



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

August 15, 2022

Brian Hefty
Grant Park Capital LLC
47526 252nd Street
Baltic, SD 57003

WARNING LETTER

Re: Stormwater Inspection – Phillips Crossing Addition (Permit No. SDR10K637)

Dear Brian Hefty:

The South Dakota Department of Agriculture and Natural Resources (SDDANR) conducted a Compliance Inspection of the Phillips Crossing Addition construction project located in Baltic, SD on July 13, 2022. This inspection was conducted as a follow-up to our June 6, 2022 complaint inspection at this site.

I have attached an inspection summary and a copy of the inspection report. Please pay special attention to the Full Inspection Summary table and ensure that any issues identified are resolved and do not occur moving forward. The discharge of stormwater from your construction site is authorized only if your project is in compliance with the General Permit.

The General Permit requires corrective actions be taken and modifications to the Stormwater Pollution Prevention Plan be made and implemented within seven (7) days of notification of the plan not meeting the minimum requirements.

The July 13, 2022 inspection identified many of the same violations from our June 6, 2022 inspection. The Department will be initiating enforcement action for these violations, which could include penalties of up \$10,000 per day per violation.

By **August 22, 2022**, please submit a written response detailing how the violations of the permit listed in the Full Inspection Summary have been corrected on your project site. We will review your response and take into account any corrective actions you implement as part of our final enforcement action.

EXHIBIT L

DANR 088

Please review this report for accuracy. If you have any questions or need any guidance, please contact Stormwater Staff at stormwater@state.sd.us or by calling 1-800-737-8676.

Sincerely,



Jill Riedel
Surface Water Quality Program
Enclosure

cc: Mike Wendland - On-Site Contact
Chad Huwe - Project Engineer

Company: Grant Park Capital LLC
 Inspector Name: Nick Gregg

Project Name: Phillips Crossing Addition
 Inspection Date: July 13, 2022

General Project Information					
Project Name	Phillips Crossing Addition			Permit Number	SDR10K637
Project Location	Baltic, SD			Project Start Date	April 1, 2021
Project Address	S 6th Street & Lovely Avenue			Project End Date	December 31, 2021
Owner Name	Brian Hefty	Owner Phone	(605) 351-3463	Owner Email	brian@agphd.com
Project Contact	Mike Wendland	Contact Phone	(605) 351-2210	Contact Email	mike@grantpark.capital
Inspection Date	July 13, 2022	Inspection Time	1:00 PM	Weather	Clear
Individuals Present During the Inspection					
Nick Gregg		Engineering Intern, SDDANR		stormwater@state.sd.us	
Jill Riedel		SDDANR		stormwater@state.sd.us	
Mike Wendland		Grant Park Capital		mike@grantpark.capital	
On-Site Inspection Corrective Actions					
<p>You must remove all offsite accumulations from the sediment track-out. You must repair or replace inlet protections that have filled with sediment or debris. You must implement and/or revise controls to minimize dust generation. You must reconsider the stabilization measures being used and install effective stabilization measures to prevent erosion. You must install and/or implement stabilization measures at all inactive areas of your construction site. You must direct all concrete wash water into a leak-proof container or leak-proof pit.</p> <p><i>DANR communicated these same corrective actions following our June 6, 2022 inspection. The violations have continued at the site.</i></p>					
SWPPP Review Corrective Actions					
<p>You must update your SWPPP and site map to reflect current site conditions. The SWPPP submitted in response to the June 6, 2022 inspection and in preparation of the July 13, 2022 inspection did not have any updates made to it as required by the inspection report. The SWPPP is dated as being finalized March 10, 2021 by Chad Huwe and no SWPPP updates have been recorded or made since that date. The original bid set SWPPP and site map are not reflective of current site conditions and must be updated.</p> <p><i>DANR communicated the same corrective actions following our June 6, 2022 inspection.</i></p>					

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On-Site Inspection		
Permit Documentation	Answer	Permit Language
Is permit information posted in an area visible from the public ROW?	Yes	
Have all contractors who are required to submitted a Contractor Authorization form?	No	Section 2.4.1 of the General Permit requires that you submit a Contractor Authorization Form as soon as a contractor is identified if the contractor was not identified on the NOI.
Inspection Report Requirements	Answer	Permit Language
Is surface runoff near lakes or streams directed to vegetated areas and stormwater maximally infiltrated?	Not Applicable	
Are natural buffer areas near lakes and streams delineated and clearly marked?	Not Applicable	
Are proper controls installed on slopes and side boundaries as appropriate?	Installed and Functioning	
Are all sediment basins designed, constructed, and operated correctly?	Not Installed and Not Needed	
Are track out control measures in place?	Not Installed But Needed	Section 3.6.3 of the General Permit requires that where sediment has been tracked out from your site onto offsite streets, other paved areas, and/or sidewalks, remove the deposited sediment by the end of the same work day in which the track-out occurs.
Are storm drain inlet protection in place?	Installed But Needs Maintenance	Section 3.19.1 of the General Permit requires you clean inlet protection devices when sediment accumulates, or when the filter becomes clogged, or performance is compromised.
Are velocity controls being used to minimize erosion and scour along channels and at discharge points?	Installed and Functioning	
Are soil stockpiles stored on site? Are they located outside of natural buffers and away from any stormwater conveyances, drain inlets, or areas where stormwater flow is concentrated? Are stockpiles that will be unused for 14 days covered and/or stabilized as required?	Yes Yes Yes	
Is the area of exposed soil minimized?	Yes	
Is dust being minimized?	No	Section 3.8 of the General Permit requires that you must minimize the generation of dust at the construction site to avoid pollutants from being deposited into surface waters of the state. This can be accomplished through the appropriate application of water or other dust suppression techniques.
Is there temporary stabilization being done on site?	Done and Needs Work	Section 3.19.1 of the General Permit requires all nonfunctional BMPs be repaired, replaced, maintained or supplemented with functional BMPs. If a nonfunctioning BMP is supplemented, the nonfunctional BMP shall be removed.

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Are there areas where final stabilization is being done?	Not Done and Needed	Section 3.18.2 of the General Permit requires that as soon as practicable, but no later than 14 calendar days after initiating soil stabilization measures you are required to complete temporary stabilization.
Potentially Harmful Pollutants Stored on Site	Answer	Permit Language
Fuels, Oils, or Other Chemicals Used for Fueling and Maintenance	Not Stored On Site	
Detergents, Soaps, or Solvents Used for Vehicle and Equipment Washing	Not Stored On Site	
Garbage, Debris, Masonry, Scraps, Timber, Pipes, Styrofoam, or Other Construction Materials	Not Stored On Site	
Concrete, Stucco, Paint, Acids, or Other Construction Chemicals	Not Stored On Site	
Pesticides and Fertilizers	Not Stored On Site	
Hazardous or Toxic Waste	Not Stored On Site	
Portable Toilets	Not Stored On Site	
Potentially Harmful Pollutants Stored on Site	Answer	Permit Language
Is a concrete washout on site? Are signs posted identifying the washout area? Is the washout area directed into a leak-proof container or pit?	Yes Yes No	Section 3.20.4 of the General Permit requires that you must provide effective containment for all liquid and solid wastes generated by washout operations.
Construction Dewatering	Answer	Permit Language
Is construction dewatering occurring on site?	No	
General Comments on the Site Inspection		
The site had a large amount of clay runoff into the roads due to lack of stabilization and vegetation was scarce. These violations were all noted during the June 6, 2022, inspection.		

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SWPPP Inspection Checklist		
SWPPP Includes	Answer	Permit Language
Narrative description of the nature of construction activities.	Yes	
Legible site map.	Yes	
General Required SWPPP Information		
Person(s) responsible for implementation of the plan.	Yes	
How employees and responsible parties will be trained on the SWPPP.	Yes	
Overall project description and the type of construction.	Yes	
Estimates of the total size of project and total area expected to be disturbed.	Yes	
Maximum area expected to be disturbed at one time.	Yes	
Existing vegetation at site and estimate of percent of vegetative ground cover.	No	Section 5.3.3.d of the General Permit requires that your SWPPP must include a description of the existing vegetation at the site and an estimate of the percent of vegetative ground cover.
Description of the soil type within disturbed area(s).	Yes	
Name of surface water(s) or MS4 that could receive discharges.	No	Section 5.3.3.f of the General Permit requires that your SWPPP must include the name of the surface waters or municipal separate storm sewer system at or near the disturbed area that could potentially receive discharges from the project site.
Any construction support activity areas.	No	Section 5.3.3.g of the General Permit requires that your SWPPP must include a description of any construction support activity areas.
Construction and BMP Sequencing		
Start and duration of earth-disturbing activities needing stabilizing.	Yes	
Cessation of construction activities on site or in designated portions of the site.	Yes	
Timeframe for installation, maintenance, and removal of BMPs.	Yes	
BMPs are indicated as temporary or permanent.	Yes	
Description of maintenance specification and procedures.	Yes	
Stormwater Diversions and Conveyances		
Description of structural diversion practices.	No	Section 5.3.5.e of the General Permit requires that your SWPPP must include a description of structural diversion practices intended to divert flow from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site.

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Description of removal of any temporary stormwater conveyance.	No	Section 5.3.5.f of the General Permit requires that your SWPPP must include a description of the removal of any temporary stormwater conveyance.
Stabilization Requirements	Answer	Permit Language
Description of stabilization in areas where construction has ceased.	Yes	
Does SWPPP vegetative and/or non-vegetative practices comply with stabilization requirements in Section 3.19?	Yes	
Inspection Records and Procedures	Answer	Permit Language
Procedures for conducting site inspections and performing necessary corrective actions.	Yes	
Personnel responsible for inspections.	No	Section 5.3.6.a of the General Permit requires that your SWPPP must indicate the personnel responsible for conducting inspections.
Required inspection frequency.	Yes	
Rational for frequency reduction.	No	Section 5.3.6.c of the General Permit requires that your SWPPP must include the rationale for reduction of inspection frequency.
Checklists or other forms to be used.	No	Section 5.3.6.d of the General Permit requires that your SWPPP must include any inspection checklists or other forms that will be used for the inspections.
Post Construction Management	Answer	Permit Language
Technical reasoning used to select controls where flows exceed pre-development levels.	No	Section 5.3.7.a of the General Permit requires that your SWPPP must include an explanation of the technical basis used to select the practices to control pollution where flows exceed pre-development levels.
Description of structural stormwater management practices.	Yes	
Location of velocity and energy dissipating devices at discharge points.	No	Section 5.3.7.c of the General Permit requires that your SWPPP must include the location of velocity and energy dissipation devices placed at discharge points and appropriate erosion protection for outfall channels and ditches.
Location of erosion protection for outfall channels and ditches.	Yes	
Description of spill prevention and response procedures.	Yes	
Procedures for handling and disposing of spills or leaks.	Yes	
Name or position of the employee(s) responsible for response to spills and leaks.	No	
Procedures for handling and disposing of waste on site.	Yes	
Description of all activities that could generate pollutants at the site.	No	Section 5.3.9.a of the General Permit requires that you must include information in your SWPPP about all activities that could generate pollutants at your site.
All sources of non-stormwater discharges.	No	Section 5.3.10 of the General Permit requires that you must identify in your SWPPP all sources of non-stormwater discharges.

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Statement if it is infeasible to comply with any permit condition on this site.	No	Section 5.3.11 of the General Permit requires you must thoroughly document your rationale if you determine it is infeasible to comply with any of the requirements of this permit.
SWPPP Site Maps Show	Answer	Permit Language
Preconstruction site conditions including vegetative and non-vegetative cover.	No	Section 5.3.4.a of the General Permit requires that the site maps include pre-construction site conditions, including existing vegetative and non-vegetative cover.
Locations where earth-disturbing activities will occur, noting phasing.	Yes	
Approximate slopes before and after major grading activities; noting areas with a slope greater than 3:1.	Yes	
Topography of site.	Yes	
Drainage patterns before and after major grading and flow directions marked with arrows.	No	Section 5.3.4.e of the General Permit requires that the site maps include the drainage patterns of stormwater and authorized non-stormwater flows from the site property before and after major grading activities. Mark the flow direction with arrows on the map.
Name and locations of all surface waters potentially receiving discharges.	No	Section 5.3.4.f of the General Permit requires that the site maps include locations and names, where appropriate, of all surface waters of the state that exist within or in the immediate vicinity of the site and could potentially receive discharges from the project site.
Surface water crossings.	Not Applicable	
Stormwater conveyances.	Yes	
Discharge locations, including storm drain inlets potentially receiving discharge.	Yes	
Stormwater discharge to surface water locations.	Yes	
Sediment, soil and/or other construction material stockpiles.	No	Section 5.3.4.k of the General Permit requires that the site maps must include locations where sediment, soil, or other construction materials will be stockpiled.
Designated site access points.	Yes	
Structures and other impervious surfaces upon completion of construction.	Yes	
Natural buffer boundaries and widths.	No	Section 5.3.4.n of the General Permit requires the site maps must include locations of any natural buffer boundaries and widths.
Potential Areas Where Pollutants Could Be Generated Are Marked	Answer	Permit Language
Fueling stations	Not Applicable	
Vehicle maintenance areas	Not Applicable	
Designated wash water collection areas	Not Applicable	
Lubricant and chemical storage	Not Applicable	
Waste storage/dumpsters	Not Applicable	

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Concrete washout areas	No	Section 5.3.4.o of the General Permit requires that the site maps include the locations of concrete washout areas.
SWPPP Modifications	Answer	Permit Language
Has the SWPPP had any modifications?	No	
Was SWPPP updated within 7 calendar days?	Not Applicable	
Does the SWPPP show the modification date, who made the change, and a brief summary?	Not Applicable	
Is the modification signed and certified?	Not Applicable	
Was each operator impacted by the SWPPP change notified within 24 hours?	Not Applicable	
Signed and Certified	Answer	Permit Language
The SWPPP is signed and certified?	No	Section 7.4 of the General Permit requires that you must include the certification statement beginning with "I certify under penalty of law..." found in the permit Section 7.4, with all documents signed according to this section.

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Inspection Records Review Checklist		
Inspection Records	Answer	Permit Language
Are inspection records being kept?	Yes	
Are regular site inspections being conducted as required in Section 4.2 of the General Permit?	Yes	
Does the site have a knowledgeable inspector? If yes, what is their name?	Yes Mike Wendland	
Has inspection frequency ever been reduced?	No	
Inspection Report Requirements	Answer	Permit Language
Inspection records include the date and time of inspection.	Yes	
Inspection records include the name of inspecting person.	Yes	
Inspection records include the date and amount of most recent precipitation.	Yes	
Inspection records include if runoff was flowing on and/or off site.	Yes	
Inspection records include the summary of inspection findings.	Yes	
Inspection records include the specific locations where corrective actions are needed.	Yes	
Inspection records include the summary of corrective actions taken.	Yes	
Inspection records include the statement the site is in full compliance.	Yes	
Inspection records include the statement an area was unsafe to inspect.	No	Section 4.6.2 of the General Permit requires that if you determine it is unsafe to inspect a portion of your site, your inspection reports must include describe the reason(s) you found it to be unsafe and specify the locations that were not inspected.

Inspection Photo Log

Location: Baltic, SD

Inspection Date: July 13, 2022

Inspector: Nick Gregg

Picture	Time	Facing	Photo Description
1	1:00 PM	SW	Inlet protection was installed but full of sediment, sediment was also accumulating in the gutter on either side of the inlet.
2	1:00 PM	W	Some portions of the site were covered with topsoil while others were exposed clay however little to no vegetation was growing and stabilization is needed.
3	1:01 PM	N	Silt fence was being used in some areas bordering the road and in front of curb ramps, sediment was accumulated in the gutter and in the road. Track out was also present in certain areas where vehicles were leaving the site.
4	1:01 PM	NW	A topsoil stockpile on site was vegetated and stabilized.
5	1:07 PM	NW	Riprap was being used around the discharge point of a culvert collecting stormwater from the road.
6	1:07 PM	NW	The culvert discharging the stormwater from the road contained sediment.
7	1:18 PM	E	Gravel stockpiles located on site were moved away from curb since last inspection but gutter still had gravel and sediment that hadn't been cleaned up.
8	1:19 PM	NE	Portions of the site had some vegetation growing; however, these areas are not stabilized; additional stabilization is needed.



Picture 1

DANR 099



Picture 2



Picture 3



Picture 4



Picture 5



Picture 6



Picture 7



Picture 8