

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

February 24, 1997



Acme Company  
Joe Doe, President  
1234 Main Street  
Anywhere, Tx 99999

Permit	TXR10*####	Start: 8/9/92	Est. Complete: 6/1/97
Latitude	333506	Longitude	1015706
Facility	Acme Mfg. Division		
	1234 Elm Street		
	Somewhere	TX	99999
Name	Joe Doe, President		
Phone	(214) 555-1212		

Dear Permittee:

This letter is being written to you because you are currently covered by a National Pollutant Discharge Elimination System (NPDES) construction storm water discharge permit. Some of you have received a letter dated January 15, 1997, that covers similar matters. Over the past few years, EPA Region 6 inspections have revealed that at many sites not all parties meeting the definition of "operator" have applied for storm water permit coverage. The "operator" is the party or parties that either individually or taken together meet the following two criteria: 1) they have operational control over the site specifications (including the ability to make modifications in specifications); and, 2) they have the day-to-day operational control of those activities at the site necessary to ensure compliance with Storm Water Pollution Prevention Plan (SWPPP) requirements and permit conditions (i.e., are authorized to carry out activities identified in the plan). [Federal Register, Vol. 57, No. 175, September 9, 1992, page 41190].

At a typical commercial construction site, the owner will meet the first criteria and the general contractor(s) will meet the second criteria. In this case, both the owner and general contractor must apply for storm water permit coverage by submitting Notices of Intent (NOI). A residential developer usually meets both the first and second criteria, and should apply for permit coverage. Developers eventually finish building the infrastructure and start selling lots to builders. Builders usually meet both criteria of "operator" for the lots where they build structures and must also apply for storm water permit coverage. A builder that controls his own plans and specifications, and disturbs less than 5 acres, but is part of a larger common plan of development of sale (e.g., a subdivision), must apply for permit coverage. A builder who has several lots in a subdivision needs to only submit one NOI application for all of his or her lots. Typically, EPA expects permit coverage for the developer and each builder. While there may be many parties that are required to apply for permit coverage, only one SWPPP is required for a given facility unless each permittee wishes to develop their own SWPPP. However, it is still the responsibility of each party to ensure compliance with their requirements under the permit and SWPPP. To this end, a clear delineation of responsibilities in the SWPPP can help reduce confusion.

If your project is substantially complete (i.e., finally stabilized) or another party has replaced you as the "operator" (e.g., a new contractor is hired), you should submit a Notice of Termination (NOT) so we can purge your permit number from our compliance tracking system. Additionally, a permit can be terminated if a permittee no longer meets the definition of "operator" (e.g., a residential developer has sold lots to builders and all

unsold lots are finally stabilized). Enclosed with this letter is an NOT form for you to complete and submit to EPA if your project is complete. "Final Stabilization" means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas, and areas not covered by permanent structures or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. In arid areas of the country, background native vegetation will cover less than 100% of the ground (e.g., 50%), so establishing at least 70% of this natural cover (e.g., 70% of 50%, or 35% total cover) meets the vegetative cover criteria for final stabilization.

EPA inspections have revealed that some construction sites do not have adequate and current SWPPPs. Many facilities mistakenly believe that an erosion control plan is all that is necessary. Your permit has specific language stating which provisions must be addressed in a SWPPP. Some facilities are not recording their inspections in accordance with Part IV.D.4 of the permit; not having the SWPPP signed in accordance with Part IV.B of the permit; and, not including contractor certifications in accordance with Part IV.E of the permit. Enclosed you will find a copy of a SWPPP checklist from the EPA guidance for developing construction SWPPPs. You are encouraged to utilize this checklist to verify that your SWPPP is complete. If you have detailed questions about the checklist, please refer to Part IV of the permit. Additionally, if you do not have a copy of the permit language or associated guidance documents, you are strongly encouraged to order free copies by contacting the Office of Water Resource Center at (202)260-7786 or downloading it from the EPA Internet web page at: <http://www.epa.gov/earthlr6/6en/w/sw/home.htm> or <http://pipes.ehsg.saic.com/storm.htm>. It is important that you maintain a copy of the permit language on site for you to assure proper compliance.

The construction general storm water discharge permit was issued September 9, 1992, and expires on midnight of September 9, 1997. EPA is in the process of developing a new construction general permit.

If you wish to report violations of the Clean Water Act (e.g., a facility that does not have a permit or is not implementing adequate erosion controls), you may contact me at (214)665-7112.

The information at the top of this letter comes from your NOI. If there are any errors, you may contact the NOI Processing Center at (703)931-3230.

Sincerely,



Taylor M. Sharpe

Federal Enforcement Officer  
Compliance Assurance and  
Enforcement Division

Enclosures(3)