



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Four Penn Center
1600 JFK Blvd.
Philadelphia, Pennsylvania 19103-2029

Report Title: Clean Water Act Compliance Inspection Report
Inspection Date(s): 05/15/2024
Regulatory Program(s): National Pollutant Discharge Elimination System (NPDES)
Type of Activity: Construction Stormwater
Site/Facility Name: 33rd to 40th Street Improvements
Permittee(s): West Virginia Division of Highways & Mountaineer Contractors, Inc.
Site/Facility Operator: West Virginia Division of Highways & Mountaineer Contractors, Inc.
Site/Facility Address: WV 61
Charleston, WV 25304
Latitude: 38.328151 **Longitude:** -81.595423
County/Parish: Kanawha
Permit Number: WVR111328
NAICS Code: 237990 **SIC:** 1629
Unique Project #: ECAD-515

Site/Facility Representative(s):	Point of Contact
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Signature/Date

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Date

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Signature/Date

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Date

Unique Project#: ECAD-515

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I. Introduction

On May 15, 2024, an inspection team composed of staff from the U.S. Environmental Protection Agency (“EPA”) Region III (hereinafter, “EPA Inspection Team”) conducted a construction stormwater inspection of the 33rd to 40th Street Improvements site (hereinafter, “the site”). The purpose of the inspection was to observe compliance with the Clean Water Act (CWA) and to verify compliance with the site’s WVDEP NPDES Construction Stormwater General Permit No. WV0115924, Site Specific Permit No. WVR111328 (hereinafter, the “Permit”) and applicable State and Federal regulations.

A. Inspection Opening Conference

The EPA Inspection Team arrived at the site at approximately 8:20AM for the inspection. Inspectors met with the following site representatives:

Table 1: Inspection Attendee List

Name	Affiliation	Telephone	Email
EPA Region III Inspectors and Contractors			
Edward Simas	Lead Inspector	(215) 814-2120	Simas.Edward@epa.gov
Dominic Cotton	Secondary Inspector	(215) 814-2046	Cotton.Dominic@epa.gov
Site/Facility Representatives			
Jim Stark	Foreman – Mountaineer Contractors, Inc.	(304) 625-1386	Jim.Stark@mciwv.com
Michelle Frame	WVDOH	(304) 380-2271	Michelle.l.frame@wv.gov
Tim Hodge (closing only)	Mountaineer Contractors, Inc.	(304) 288-0720	Tim.hodge@mciwv.com
Christopher Wellman (closing only)	Baker International	(304) 730-5898	Christopher.wellman@bakerintl.com
State or County Representatives			
Michelle.l.frame@wv.gov	WVDEP	(304) 816-2453	Christy.e.pitsenbarger@wv.gov

Edward Simas and Dominic Cotton displayed their credentials to Mr. Stark and Ms. Frame (“site representatives”) at the outset of the inspection, and explained the purpose of the inspection was to observe compliance with its Permit. A copy of the Permit is provided in Attachment 1. The EPA Inspection Team informed site representatives that any information deemed to be confidential business information (“CBI”) should be identified to EPA representatives during the inspection and it would be handled as CBI according to EPA’s CBI procedures.

B. Weather and Precipitation Conditions

During the inspection, weather was cloudy, warm, and humid with scattered showers throughout the day. National Oceanic and Atmospheric Administration (NOAA) National Weather Service precipitation data for the date of the inspection and 5 days prior are provided in Table 2 below:

Table 2. Precipitation Data

Station Name	Date	Precipitation Amount (inches) ¹
CHARLESTON WEST VIRGINIA INTERNATIONAL YEAGER AIRPORT, WV US USW00013866	5/10/2024	0.03
CHARLESTON WEST VIRGINIA INTERNATIONAL YEAGER AIRPORT, WV US USW00013866	5/11/2024	0.39
CHARLESTON WEST VIRGINIA INTERNATIONAL YEAGER AIRPORT, WV US USW00013866	5/12/2024	0.00
CHARLESTON WEST VIRGINIA INTERNATIONAL YEAGER AIRPORT, WV US USW00013866	5/13/2024	T
CHARLESTON WEST VIRGINIA INTERNATIONAL YEAGER AIRPORT, WV US USW00013866	5/14/2024	0.21
CHARLESTON WEST VIRGINIA INTERNATIONAL YEAGER AIRPORT, WV US USW00013866	5/15/2024	0.19

C. Summary of the Site/Facility

The West Virginia Division of Highways ("WVDOH") is the developer of improvements within a 0.58-mile-long section of MacCorkle Avenue ("WV 61") spanning from 33rd Street to 40th Street in Charleston, WV within Kanawha County. WVDOH and Mountaineer Contractors, Inc. ("Contractor") are co-permittees for the Permit. The improvements to WV61 include storm sewer reconstruction, ADA compliance and upgrades, pavement reconstruction, signal upgrades, lighting upgrades, and intersection roadway upgrades. The total disturbed area is 6.76 acres. The project includes eight major construction activities including:

1. Land clearing;
2. excavation;
3. filling;

¹ Source: NOAA National Climatic Data Center (<http://www.ncdc.noaa.gov/>).

4. paving;
5. install foundations;
6. grading;
7. utilities; and
8. asphalt Milling

The project includes a schedule expected to exceed two years (finalizing end of July 2024). According to the 2022 SWPPP, the specific phases are included below,

Table 3. Schedule Sheet for Soil Disturbing Activities

Activity	Estimated Time
Install BMPs	4/15/2022 – 4/25/2022
Land Clearing	4/18/2022 – 12/30/2023
Grading	4/25/2022 – 1/30/2024
Excavation	4/25/2022 – 1/30/2024
Filling	4/25/2022 – 1/30/2024
Utilities	4/25/2022 – 1/30/2024
Install Foundations, retaining walls, etc.	5/02/2022 – 1/30/2024
Paving	10/24/2022 – 6/30/2024
Revegetation	5/02/2022 – 6/30/2024
BMP removal	6/30/2024 – 7/26/2024

According to the 2022 SWPPP, the 6.76 disturbed acres result solely from construction activities. There are 0 acres of disturbance in offsite material storage areas, overburden and stockpiles of dirt, and borrow areas. The 2022 SWPPP states that the site discharges stormwater to the Venable Branch leading into the Kanawha River. According to EPA's "How's my Waterway" publicly available watershed mapping tool, the Venable Branch is noted as "impaired".

II. Site Activity

The EPA Inspection Team began the site walkthrough at the corner of 33rd and WV61 near "CAMC Institute for Academic Medicine" and walked until the end of the project at 40th Street. The EPA Inspection Team followed two plans during the inspection route: a final overall design plan (Attachment 2) and an Erosion and Sediment Control ("E&S") Plan (Attachment 3). On both plans, the beginning of the inspection is on "Block 15" with the blocks and street numbers increasing eastwards. The observations from the inspection are described in detail below in the Observations section. The inspection observations were made pursuant to the requirements of the Permit. Photographs were taken during the inspection by Dominic Cotton, and are provided in Attachment 4.

III. Observations

Part II. H. 1. d. of the Permit states road or access road specifications, including: “All unpaved roads on the site shall be graveled or have other durable surface unless the application contains a statement that the affected landowner disagrees with this requirement. The applicant shall provide the land use, such as agriculture and shall describe the BMPs chosen to effectively control sediment and erosion. Unpaved roads shall be stabilized in accordance with 11.H.1.d.1. The roadbed shall be seeded and mulched.”

Part II. H.3. b.9. of the Permit states: “All diversions constructed to final grade, including clean water diversions shall be stabilized prior to becoming functional. Internal construction diversions must be stabilized upon reaching final grade. Divert flows around exposed soils and limit runoff from exposed areas with BMPs such as: Silt fences, earthen dikes and berms, land grading, diversions, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, rock outlet protection, reinforced soil retention systems and geotextiles, gabions and riprap, and permanent and temporary sediment traps/basins. At a frequency, sufficient to keep roads and streets clean, all public and private roads and streets adjacent to a construction site must be cleaned of debris, mud, and dirt tracked or originating from the project site;”

Part III.C. of the Permit, under section “IMPLEMENT ADDITIONAL BMPS TO PROTECT WATER QUALITY”, states, “No sediment-laden water shall be allowed to leave the site without going through an appropriate BMP.”

Observation #1: The EPA Inspection Team observed sediment discharging onsite, including:

- There appeared to be scattered mud and gravel at an unfinished sidewalk near block 18 (see Photo P5150004, Attachment 4) and lot 14, directly adjacent to “Starbuck’s Coffee”. The muddy sediment appears to be traveling into the road and has potential to enter the curb inlet at 33rd and WV 61. It is unclear if the curb inlet at 33rd and WV61 had inlet protection and when the sidewalk will be redone. The sidewalk is noted to be reconstructed in the site’s final plan (Attachment 2).
- A muddy discharge was observed at the corner of 35th street (P5150010). Site representative stated that the muddy discharge resulted from a cement cutter that utilizes water and a lubricant during the process. Site representative plan to sweep this area as soon as the material dries.

Observation #2: At Block 30, There appeared to be track out visible at existing right-of-way at block 30 (P5150016 – P5150017). Track out protection appears to be lacking in the area. The gravel that is available appears to be sparse.

Appendix B. 1. (Proper Operation and Maintenance) of the Permit states, “The permittee shall at all times properly operate and maintain all activities and BMPs which are installed or used by the permittee to achieve compliance with the terms and conditions of the permit. In addition, “Part II. Pre-Construction Requirements” states, “After receiving Directors’ approval and before beginning construction activities:

- install sediment and erosion controls;
- Qualified Person inspects the newly installed sediment and erosion controls. Impounding

structures not built as approved shall be inspected and documented as meeting the trapping capacities and efficiencies of the structures approved in the registration.”

Part II.F. (Installation of Erosion and Sediment Controls) of the Permit states, “After receiving approval from the Director and before beginning construction activities, the permittee shall install erosion and sediment control BMPs in accordance with the approved registration. BMPs shall be in place and functional prior to land disturbance. For registrations proposed to be completed in multiple phases, the BMPs for each phase must be constructed and functional prior to land disturbance beginning in that phase. Erosion and sediment control BMPs shall be implemented in accordance with standard procedures set forth in the BMP Manual, however, other BMPs may be used if equally protective of water quality.”

Part II.H.3. b.1. of the Permit states, “Design, select, and identify erosion and sediment control BMPs. The BMPs should be selected from the BMP Manual. Alternative BMPs may be used if determined by the Director to be equally protective of water quality.”

Observation #3: The EPA Inspection Team observed various locations of the site that appeared to have inadequate operation and maintenance, or E&S controls inadequately installed or not installed, including:

- At the Block 25 location, there is an area with a sanitary sewer line that is about to be installed. There was a drop inlet adjacent to this curb, however there was no inlet protection (P5150007). The E&S map stated this area would have inlet protection, however the only inlet protection to be seen was a cone. Facility representatives stated they would have to remove the inlet protection anyways once the work on the sanitary sewer line begins. This area may need additional inlet protection as it is unclear how long the area will take to be serviced with the sanitary sewer line. There appeared to be sediment runoff surrounding the inlet.
- There also appeared to be accumulated sediment at the corner of 34th St. and WV 61 (P5150005) (about 80 ft from block 18). The E&S plan states that this inlet needs inlet protection. There was some inlet protection seen, however the inlet protection may need replacement. The orange inlet filter protection appeared to be well worn and swallowed by the nearby sediment. It is unclear when this E&S control was last replaced. Facility representatives stated that the curb is in the process of a rebuild, however it is awaiting installation of a conduit junction box.
- At the corner of WV61 and 35th St. and Block 30, the inlet orange filter cover (P5150012) was swallowed by sediment. Other inlets in the area were similarly overwhelmed by sediment (P5150014, P5150018, P5150019, P5150020)
- The corner curb drain at 35th St. and WV61 (P5150013) did not have inlet protection. The curb drain appears up-gradient and has a low risk of sediment entering in, however active construction work is about a foot away from the area. Therefore, there may be potential for gravel and sediment to enter.

- At the Lot 8 location, which was at the corner of 36th Street and WV 61, according to the E&S plan, inlet protection was to be installed at all curb inlets at the corner of 36th St. and WV61 adjacent to lot 8. The EPA Inspection Team noted that sand appeared to be actively entering the inlet in this area (P5150023 - P5150025). In addition, no inlet protection was found in this area.
- At the Lot 8 location, which was at the corner of 36th Street and WV 61, A secondary curb inlet in the same area was found with no inlet protection and a large amount of gravel was present in front of the opening for the future curb inlet structure (P5150026 - P5150027).
- At the location between 37th and 38th St., the inlet protection filter (P5150032) cover in front of "Reema's Family Hair Styling" appeared to have a large amount of sediment on it. In addition, sediment appeared to be reaching beneath the filter cover. The inlet appeared in need of maintenance.
- At the corner of 39th St. and WV 61, inlet protection covers were overwhelmed with sediment (P5150033 – P5150034).
- At the Block 15 location, at the corner of 33rd and WV61, there was an inlet filled with sediment (Photo P5150001, P5150003). The inlet was covered by two cones and surrounded by a filter sock. It is unclear as to the final plan for this inlet. The site and final design plan state that all lighting pole structures are to be removed and upgraded causing potential future removal of the filter socks in the area. In addition, new inlets may be installed in the area entirely. This inlet appeared to be existing and abandoned as vegetation appeared to be growing within the inlet (Photo P5150003). The curb inlet and filter sock controls surrounding the inlet are noted in the E&S plan.
- Filter socks at Kanawha Village Apartments (west towards 39th St.) appeared to be ripped and torn (P5150035). It is unclear what purpose these filter socks serve in this area. There is no longer active construction in the area.

Part II. A. 1. C. of the Permit states, "Projects disturbing 3 or more acres of land shall submit an application containing: ...Annual Progress Map if permitted for longer than one year."

Observation #4: The facility may not be submitting annual progress maps as required by the permit. The current final plans maps are dated "2022" and the ESC map is dated under the year "2022". Records available to the EPA Inspection Team notes that there are no updated maps completed in 2023. An annual progress map may also be required for 2024.

Part III.B.2.b. of the Permit states, "For "linear projects", where disturbed portions have undergone final stabilization at the same time active construction continues elsewhere, the permittee may reduce the frequency of inspections to twice per month no more than 14 calendar days apart, in any area of the site where the final stabilization has been completed. Inspect once more within 24 hours of the occurrence of a precipitation event of 0.25 inches or greater. If there are no issues or evidence of stabilization problems, further inspections may be suspended. If

"wash-out" of stabilization materials and/or sediment is observed, following re-stabilization, the reduced inspection frequency is suspended."

Observation #5: The site may not have been inspecting the site's E&S controls for the majority of the project. Site representatives provided EPA access to the site's Google Drive of reports. The drive indicates that E&S inspections were performed from March 2024 – June 2024, however linear projects require "at least twice per month, 14 calendar day apart inspections". It is unclear if the site has additional reports stored elsewhere that have not been provided to EPA.

Part II.H.3. b.7 of the Permit states, "Describe an employee training program for all on-site personnel directly involved with construction activities at all levels of responsibility that reiterates the components and goal of the SWPPP.

- Training should address topics such as spill and leak response and internal reporting, good housekeeping, and routine inspection and maintenance.
- Training shall be on a quarterly basis while construction activities are occurring.
- A list of attendees and topics covered at each training session shall be documented and maintained in the S WPPP."

Observation #6: The EPA Inspection Team reviewed quarterly trainings provided in the site's google drive system. Quarterly training has been completed for at least the first two quarters of 2024. It is unclear if the site has been performing quarterly training for 2022 and 2023 as there was no record of this within the site's google drive.

Part II. H. 2. of the Permit states, "The SWPPP shall be signed in accordance with Appendix A. 7. and retained onsite throughout the course of the project."

Observation #7: Site representatives stated that the SWPPP is on site during only one of the foreman's shifts. All other times the site utilizes a google drive that can be accessed by scanning a QR code that employees are given access to.

IV. Records Review

During the opening conference, the EPA Inspection Team reviewed documentation including: the "Final Design Plans 40th 33rd" (Attachment 2) and "E&S Plans 40th 33rd" (Attachment 3). The SWPPP and GPP were also reviewed following the inspection. The site provided access to the 2024 E&S reports (Attachment 5) and 2024 quarterly training (Attachment 5) on 5/15/2024 at the closing of the inspection. A copy of the Permit is provided under Attachment 1.

V. Closing Conference

After the site walk, the EPA Inspection Team met with the site representatives for a closing conference. The EPA Inspection Team shared preliminary observations with the facility. The EPA Inspection Team reiterated to the facility representatives that all preliminary observations discussed were not compliance determinations. Any and all preliminary observations shared were subject to further investigation by EPA upon the additional review of records and documentation. Additional observations may be contained in this inspection report that were not identified at the time of the closing conference after EPA reviewed additional materials following the inspection.

The inspection concluded at 11:58AM.

VI. List of Attachments

Attachment 1: 2019 General Permit

Attachment 2: Final Design Plan 40th 33rd

Attachment 3: E&S Plans 40th 33rd

Attachment 4: Photo Log

Attachment 5: May 2024 Employee Training - E&S Reports