



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): 08/14/2024
Regulatory Program(s): National Pollutant Discharge Elimination System (NPDES)
Type of Activity: Construction Stormwater
Site Name: Boardwalk Development, LLC – Windswept at Lewes
Permittee(s): Boardwalk Development, LLC
Site Operator: Boardwalk Development, LLC
Site Address: Southeast corner of Angola Road & Angola Beach Rd
Lewes, DE 19958
Latitude/Longitude: 38.667041, -75.161315
County: Sussex County
Permit Number: DEC005991
NAICS Code: 236115 **SIC:** 1521
Unique Project #: ECAD-5540

Signature/Date
Report Preparer

Chuck Schadel, Inspector
NPDES Enforcement Section 1 (3ED32)

Signature/Date
Supervisor

Mark Zolandz, Section Chief
NPDES Enforcement Section 1 (3ED32)

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List of Attachments

Attachment A	NPDES Permit – (General Permit Authorization for Discharges from Construction Activities Under the National Pollutant Discharge Elimination System and the Laws of the State of Delaware)
Attachment B	NOI and NPDES Permit Authorization
Attachment C	Approved Sediment and Stormwater Management Plans
Attachment D	Inspection Sign-In Sheet
Attachment E	Precipitation Data
Attachment F	Photo Log
Attachment G	Inspection Reports by Permittee (3/4/2024-8/5/2024)
Attachment H	Report of Geotechnical Exploration (dated 5/17/2019)

I. Introduction

EPA Region 3 received complaints from a citizen living in the vicinity of the site regarding the stormwater discharges from the site in June and July of 2024.

On August 14, 2024, an inspection team composed of staff from the U.S. Environmental Protection Agency (“EPA”) Region 3 (“EPA Inspection Team”) conducted a construction stormwater inspection of the Boardwalk Development LLC – Windswept at Lewes construction site (hereinafter, “the Site”). The EPA Inspection Team was accompanied by staff from the Delaware Department of Natural Resources and Environmental Control (“DNREC”) and Sussex County Conservation District (“SCCD”). The purpose of the inspection was to assess compliance with the Clean Water Act (CWA) and to verify compliance with the Site's National Pollutant Discharge Elimination System (NPDES) Permit No. DE0051268, Site Specific Permit ID No. DEC005991 (hereinafter, the “Permit”) and applicable State and Federal regulations. A copy of the NPDES permit is provided in Attachment A. The Site was authorized to discharge under the Permit effective 5/24/2019.

A. Inspection Opening Conference

At approximately 1:00 PM, the EPA Inspection Team entered the Site, displayed their credentials to Site representatives and explained the purpose of the inspection was to review compliance with the Permit. The EPA Inspection Team informed the Site representatives that any information that the Facility 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.

The following individuals participated in the inspection:

Table 1: Inspection Attendee List

Name	Affiliation	Telephone	Email
EPA Region 3 Inspectors			
Chuck Schadel	EPA Region 3	(215) 814-5761	schadel.chuck@epa.gov
Johannah Jacobson	EPA Region 3	(215) 814-2318	jacobson.johannah@epa.gov
Site Representatives			
Joseph Reed	Superintendent, Boardwalk Development	(302) 430-4060	joe@reedventures.net
Brent Reed	Boardwalk Development		
Ted Ruberti	Ryan Homes	(240) 793-1892	truberti@nvrinc.com
Craig Walls	Utilisite Inc.	(302) 841-5564	wallscj123@gmail.com
State or County Representatives			
John Barwick	SCCD	(302) 856-7219	john.barwick@sussexconservation.org
Craig Mills	SCCD	(302) 381-6135	craig.mills@sussexconservation.org
Bonnie Arvay	DNREC	(302) 608-5461	bonnie.arvay@delaware.gov

After a brief discussion with Site representatives regarding Site activities, the EPA Inspection Team began the inspection of the Site. The Inspection Team's observations are listed later in this document and are grouped by type of observation.

B. Weather and Precipitation Conditions

During the inspection, the weather was sunny and dry. National Oceanic and Atmospheric Administration (NOAA) National Weather Service precipitation data (Attachment E.1) for the date of the inspection and 5 days prior are provided in Table 1 below:

Table 1. Precipitation Data

Station Name	Date	Precipitation Amount (inches)¹
LEWES 3.6 SW, DE US US1DESS0066	08/09/24	0.06
LEWES 3.6 SW, DE US US1DESS0066	08/10/24	0.05
LEWES 3.6 SW, DE US US1DESS0066	08/11/24	0.0
LEWES 3.6 SW, DE US US1DESS0066	08/12/24	0.0
LEWES 3.6 SW, DE US US1DESS0066	08/13/24	0.0
LEWES 3.6 SW, DE US US1DESS0066	08/14/24	0.0

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

C. Summary of the Site

The Site is approximately 59 acres, and when construction is complete, it will consist of 201 single-family “workforce community” homes, featuring amenities such as a club house, outdoor pool, wellness center and walking trail. Post-construction stormwater management will be the responsibility of the Homeowners’ Association for the development. The Site consists of four Phases. The Site was in Phase 4 of construction at the time of the inspection (identified on Sheet ESC-5 of the Approved Plans), although some home building was taking place in Phase 2 (identified on Sheet ESC-4 of the Approved Plans) (see Attachment C).

II. Observations

Photographs for the inspection are included in Attachment F, Photo Log. Photographs were taken by Chuck Schadel. The photographs (Attachment C – Photo Log) for this report have been processed using EPA Region 3's Photo Management Process. A file name which incorporates the date and time the photo was taken (e.g., 2023-12-05--11.26.42), as well as the original camera generated file name (e.g., DSCN3883) is assigned to each photo as part of the processing. The file names generated by the camera are used to identify each photo in the main narrative and the Photo Log of this inspection report. Unused photos are digitally stored and maintained in the inspection file. Unused photos are available upon request.

Permit Requirements

PART 1. COVERAGE UNDER THIS PERMIT

B. ELIGIBILITY CONDITIONS

...

“The construction site must operate under a[n approved Sediment and Stormwater Management] Plan that has been designed by a licensed professional and reviewed and approved by the appropriate plan approval agency of the Delaware Sediment and Stormwater Program.” Attachment C provides the Approved Plans for the Site.

Silt Fence

Permit Requirement: Sheets ESC–2 through ESC-9 of the Approved Plans shows the requirement for silt fence in the different Phases.

Observation 1

Photos R0010020 – 10022, 10043, 10044, 10046, 10048, 10050, 10052, 10057, 10063, and 10071 provide views of the silt fence installed at the Site during the inspection. The locations of silt fence identified in these photos appears to match the locations which require silt fence to be installed. These locations are identified on Sheet ESC-2.

Inlet Protection

Permit Requirement: Sheet ESC – 15 of the Approved Plans shows the specification detail for inlet protection.

Observation 2

Photos R0010036, 10037, 10045, and 10050 provide views of the inlets at the Site during the inspection. At least 8 inlets were viewed during the inspection. All viewed inlets had controls which appeared to have good integrity.

Stockpiles

Permit Requirement: Sheet ESC-13 of the Approved Plans shows the specification detail for stockpile management.

Observation 3

Photos R0010040, 10041, 10043, and 10047 provide views of the stockpiles located at the Site during the inspection. The stockpile on the eastern side of Clearwater Drive was active during the inspection. There were no signs of sediment transport originating from this stockpile. The stockpile on the western side of Clearwater Drive was not active during the inspection. Although it is estimated that only 50% to 60% of the stockpile was stabilized with vegetation, there were no signs of sediment transport originating from western stockpile.

Stabilization

Permit Requirement: Sheet ESC-1 of the Approved Plans provides direction for stabilizing disturbed soil:

“SEDIMENT AND STORMWATER CONSTRUCTION NOTES:

...

4. FOLLOWING SOIL DISTURBANCE OR REDISTURBANCE, PERMANENT OR TEMPORARY STABILIZATION SHALL BE COMPLETED FOR ALL PERIMETER SEDIMENT CONTROLS, SOIL STOCKPILES, AND ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE WITHIN 14 CALENDAR DAYS UNLESS MORE RESTRICTIVE FEDERAL REQUIREMENTS APPLY."

Observation 4

Photos R0010020 – 10023, 10025, 10027, 10029, 10031, 10034 – 10036, 10038, 10040, 10041, 10068, and 10069 provide views of what appeared to be fully stabilized ground surfaces at the Site during the inspection.

Photos 10042, 10044, 10046, 10048, 10051, 10052, 10061, and 10063 provide views of what appeared to be ground surfaces not fully stabilized.

Inspections by the Permittee

Permit Requirement: E.6 Site Inspection Requirements

...

"E.6.2 Frequency of Construction Reviews. Construction Reviews must be conducted at least once every seven (7) calendar days."

Observation 5

The Construction Site Stormwater Management Review Reports required by the NPDES permit and conducted at the Site from 3/11/24, through 8/5/24 (approximately six months preceding the inspection) are provide in Attachment G. The reports appear complete and signed appropriately.

Corrective Actions

"E.6.4 Requirements for Construction Reviews. During the construction reviews, the following must be conducted:

...

f. Based on the results of the construction review, complete any necessary maintenance and corrective action under Part 1.E.7."

Observation 6

The Construction Site Stormwater Management Review Reports dated 3/11/24, 3/25/24, 4/09/24, 4/22/24, 5/06/24, 5/20/24, 6/6/24, 6/17/24, 7/3/24, 7/17/24, 7/30/24 identify actions to be taken at the Site following the Construction Review (Attachment G). According to the report dated 7/30/24, the following action items were identified:

- "Phase #1A exposed soils by the wet ponds west end need ground cover stabilized asap to prevent fine silts form entering the pond.
- All final graded lot buildout should be final stabilized or have perimeter controls within 5 days.

- The drain inlet in the common ground area in the southwest corner of the subdivision needs heavy filtering to remove fine silts from [sic] entering the pond from [sic] stock pile water staining. The Filtrexx filters should be extended up the slope and to top of the bank above the inlet pipe. (not stated on 3/11/24 CCR report)

E.7 Corrective Actions

“E.7.1 Conditions Triggering Corrective Action. Corrective action measures must be taken to address any of the following conditions identified at the site:

- a. A control measure needs repair or replacement;

...

E.7.2 Corrective Action Deadlines

For any corrective action triggering conditions in Part 1.E.7.1, the following must occur:

...

- b. When the problem does not require a new or replacement control or significant repair, the corrective action must be completed by the close of the next business day;
- c. When the problem requires a new or replacement control or significant repair, install the new or modified control and make it operational, or complete the repair, no longer than seven (7) calendar days from the time of discovery.”

Observation 7

Based on the information provided in the inspection reports listed under Observation 5, it appears that Corrective Actions were not always implemented within seven (7) calendar days as required by the Permit.

III. Records Review

Documents reviewed are listed as attachments in the Table of Contents as follows:

- NPDES Permit – (General Permit Authorization for Discharges from Construction Activities Under the National Pollutant Discharge Elimination System and the Laws of the State of Delaware)
- NPDES Permit Authorization Letter
- Approved Sediment & Stormwater Management Plans
- Inspections by Permittee
- Geotechnical Report dated 5/17/2019

IV. Closing Conference

At the conclusion of the onsite inspection, the EPA Inspection Team conducted a closing conference with the Site representatives and shared preliminary observations. The EPA Inspection Team reiterated to the Site representatives that all preliminary observations discussed were not compliance determinations. Any and all preliminary observations shared with the Site representatives were subject to further investigation by EPA upon the additional review of records and documentation. As a result, additional observations may be contained in this report that were not discussed at the time of the closing conference after EPA reviewed additional materials following the inspection.

The inspection concluded at approximately 2:45 PM.