

NPDES Inspection Report - Stormwater Industrial

National Database Information	
Inspection Date: 8/31/2021	Inspection Type: Industrial Stormwater
Entry/Exit Time: 8:05 am / 12:30 pm	NPDES ID Number: NDU000006
NAICS Code: 212321 Construction Sand and Gravel Mining	Inspection ID: 202108_NDU000006
Lead Inspector and affiliation: Emilio Llamozas / EPA Region 8	
Inspector and affiliation: Lisa-kay Prideaux / EPA Region 8	

Facility Location Information	
Site/Facility Name and Location: Eagle Rock Timber, Inc. 8902 40 th St NW New Town, North Dakota 58763	Mail Report to: Rick Gokey rgokey@eaglerocktimber.com Ed Freeman efreeman@eaglerocktimber.com

Contact Information				
Facility Contacts: <i>Indicate primary lead and present during inspection</i>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">Name/Title</th> </tr> <tr> <td>Ed Freeman / Superintendent / primary lead and present during the inspection</td> </tr> <tr> <td>Rick Gokey / President / not present during the inspection</td> </tr> </table>	Name/Title	Ed Freeman / Superintendent / primary lead and present during the inspection	Rick Gokey / President / not present during the inspection
Name/Title				
Ed Freeman / Superintendent / primary lead and present during the inspection				
Rick Gokey / President / not present during the inspection				
Owner, operator, and permittee information: The site is owned by Joyce E. Wright, Carol J. Mosberg and Gloria J. Hoff. The site is operated by Eagle Rock Timber, Inc. which leases the land and does surface mining of the site.				

Permit Information	
Is the permit on site and available? The site is unpermitted.	Date NOI Submitted: The site has not submitted an NOI.
Effective Date: unpermitted site	Expiration Date: unpermitted site
Latitude: 47.994041 °N	Longitude: -102.498748 °W
Receiving Water(s): unnamed tributary to Lake Sakakawea / Missouri River	Impairments? ND-10110101-021-L_00 Lake Sakakawea is impaired for methylmercury.
Regulatory Inspector's source of information: Site representative and site observations.	

Areas Evaluated During Inspection		
Permit	Self-Monitoring Program	Pollution Prevention
Records	Compliance Schedule	<u>Stormwater</u>
<u>Facility Site Review</u>	Laboratory	No Exposure
<u>Effluent/Receiving Waters</u>	<u>Operations and Maintenance</u>	Other:
Flow Measurement	Sludge Handling/Disposal	Other:

Report Review and Signature		
Drafter Name	Address/Phone Number	Date
Emilio Llamozas	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202 303-312-6407	9/23/2021

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Reviewer Name	Address/Phone Number	Date
Lisa-kay Prideaux	U.S. EPA Region 8 Helena Office 10 W 15 Street, Suite 3200 MO-309 Helena, Montana 59626	09/24/2021
	406-457-5022	
Supervisor Signature/Name	Address/Phone Number	Date
MICHAEL BOEGLIN Digitally signed by MICHAEL BOEGLIN Date: 2021.09.30 07:56:40 -06'00'	U.S. EPA Region 8 1595 Wynkoop Street 8ENF-W-NW Denver, Colorado 80202	9/30/2021
	Michael Boeglin 303-312-6250	

Inspection Narrative and Site Description

On August 31, 2021, U.S. Environmental Protection Agency (EPA) inspectors Emilio Llamozas and Lisa-kay Prideaux arrived at the Eagle Rock Timber, Inc. (site) at 8:05 am to conduct an inspection and evaluate compliance with National Pollutant Discharge Elimination System (NPDES) for Stormwater Discharges associated with industrial stormwater requirements. The EPA is responsible for implementing the NPDES program in Indian Country within the State of North Dakota. Eagle Rock Timber, Inc. is located on the Fort Berthold Reservation in North Dakota. The inspection was announced a few weeks prior to the inspection, to coordinate logistics for the inspection due to Covid-19 restrictions. The EPA inspectors met with Ed Freeman, Superintendent for Eagle Rock Timber, Inc. Edmund Baker, the Environmental Director for the MHA Nation, also participated in the inspection. The EPA inspectors presented their credentials and had an opening conference to explain the purpose of the inspection. The inspectors proceeded to inspect the site and asked questions to the site representative to help the inspectors evaluate compliance at the site. Throughout the inspection, the inspectors noted their observations in a checklist. Photographs taken during the inspection are included in the attached photo log.

The site is located at 8902 40th St NW in New Town, North Dakota. Eagle Rock Timber began operations at the site in December 2011. Eagle Rock Timber, Inc. registered their business with the North Dakota Secretary of State on August 24, 2011. The land that is leased is approximately 910 acres. The site mines gravel from four different pits. The site also produces Class 5 gravel from crushing recycled asphalt and concrete. The operations at the site entail crushing and screening operations. The site is subject to SIC 1442 and NAICS 212321. Currently there is no concrete mixing at the site. The site does not have a city water connection. They purchase water and store it onsite. There are four gravel pits in the New Town area that are operated by Eagle Rock Timber, as indicated below:

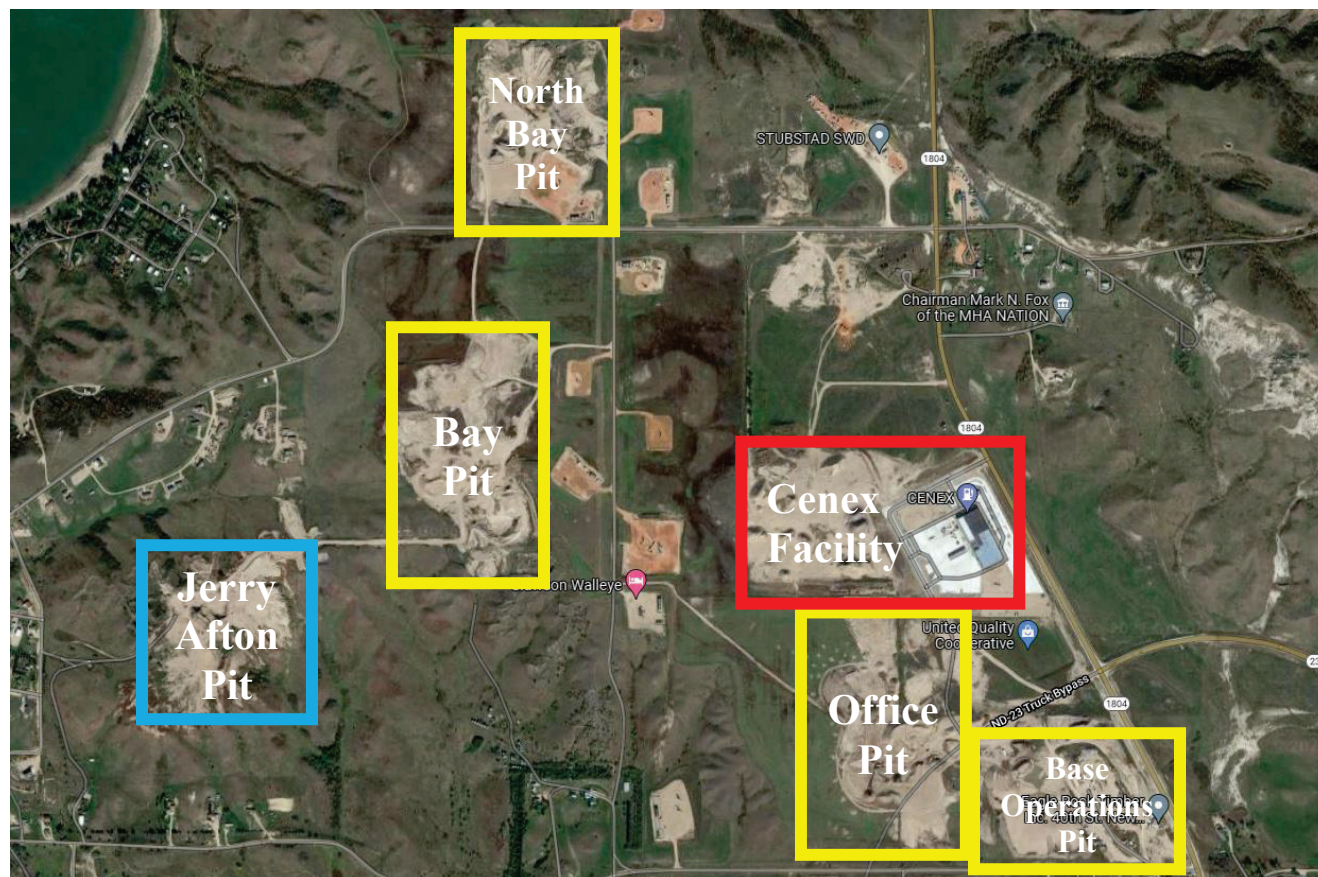
1. **Base Operations Pit:** This pit is located on the east side of the Hwy 23B Bypass where the main office is located. Currently, this area is in reclamation status. Dirt from other sites is brought here to fill in the Base Operations Pit.
2. **Office Pit:** This pit is located on the west side of the Hwy 23B Bypass. This is the active pit and is the location where screening operations occur. Screening equipment and conveyors where located in this pit. The site separates the gravel into piles depending on the size of the gravel.
3. **Bay Pit:** This pit has not operated since 2014.

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4. **North Bay Pit:** This pit is where crushing operations occur to make Class 5 gravel. Currently, the pit had piles of recycled concrete and asphalt. However, the Eagle Rock Timber, Inc. has to rent a crusher to crush the recycled concrete and asphalt. According to the site representative, there has been no crushing operations at the North Bay Pit in the last three years. The site representative indicated that crushing activities might occur in the spring of 2022.

Each of the four Eagle Rock Timber, Inc.'s pits are depicted in the map below with a yellow border around each of the pits.



The inspectors first observed the Base Operations Pit. The inspectors observed the reclamation area to the north of the base operations offices, where gravel and dirt from other sites is brought to fill in the northeast section of the site (photos 5 and 6). The inspectors walked around the Base Operations Pit and observed a stormwater ditch lined with riprap (photo 8) and the low point area of the Base Operations Pit that had a berm to trap the stormwater (photo 7). The inspectors also observed a stormwater catch basin on the south side of the office trailers (photo 9).

The inspectors then drove to the Office Pit and observed the active area of the pit, which included the screening area with different gravel piles depending on the size of the gravel (photo 18). The inspectors walked around the site and observed the large catch basin on the south side of the Office Pit and the adjacent secondary catch basin on the east side of the larger catch basin (photos 10 and 12). The inspectors also observed the V-ditch and berm on the southwest corner of the Office Pit (photo

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11). The inspectors then observed an eroded area in the Office Pit near the ND Hwy 23B Bypass that was in need of maintenance (photo 13). The site representative indicated that this area would be maintained and that a berm would be installed to prevent future erosion in this area. The inspectors then proceeded to observe the sand piles on the south side of the Office Pit (photo 14) and a catch basin use to capture the stormwater from the sand piles located in the south side of the Office Pit (photo 15). The inspectors also observed the berms on the east side of the Office Pit (photo 16) and the berm at the intersection of ND Hwy 23B Bypass and Uran Avenue (photo 17).

The inspectors then drove to the Bay Pit (photo 19) and observed the berm on the southside of the pit (photo 20). The inspectors then walked around the Bay Pit and noticed that there were no best management practices (BMPs) on the southwest boundary of the Bay Pit (photo 21). The west side of the Bay Pit sloped towards the southwest to a coulee that flows to Lake Sakakawea (photo 22). There was evidence of sediment flowing off site to the coulee during past stormwater events.

The inspectors then drove to the North Bay Pit (photo 24) and observed the concrete and asphalt piles (photo 23). The site representative indicated that the North Bay Pit had not operated since 2018. The inspectors then walked to the western edge of the North Bay Pit. The site representative indicated that only top soil had been removed from this area. This area was covered in vegetation (photo 25).

After the inspection of the site, the inspectors returned to the Base Operations Pit's offices and held a closing conference with Mr. Freeman where they discussed preliminary findings. On September 15, 2021, the EPA sent an email to Mr. Freeman and Mr. Gokey with the preliminary findings from the inspection.

During the inspection, Mr. Freeman indicated that part of the gravel pits might be located on state lands. On September 22, 2021, the EPA checked with the North Dakota Department of Environmental Quality (NDDEQ) whether the Eagle Rock Timber, Inc. New Town gravel pits had a permit with the state. NDDEQ indicated that Eagle Rock Timber, Inc. New Town gravel pits did not have a stormwater industrial permit with the state.

Findings, Corrective Actions and Recommendations

Finding #1: The site did not have a stormwater industrial permit.

Eagle Rock Timber, Inc. is engaged in construction aggregate mining under the SIC code 1442 Construction Sand and Gravel, which is an industrial activity as defined under 40 C.F.R. 122.26(b)(14). Due to the proximity, stormwater discharges from this site flows into Lake Sakakawea / Missouri River, a Water of the United States. The EPA has no record that Eagle Rock Timber, Inc. submitted a Notice of Intent to apply for a NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP).

This site was also inspected on June 13, 2019, and did not have an industrial stormwater permit or Stormwater Pollution Prevention Plan (SWPPP) at the time. On August 7, 2019, the EPA sent the inspection report to Eagle Rock Timber, Inc. The EPA reached out to Eagle Rock Timber, Inc. several times to provide compliance assistance on how to obtain a permit and encouraged Eagle Rock Timber, Inc. to response to the inspection report.

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On February 20, 2020, the EPA sent a Warning Letter to Eagle Rock Timber, Inc. for failure to respond to an inspection report. The Warning letter indicating that “The purpose of this letter it to notify you that to date, no response to the inspection report has been received by EPA. EPA did receive emails from Mr. Freeman on 8/14/2019, 8/15/2019, 8/16/2019, and 9/27/2019 regarding acknowledgement of receipt of the inspection report and questions on how to obtain permit coverage. EPA provided compliance assistance and email responses to Mr. Freeman on 8/15/2019, 8/16/2019, and 9/27/2019. During these correspondences, EPA requested the facility submit the inspection response and obtain stormwater permit coverage. As such, EPA has no information that a Notice of Intent to apply for a NPDES Multi-Sector General Permit for Stormwater Discharges was ever submitted, nor whether a stormwater pollution prevention plan has been developed and implemented.”

On March 18, 2020, the Eagle Rock Timber, Inc. indicated that it started working with a contractor to develop a SWPPP and submit an NOI, but to this date it has not submitted an NOI or finalized the SWPPP.

Regulatory Requirement:

Federal regulations at 40 CFR 122.26(b)(14) require stormwater discharges associated with specific categories of industrial activity to be covered under NPDES permits. Categories of facilities engaging in industrial activity include, among others, active mining operations such as the one observed at the site, are required to be covered under the MSGP.

Permit Requirement:

Part 1 of the MSGP states, “To be covered under this permit, you must meet all of the eligibility conditions and follow the requirements for obtaining permit coverage in Part 1.”

Part 1.3.2 of the MSGP states, “To be covered under this permit, you must use EPA’s NPDES eReporting Tool for the MSGP (NeT-MSGP) to electronically prepare and submit to EPA a complete and accurate NOI by the deadline applicable to your facility presented in Table 1-2. The NOI certifies to EPA that you are eligible for coverage according to Part 1.1 and provides information on your industrial activities and related discharges. Per Part 7.1, you must submit your NOI electronically via NeTMSGP, unless the applicable EPA Regional Office grants you a waiver from electronic reporting, in which case you may use the paper NOI form in Appendix G. To access NeT-MSGP, go to <https://www.epa.gov/npdes/stormwater-discharges-industrialactivities#accessingmsgp>”

Corrective Action:

Submit a notice of intent (NOI) to obtain permit coverage for the site under the MSGP. To obtain coverage under the MSGP visit: <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities-ereporting>. Provide the EPA and the MHA Nation Environmental Department with a description of the corrective actions taken to address this finding. Provide the EPA and the MHA Nation Environmental Department with a copy of the NOI.

Finding #2: The site did not have a Stormwater Pollution Prevention Plan.

The site did not have a Stormwater Pollution Prevention Plan (SWPPP). For information on SWPPP requirements see Part 6 (pages 55-64) of the MSGP: https://www.epa.gov/sites/default/files/2021-01/documents/2021_msgp_-_permit_parts_1-7.pdf

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Permit Requirement:

Part 1.3.1 of the MSGP states, “You must develop a SWPPP or update your existing SWPPP per Part 6 prior to submitting your NOI for coverage under this permit, per Part 1.3.2 below.”

Part 6 of the MSGP states, “You must prepare a SWPPP for your facility before submitting your NOI for permit coverage. If you prepared a SWPPP for coverage under a previous version of this permit, you must review and update the SWPPP to implement all provisions of this permit prior to submitting your NOI. The SWPPP does not contain effluent limitations; such limitations are contained in Parts 2, 8, and 9 of the permit. The SWPPP is intended to document the selection, design, and installation of stormwater control measures to meet the permit's effluent limits. The SWPPP is a living document. Facilities must keep their SWPPP up-to-date throughout their permit coverage, such as making revisions and improvements to their stormwater management program based on new information and experiences with major storm events. As distinct from the SWPPP, the additional documentation requirements (see Part 6.5) are so that you document the implementation (including inspection, maintenance, monitoring, and corrective action) of the permit requirements.”

Corrective Action:

Develop a SWPPP for the site in accordance with Part 6 of the MSGP prior to submitting the NOI to be covered under the MSGP. Provide the EPA and the MHA Nation Environmental Department with a description of the corrective actions taken to address this finding. Provide a copy of the SWPPP to the EPA and the MHA Nation Environmental Department.

Finding #3: The Office Pit near the Hwy 23B Bypass had erosion rills and gullies.

The area in the Office Pit near the Hwy 23B Bypass had erosion rills and gullies that had formed during past stormwater events (photo 13). Additional Best Management Practices (BMPs) were needed in this area to help stabilize this area of the site. On August 31, 2021, Ed Freeman sent photos of a new earthen berm installed after the inspection on August 31, 2021, to prevent stormwater from flowing to this area.

Permit requirements:

Part 2.1 of the MSGP states, “You must select, design, install, and implement stormwater control measures (including best management practices) to minimize pollutant discharges that address the selection and design considerations in Part 2.1.1, meet the non-numeric effluent limits in Part 2.1.2, meet limits contained in applicable effluent limitations guidelines in Part 2.1.3, and meet the water quality-based effluent limitations in Part 2.2. The selection, design, installation, and implementation of control measures to comply with Part 2 must be in accordance with good engineering practices and manufacturer’s specifications. Note that you may deviate from such manufacturer’s specifications where you provide justification for such deviation and include documentation of your rationale in the part of your SWPPP that describes your control measures, consistent with Part 6.2.4. You must modify your stormwater control measures per Part 5.1 if you find that your control measures are not achieving their intended effect of minimizing pollutant discharges (i.e., your discharges will be controlled as necessary such that the receiving water of the United States will meet applicable water quality standards or meet any of the other non-numeric effluent limits in this permit). Regulated stormwater discharges from your facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at your facility.”

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Corrective Action:

On August 31, 2021, Ed Freeman sent photos of a new earthen berm installed after the inspection on August 31, 2021, to prevent stormwater from flowing to this area. No further action is needed at this time.

Finding #4: The southwest corner of the Bay Pit did not have BMPs and there was evidence of sediment flowing offsite.

The southwest corner of the Bay Pit did not have BMPs and there was evidence of sediment flowing off site to a coulee during past stormwater events (photos 21 and 22). On August 31, 2021, Ed Freeman sent photos of a new earthen berm installed after the inspection on August 31, 2021, to prevent stormwater from flowing offsite to the coulee.

Permit Requirement:

Part 2.1 of the MSGP states, “You must select, design, install, and implement stormwater control measures (including best management practices) to minimize pollutant discharges that address the selection and design considerations in Part 2.1.1, meet the non-numeric effluent limits in Part 2.1.2, meet limits contained in applicable effluent limitations guidelines in Part 2.1.3, and meet the water quality-based effluent limitations in Part 2.2. The selection, design, installation, and implementation of control measures to comply with Part 2 must be in accordance with good engineering practices and manufacturer’s specifications. Note that you may deviate from such manufacturer’s specifications where you provide justification for such deviation and include documentation of your rationale in the part of your SWPPP that describes your control measures, consistent with Part 6.2.4. You must modify your stormwater control measures per Part 5.1 if you find that your control measures are not achieving their intended effect of minimizing pollutant discharges (i.e., your discharges will be controlled as necessary such that the receiving water of the United States will meet applicable water quality standards or meet any of the other non-numeric effluent limits in this permit). Regulated stormwater discharges from your facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at your facility.”

Corrective Action:

On August 31, 2021, Ed Freeman sent photos of a new earthen berm installed after the inspection on August 31, 2021, to prevent stormwater from flowing offsite to the coulee. No further action is needed at this time.