REGION 8
DENVER, CO 80202

Ref: 8 Montana

CERTIFIED MAIL and EMAIL
RETURN RECEIPT and DIGITAL READ RECIEPT REQUESTED

Hans Lund
Traditional Homes, LLC
36332 Fulkerson Lane
Polson, Montana 59860
Hans.lund@tradhm.com

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

Dear Hans Lund:

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:

Lisa-kay Prideaux
Prideaux.lisakay@epa.gov
U.S. EPA Region 8 (8 Montana)
NPDES and Wetlands Enforcement Section
Helena, MT 59626

Chauncey Means
Chauncey.means@CSKT.org
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 406-457-5022 or Prideaux.lisakay@epa.gov if you have any questions regarding this letter or the enclosed report.

Sincerely,

Prideaux, LisaKay

Digitally signed by Prideaux, LisaKay
Date: 2023.11.09 14:22:25 -07'00'

Lisa-kay Prideaux
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 Tom McDonald, Chairman, CSKT
Chauncy Means, Acting Environmental Division Director, CSKT
Evan Smith, 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: Lisa-kay Prideaux / U.S. EPA Montana Operations Office	
Inspector and affiliation: Evan Smith / 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: **Hans Lund /Traditional Homes, LLC** **36332 Fulkerson Lane** **Polson, Montana 59860**

Contact Information	
	Name(s)/Title
Facility Contacts:	**Hans Lund, Traditional Homes, LLC Owner/Manager (Not present)**
	Craig, Traditional Homes, LLC Employee (Present during the inspection)
Person/Company meeting definition of "Operator"	**Hans Lund, 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	***Residential***	*Commercial/ Industrial*	*Roadway*	*Private*	*Federal*	*State/ Municipal*	*Other*
Construction Stage	***Clearing/ Grubbing***	***Rough Grading***	***Infrastructure***	***Building Const.***	*Final Grading*	*Final Stabilization*	
Weather conditions during inspection: **clear, sunny, 53°F**							

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

Report Review and Signature		
Drafter Signature/Name: Lisa-kay Prideaux	Address/Phone Number	Date
Prideaux, LisaKay Digitally signed by Prideaux, LisaKay Date: 2023.11.09 14:20:33 -07'00'	U.S. EPA Region 8, Montana Operations Office 10 West 15th Street, Suite 3200 Helena, Montana 59626 406-457-5022	**10.17.2023**
Reviewer Name:	Address/Phone Number	Date
Brit Rustad	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202 303-312-6885	**10.18.2023**
Management Signature/Name: Emilio Llamozas, NPDES & Wetlands Enforcement Section Supervisor	Address/Phone Number	Date
EMILIO LLAMOZAS Digitally signed by EMILIO LLAMOZAS Date: 2023.11.09 13:52:24 -07'00'	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202 303-312-6407	11/09/2023

Inspection Narrative and Site Description

On November 9, 2022, a citizen of the City of Polson contacted Evan Smith, 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). Evan Smith 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 Evan Smith to complete another site visit to gather additional information regarding the owner/developer, project description and local/tribal/federal permit coverages. Evan Smith 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 Hans Lund of Traditional Homes, LLC. At the time of Evan's site visit, Mr. Lund indicated permit coverage was acquired, but it was not on-site. Evan asked Mr. Lund 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 Lisa-kay Prideaux and Evan Smith with CSKT, conducted an unannounced inspection at the project site. After arriving, I (Lisa-kay Prideaux) presented my inspector credentials to Craig, an employee of Traditional Homes, LLC, and asked if Mr. Lund was on-site. Craig stated he was not but notified him of our arrival. Craig indicated it was all right for Evan and me to walk the site and take photographs, while waiting for Mr. Lund.

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 Craig to let him know that we completed the inspection and were not going to wait for Mr. Lund as it appeared he was not available. I provided a business card to Craig to pass along to Mr. Lund 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 Mr. Lund on September 15, 2023. Mr. Lund 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 Mr. Lund 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.