not, but just imagine if they did....





MEET WALTER PECK



Finally, in May 2021, EPA compliance inspectors emerged from their dark hotel rooms and descended upon DeIDOTS's active construction sites.

What did we learn? (Based on EPA Early Findings)

- ▶ The EPA was not here for simple verification that we were generally in compliance.
- ▶ They performed an, in depth, audit of site conditions, site documentation and internal enforcement measures.
- ▶ Any deviation from the approved sediment and stormwater plan or permit conditions was perceived as a potential violation.
- ▶ Even if site condition's we're compliant(no sediment leaving the site), any difference in site documentation was perceived as a potential violation.

Specific Examples

- ▶ A stabilized entrance had been removed with ESL approval. Its usefulness had been phased out due to site work progressing and site access in that area no longer being needed.
- ▶ The entrance was still shown on the approved plan and had not been redlined for removal. EPA inspectors found this to be a potential violation.

Specific Examples

- ▶ EPA inspectors saw that a concrete washout area was noted on the plan, but no concrete washout was present at the time of the inspection. This was perceived as a potential violation.
- ▶ The contractor had been using small portable/disposable concrete washout systems. There was no active concrete work on site, so the system was not in place and visible to the EPA Inspectors. Unused, clean washouts were present in the construction storage trailer, but the EPA declined to see them.

Specific Examples

- ▶ Contractor had taken it upon himself to install additional Erosion and Sediment control measures (Compost Filter log) in area to prevent erosion he had noticed.
- ▶ The EPA inspector noticed this compost filter log was not shown on the approved plan. This was noted as possible violation due to site conditions not matching the approved plan. (Even good deeds can go punished)





Specific Examples

- ▶ EPA noticed a staging/stockpile area adjacent to the DeIDOT project, but outside of the approved LOC. Many E&S violations were found within this area. This location was being used by the contractor through an agreement with a private landowner. Permitting and approval for using the area should have been the responsibility of the private landowner.
- ▶ EPA noted the unpermitted area and all associated non-compliances on the DeIDOT inspection report. EPA also noted that CCR inspections had not covered this area and sited that lack of weekly inspections could also be a violation.

Specific Examples

- ▶ On one project they reviewed all CCR inspection reports and listed every instance of non-compliances remaining uncorrected for longer than seven days as a possible violation.
- ▶ Performing corrective actions within seven days is always required by Federal standards.

Specific Examples

- ▶ The NOI posting requirement is required and the EPA checked for postings at every project they visited.
- ▶ DeIDOT regulatory inspections include verification of postings.
- ▶ Also included are a copy of the stamped/signed approved plan, Copy of the NOI, and copies of all Weekly (CCR) inspections.





With help from Construction we were able host the EPA and provide all the documentation they required. Time will reveal the true result of their visit.

How can we improve?

▶ 2016 Contract Specifications

- ▶ DeIDOT is the lone NOI holder (permittee) and accepts all responsibility for stormwater non-compliances, regardless of contractor cooperation or lack there of.

▶ 2020 Contract Specifications

- ▶ Requires the contractor to be a co-permittee and accept partial responsibility for stormwater non-compliances. Contractor cooperation, or lack there of, can now be weighed by DNREC or the EPA when determining which party is responsible.
- ▶ Documentation of internal enforcement measures is crucial for this system to benefit DeIDOT.

How can we improve?

- ▶ **Off Site Staging and Stockpile Areas**
- ▶ Added notes to the preconstruction meeting form which ask the contractor specifically about plans to utilize off site areas.
- ▶ DeIDOT will notify the proper delegated agency of the contractor's intentions and document this notification.
- ▶ Depending on the desire of the other Delegated Agency, DeIDOT can provide permit coverage for some of these offsite locations.
- ▶ The site ESL, E&S Section and other Delegated Agency will work closely together to ensure all areas are permitted properly.

How can we improve?

- ▶ Communicate with the ESL regarding any deviations from the approved plan no matter how small or insignificant the changes may seem.
- ▶ BMP removal, even for BMP's which have obviously been phased out, must be approved by the ESL prior to removal.

Back from 2021- Dewatering

- ▶ Always filter on intake and discharge ends.
- ▶ Cause of many violations
- ▶ Can result in an instant NOV from DNREC is performed improperly
- ▶ If unsure...ask your CCR, ESL or me for guidance and pre-inspection of your dewatering set up.



Communication is Key-

Actual utility pole in Wilmington

- ▶ Commonsense will not always prevail but we can try
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Questions?

