



Ref: 8 Montana

CERTIFIED MAIL and EMAIL
RETURN RECEIPT and DIGITAL READ RECEIPT REQUESTED

Privacy

Traditional Homes, LLC
36332 Fulkerson Lane
Polson, Montana 59860

Privacy

Re: Inspection Report for Hillcrest Development/Traditional Homes, LLC, Unpermitted

Dear **Privacy** :

On September 15, 2023, representatives of the U.S. Environmental Protection Agency and Confederated Salish & Kootenai Tribes inspected the Hillcrest development construction site in Polson, Montana, to evaluate compliance with the site's National Pollutant Discharge Elimination System permit for stormwater construction discharges. The inspection was conducted under the authority of Section 308 of the Clean Water Act (Act). Enclosed is a report of the inspection.

Inspection findings are summarized within the enclosed inspection report in a table titled "Findings, Corrective Actions and Recommendations." Within **thirty (30) days** of receipt of this report, please provide the EPA with a summary of corrective actions taken to address each of the findings identified in the report and any information that may change the findings or content of the report. This summary should be sent to:

Privacy

U.S. EPA Region 8 (8 Montana)
NPDES and Wetlands Enforcement Section
Helena, MT 59626

Privacy

Confederated Salish and Kootenai Tribes
Acting Environmental Division Director
Polson, MT

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet containing information on compliance assistance resources and tools available to small businesses is enclosed with this letter. The inclusion of this information sheet does not necessarily mean that the EPA has determined that Traditional Homes, LLC is a small business.

Please contact me at **Privacy** if you have any questions regarding this letter or the enclosed report.

Sincerely,

Privacy

Privacy

Date: 2023.11.09 14:22:25
-07'00'

NPDES and Wetlands Enforcement Section
Enforcement and Compliance Assurance Division

Enclosures:

- 1) NPDES Storm Water Inspection Report – Construction
- 2) Photo Log
- 3) SBREFA Information Sheet

cc: (via email)

The Honorable **Privacy**, Chairman, CSKT
Privacy, Acting Environmental Division Director, CSKT
Privacy, Water Quality Regulatory Specialist, CSKT

NPDES Stormwater Inspection Report - Construction

National Database Information			
Inspection Date: September 15, 2023		Inspection Type: NPDES-Stormwater Construction	
Entry/Exit Time: 09:20/09:51		NPDES ID Number: unpermitted	
SIC Code: 1794-excavation work		Inspection ID: 202309_Hillcrest	
Lead inspector and affiliation: Privacy / U.S. EPA Montana Operations Office			
Inspector and affiliation: Privacy / The Confederated Salish and Kootenai Tribes of the Flathead Reservation			

Facility Location Information	
Site/Facility Name & Location: Hillcrest Drive construction site Polson, Montana 47.690923; -114.134939	Mail Report to: Privacy / Traditional Homes, LLC 36332 Fulkerson Lane Polson, Montana 59860

Contact Information	
	Name(s)/Title
Facility Contacts:	Privacy , Traditional Homes, LLC Owner/Manager (Not present)
	Privacy , Traditional Homes, LLC Employee (Present during the inspection)
Person/Company meeting definition of "Operator"	Privacy , Traditional Homes, LLC Owner/Manager
Authorized Official(s) (Per NOI or SWPPP?)	No NOI or SWPPP

Permit Information			
Is the permit on site and available? No		Date NOI Submitted: unpermitted	
Effective Date: unpermitted		Expiration Date: unpermitted	
Construction Start Date: On or before 09/29/2022	Percent complete: unknown	Estimated Completion Date: unknown	
Disturbed Area: Approximately 2.5 acres	Total Project Area: 7.92-acres	Latitude: 47.690923	Longitude: -114.134939
Receiving Water(s): Polson B Canal to Flathead Lake			
If applicable, is waiver certification & approval on file? N/A			
Regulatory Inspector's source of information: Clean Water Act regulation, complainant information, tribal correspondence, ariel maps, facility representatives and facility observations.			

Site Information							
Nature of Project	<u>Residential</u>	<i>Commercial/Industrial</i>	<i>Roadway</i>	<i>Private</i>	<i>Federal</i>	<i>State/Municipal</i>	<i>Other</i>
Construction Stage	<u>Clearing/Grubbing</u>	<u>Rough Grading</u>	<u>Infrastructure</u>	<u>Building Const.</u>	<i>Final Grading</i>	<i>Final Stabilization</i>	
Weather conditions during inspection: clear, sunny, 53°F							

Areas Evaluated During Inspection		
Permit	<u>Effluent/Receiving Waters</u>	<i>Compliance Schedule</i>
Records/Reports	<i>Flow Measurement</i>	<i>Pollution Prevention</i>
<u>Facility Site Review</u>	<i>Self-Monitoring Program</i>	<i>Laboratory</i>
Other(s):		

Report Review and Signature		
Drafter Signature/Name: Privacy	Address/Phone Number	Date
Privacy Date: 2023.11.09 14:20:33 -07'00'	U.S. EPA Region 8, Montana Operations Office 10 West 15 th Street, Suite 3200 Helena, Montana 59626 Privacy	10.17.2023
Reviewer Name:	Address/Phone Number	Date
Privacy	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202 Privacy	10.18.2023
Management Signature/Name: Privacy , NPDES & Wetlands Enforcement Section Supervisor	Address/Phone Number	Date
Privacy Date: 2023.11.09 13:52:24 -07'00'	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202 Privacy	11/09/2023

Inspection Narrative and Site Description

On November 9, 2022, a citizen of the City of Polson contacted [Privacy], Environmental Specialist for the Confederated Salish and Kootenai Tribes of the Flathead Reservation (CSKT) to inquire if a parcel of land which was beginning construction activities had the proper permits to develop. The citizen also stated that the sewer/water and some grading activities had already been completed, and that there may be potential wetland impacts associated with the parcel of land. The inquiry was accompanied by photos taken on September 29, 2022, showing stockpile materials and partial road construction (photos not included in this report). [Privacy] completed an on-site visit the first week of December 2022. No information was shared with the EPA regarding the on-site visit.

On July 13, 2023, a formal complaint was submitted to the EPA regarding the same parcel of land and the lack of stormwater construction permit coverage. On July 13, 2023, the tracking database for active/pending/draft stormwater construction sites on the Flathead Reservation was queried and no entry matched the description of Montana cadastral information or address location provided in the complaint. EPA then asked [Privacy] to complete another site visit to gather additional information regarding the owner/developer, project description and local/tribal/federal permit coverages. [Privacy] completed a site visit on August 23, 2023, gathering additional information regarding the site, ownership, and development plans. The owner of the land is MH Pablo, LLC and the developer is [Privacy] of Traditional Homes, LLC. At the time of [Privacy] site visit, [Privacy] indicated permit coverage was acquired, but it was not on-site. [Privacy] asked [Privacy] to send a copy of the NOI/SWPPP to him at his earliest convenience. Later the same day, the stormwater construction tracking database was queried and did not show an active permit, or any in the queue for the site owner or developer.

On Friday, September 15, 2023, EPA inspector [Privacy] and [Privacy] with CSKT, conducted an unannounced inspection at the project site. After arriving, I ([Privacy]) presented my inspector credentials to [Privacy], an employee of Traditional Homes, LLC, and asked if [Privacy] was on-site. [Privacy] stated he was not but notified him of our arrival. [Privacy] indicated it was all right for [Privacy] and me to walk the site and take photographs, while waiting for [Privacy].

The project, as far as can be estimated, includes excavation to accommodate infrastructure for two or more 4-plex complexes. At the time of the inspection, no work was actively being conducted. Activities noted to have occurred to date include excavation (photos 9189-9191, 9201, 9207, 9211, 9213, 9214, and 9217), material export and import (stockpiles) (photos 9192-9197, 9201, 9206, 9209-9212, 9214, 9217, and 9219), concrete foundation, new road cut (West View Lane) (photo 9188), and sewer & water main extension. At the time of the inspection one foundation included vertical construction (photo 9211), and another location was prepped for concrete pouring for a second building (photos 9215 and 9216). Pollutant sources noted on-site include excavated sediment (photos 9189- 9191, 9201, 9205, 9207, 9214, 9217, and 9219), road gravel (photo 9188), and stockpiles of various materials (photos 9192-9197, 9201, 9206, 9209-9212, 9214, 9217, and 9219). Best management practices noted on-site include vegetated buffers in limited areas and of limited sizing (photos 9194, 9195, 9202, and 9208-9210). It was noted that Polson B Canal-irrigation ditch (photos 9196, 9198, 9201, 9203, and 9204) ran through the property in a north-south direction then running along the southern border to the west, and all construction activity was limited to the east side of the canal (photos 9199 and 9200). The Polson B

canal-irrigation ditch is connected to the Flathead River in the west and flows north and east exiting into Flathead Lake. At the time of the inspection, there was no water running through the canal, however, evidence of recent water was documented (photo 9204). Areas noted where no BMP was in place to control the pollutant source include, but is not limited to, vehicle entrance/exit site (photos 9188 and 9218), stockpile materials (photos 9192-9197, 9201, and 9217), open disturbed ground (photos 9189-9191, 9201, 9203, 9205, and 9217), and Polson B Canal-irrigation ditch (photos 9195, 9196, 9198, and 9201-9204).

After walking the site, we spoke with [Privacy] to let him know that we completed the inspection and were not going to wait for [Privacy] as it appeared he was not available. I provided a business card to [Privacy] to pass along to [Privacy] and stated if he had questions of our site visit to call, and that an inspection report would be forthcoming. Preliminary findings were emailed to [Privacy] on September 15, 2023. [Privacy] has not responded to the preliminary findings email.

After the inspection, a review of the rainfall recorded at the Polson-KMTPOLSO70, Montana weather station (closest weather station approximately 1.4 miles away from site) from the NOAA website was conducted. The weather station's rain-gage reported nineteen precipitation events over 0.25 inches (including when there are multiple, smaller storms that alone produce less than 0.25 inches, but together produce 0.25 inches or more in 24 hours) from September 29, 2022, to September 15, 2023.

- November 1, 2022, at 0.12 inches;
- November 2, 2022, at 0.23 inches;
- November 3, 2022, at 0.35 inches;
- November 5, 2022, at 0.33 inches;
- December 1, 2022, at 0.32 inches;
- December 21, 2022, at 0.47 inches;
- December 24, 2022, at 0.29 inches;
- December 26, 2022, at 0.11 inches;
- December 27, 2022, at 0.13 inches;
- December 28, 2022, at 0.43 inches;
- January 28, 2023, at 0.25 inches;
- May 6, 2023, at 0.25 inches;
- May 7, 2023, at 1.19 inches;
- May 8, 2023, at 0.17 inches;
- May 9, 2023, at 0.11 inches;
- May 10, 2023, at 0.18 inches;
- May 22, 2023, at 0.14 inches;
- May 23, 2023, at 0.11 inches;
- June 17, 2023, at 0.14 inches;
- June 18, 2023, at 0.13 inches;
- August 22, 2023, at 0.78 inches;
- August 23, 2023, at 0.60 inches;
- August 30, 2023, at 0.62 inches;
- August 31, 2023, at 0.77 inches;

- September 4, 2023, at 0.11 inches; and
- September 5, 2023, at 0.25 inches.

After returning from the inspection, I queried the stormwater construction tracking database and it did not show an active permit, or any in the queue for the site owner or developer.

Findings, Corrective Actions and Recommendations

Finding #1: The site did not have coverage under the 2022 National Pollutant Discharge Elimination System (NPDES) Construction General Permit for Stormwater Discharges from Construction Activities (CGP).

At the time of the inspection, it was indicated that **Privacy** has operational control at the construction site, there was greater than one acre of disturbed area, the site is located in an area where EPA is the permitting authority, discharges are not identified/covered under a different NPDES permit, and there are no listed endangered or threatened species indicated in this area of the project. It was noted that Polson B Canal-irrigation ditch (photos 9196, 9198, 9201, 9203, and 9204) ran through the property in a north-south direction then running along the southern border to the west, and all construction activity was limited to the east side of the canal (photos 9199 and 9200). The Polson B canal-irrigation ditch is connected to the Flathead River in the west and flows north and east exiting into Flathead Lake. At the time of the inspection, there was no water running through the canal, however, evidence of recent water was documented (photo 9204). A review of the rainfall recorded at the Polson-KMTPOLSO70, Montana weather station (closest weather station approximately 1.4 miles away from site) from the NOAA website was conducted. The weather station's rain-gage reported nineteen precipitation events over 0.25 inches (including when there are multiple, smaller storms that alone produce less than 0.25 inches but together produce 0.25 inches or more in 24 hours) from September 29, 2022, to September 15, 2023. There was evidence of stormwater discharge without a permit at the site as sediment accumulation was observed in the Polson B Canal irrigation ditch (photos 9198, 9203 and 9204). This irrigation ditch flows to Flathead Lake. The site is a construction site as defined in Appendix A of the CGP. As of the date of this report, no application has been submitted under MH Pablo, LLC or Traditional Homes, LLC.

Permit requirement:

Under the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et. seq.; the Act), federal law prohibits stormwater discharges from certain construction activities to waters of the U.S. unless that discharge is covered under a National Pollutant Discharge Elimination System (NPDES) permit. Operators of construction sites where one or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, or any other site specifically designated by the Director, must submit an NOI to obtain coverage under an NPDES general permit.

The 2022 CGP cover page states, "In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA), as amended by the Water Quality Act of 1987, P.L. 100-4, "operators" of construction activities (defined in Appendix A) that meet the requirements of Part 1.1 of this National

Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP), are authorized to discharge pollutants in accordance with the effluent limitations and conditions set forth herein. Permit coverage is required from the “commencement of construction activities” (see Appendix A) until one of the conditions for terminating CGP coverage has been met (see Part 8.2).”

Part 1.1 of the CGP states the five eligibility conditions requiring permit coverage: operator definition, construction activities, site location, discharge qualifications, and Endangered Species Protection criteria.

Corrective Action:

Obtain coverage under the 2022 CGP. Visit <https://www.epa.gov/npdes/2022-construction-general-permit-cgp> for application instructions. Provide the EPA and the Confederated Salish & Kootenai Tribes with a copy of the confirmation that an application for coverage has been submitted.