

Janice K. Brewer
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Patrick J. Cunningham
Acting Director

March 24, 2009

Case ID: 107788

Arizona Department of Transportation
Attention: Todd Williams, MSc, Director of Environmental Services
206 S. 17th Ave
Suite 102-A
Phoenix, AZ 85007-3213

Re: Notice of Violation issued to Arizona Department of Transportation

Dear Mr. Williams:

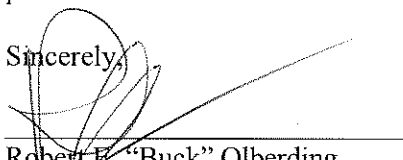
This letter constitutes the monthly update on the status of Arizona Department of Environmental Quality (“ADEQ”) action resulting from ADEQ’s inspection of the above-referenced site on February 11, 2009, as required by A.R.S. § 41-1009(H).

The attached Notice of Violation (“NOV”) is an informal compliance assurance tool used by ADEQ to put a responsible party (such as a facility owner or operator) on notice that the Department believes a violation of an environmental requirement has occurred. It describes the facts known to ADEQ at the time of issuance and cites the requirement that ADEQ believes the party has violated.

Although ADEQ has the authority to issue appealable administrative orders compelling compliance, an NOV has no such force or effect. Rather, an NOV provides the responsible party an opportunity to do any of the following before ADEQ takes formal enforcement action: (1) meet with ADEQ and discuss the facts surrounding the violation, (2) demonstrate to ADEQ that no violation has occurred, or (3) document that the violation has been corrected.

ADEQ reserves the right to take a formal enforcement action, such as issuing an administrative order or filing a civil lawsuit, regardless of whether the Department has issued an NOV. Neither ADEQ’s issuance of an NOV nor its failure to do so precludes the Department from pursuing these remedies. However, the timeliness of a complete response to this notice will be considered by ADEQ in determining if and how to pursue such remedies.

Sincerely,


Robert E. “Buck” Olberding
Manager of Field Services

Arizona Department of Environmental Quality – Northern Regional Office

Cc: Harris and Associates, Attn: Kurt Harris, P.E., 901 N. San Francisco Street, Flagstaff, AZ 86001
ADOT, Attn: Chuck Howe, Regional Environmental Coordinator, 1801 S. Milton, Flagstaff, AZ 86001

Northern Regional Office
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733



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Patrick J. Cunningham
Acting Director

CERTIFIED MAIL
Return Receipt Requested

Case ID #: 107788

March 24, 2009

Arizona Department Of Transportation - Office Of Environmental Services
Attention: Todd Williams
206 S 17th Ave
102-A
Phoenix, AZ 85007-3213

Subject: SR 179 Village Of Oak Creek To Sedona Project, Place ID 23513
Sedona

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ) has reason to believe that Arizona Department Of Transportation - Office Of Environmental Services as the owner/operator of SR 179 Village Of Oak Creek To Sedona Project has violated a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an applicable permit/license, administrative order or civil judgment. ADEQ discovered the violations alleged below during an inspection completed on February 24, 2009.

I. LEGAL AUTHORITY and NATURE OF ALLEGED SIGNIFICANT VIOLATION(S)

1. **Permit - ADOT Statewide Stormwater Permit AZS000018-2008, Part 1.2.2.1**

This permit does not authorize industrial or construction discharges that will cause or contribute to the non-attainment of water quality standards or to the designated uses of receiving waters listed in 18 A.A.C. 11, Article 1.

An impoundment located near the retaining walls between the Hillside Shops and SR-179 retains a significant amount of rainfall and runoff. This impoundment was being dewatered via a pump system at the time of the inspection. Raw sediment laden water from the impoundment was being discharged into a tributary of Oak Creek. A straw log was installed across the tributary removing most, but not all, of the sediment from flows into Oak Creek as verified by photographs collected at the inspection. The discharge to the wash, however, is not permitted under either the construction general permit or the ADOT individual permit.

2. **Permit - ADOT Statewide Stormwater Permit AZS000018-2008, Part 5.2.1.1**

ADOT shall prepare a SWPPP for all construction sites that meet the criteria in Sections 5.1.1 and 5.1.4.

The stormwater pollution prevention plan (SWPPP) for this project was developed for and signed by Southwest Asphalt and Paving. ADOT has not provided to ADEQ a SWPPP for this project which is required under the above referenced permit section.

II. LEGAL AUTHORITY and NATURE OF OTHER ALLEGED VIOLATION(S)

1. **Permit - ADOT Statewide Stormwater Permit AZS000018-2008, Part 5.2.3.2(1)(a)(i)**

All best management practices (BMP's) shall be properly selected, installed, and maintained per the manufacturer's specifications and good engineering practices.

1. Gravel trackout protection was not installed according to the ADOT Erosion and Pollution Control Manual for Highway Design and Construction specification #14 at the following locations:

- a. New Age access site
- b. Hillside north entrance
- c. Chapel Road
- d. Cathedral Rock Trail
- e. Skyline Drive
- f. Jesus Saves driveway

2. Storm drain curb inlets along SR 179 construction need repair. The curb inlet near Circle K and Highland Drive had no protection. Some of the gravel bags used for filtration at curb inlets along SR-179 were intermixed with impermeable sand bags. The inlet protection should provide filtration and not obstruction.

3. The outfall to Oak Creek located to the north of The Inn on Oak Creek is protected using straw logs. Water ponds in this area during significant rain events. These logs had been undermined at some time prior to the inspection rendering the BMP useless.

4. Fine sediments that have been exposed within the construction site at the Oak Creek bridge near where the temporary construction bridge was installed, have been washed downstream as verified by inspection and photographs on 2/24/09.

III. DOCUMENTING COMPLIANCE

1. Within 5 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or verification that any discharge to the above referenced tributary has ceased. To be complete, verification must include supporting photographs indicating that the pump system has been removed.
2. Within 15 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or an amended stormwater pollution prevention plan that includes best management practices (BMPs) that describe the conditions and protocol for dewatering all stormwater impoundments.
3. Within 15 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a copy of a completed stormwater inspection report confirming that all BMPs at this construction site are properly installed and maintained per manufacturer's recommendations.

4. Within 10 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or a copy of the stormwater pollution prevention plan (SWPPP) for this ADOT construction project signed by the authorized ADOT representative.
5. Within 30 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or all stormwater related inspection reports and sampling reports for this construction project from March 1, 2009 to present.

IV. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice to ADEQ at the following address:

Arizona Department of Environmental Quality, Attention: Howard K. (Kent) Haugerud P.E., NRO Field Services, 1801 W. Route 66, Suite 117, Flagstaff, AZ 86001 MC: R2000F

V. STATEMENT OF CONSEQUENCES

Significant Violations

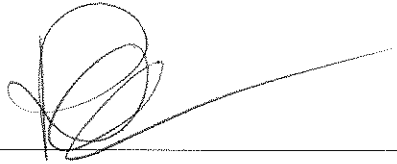
1. The time frames within this Notice for achieving and documenting compliance for the violation(s) alleged in Section I of this Notice are firm limits. Failure to achieve or document compliance for the violation(s) alleged in Section I of this Notice within the time frames established in this Notice will result in an administrative compliance order or civil action requiring compliance within a reasonable time frame, substantial civil penalties, and/or the suspension or revocation of an applicable permit/license. ADEQ will agree to extend the time frames for achieving and documenting compliance for the violation(s) alleged in Section I of this Notice only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment.
2. Achieving compliance does not preclude ADEQ from seeking civil penalties, and/or suspending or revoking an applicable permit/license for the violation(s) alleged in Section I of this Notice as allowed by law.

Other Violations

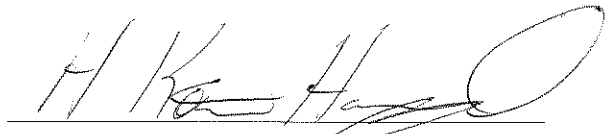
3. ADEQ may take any enforcement action authorized by law for the violation(s) alleged in Section II of this Notice, if the violation(s) are not corrected, or if ADEQ determines that the violation(s) have not been corrected in the time frames within this Notice.

VI. OFFER TO MEET

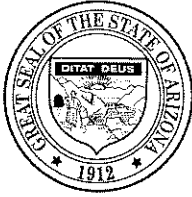
ADEQ is willing to meet regarding this Notice. To obtain additional information about this Notice or to schedule a meeting to discuss this Notice, please contact Howard K. (Kent) Haugerud P.E. at (928) 773-2711.



Robert E. (Buck) Olberding, Manager
NRO Field Services



Howard K. (Kent) Haugerud P.E.
NRO Field Services



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Patrick J. Cunningham
Acting Director

March 24, 2009

ADOT

Attn: Todd G. Williams, MSc, Dir. Office of Environmental Services
206 S. 17th Ave., Mail Drop 102A
Phoenix, AZ 85007

Inspection ID: 134955

Case ID: 107788

Regarding: Storm water Inspection of SR 179 Phase II: MP310.5-MP313.8, Sedona
Watershed: Verde
Authorization Number: 36435 (SW Asphalt and Paving)
Place ID 23513

Dear Owner:

Enclosed is a copy of a stormwater pollution prevention inspection report prepared by H. Kent Haugerud, P.E. of the Northern Regional Office concerning the referenced project. The inspection was conducted on February 11, 2009, and completed on February 24, 2009, in accordance with Arizona Revised Statutes (A.R.S.) §49-101 et seq. and with the Arizona Administrative Code (A.A.C.) R18-9-101 et sequi.

If there are any questions please contact Kent Haugerud at 928-773-2711 or at the referenced address.

Sincerely,

Robert E. "Buck" Olberding
Manager of Field Services
Northern Regional Office
Arizona Department of Environmental Quality

REO:hkh

Copy: ADOT, Mr. Chuck Howe, Environmental Coordinator, 1801 S. Milton Rd., Flagstaff, AZ 86001
Harris and Associates, Attn. Kurt Harris, P.E., 901 N. San Francisco Street, Flagstaff, AZ 86001-3235

Northern Regional Office
1801 W. Route 66 • Suite 117
Flagstaff, AZ 86001
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433
Tucson, AZ 85701
(520) 628-6733

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
 NORTHERN REGIONAL OFFICE
 1801 W. ROUTE 66 SUITE 117, FLAGSTAFF, ARIZONA 86001

INFORMATION SUMMARY – STORMWATER

Entity	SR-179: MP 310.5-MP 313.8	Type of Entity	Construction
Inspected by	H. Kent Haugerud, P.E.	Date	2/11/09-2/24/09
Accompanied By	Kurt Harris, P.E., Project Manager, Harris and Associates	County	Yavapai - Coconino
Recommendations By	H. Kent Haugerud, P.E.	Date	3/24/09
Watershed	Verde Watershed	Lat/Long	34° 51' 44.7"
Authorization Number	36435 (SW Asphalt and Paving)		111° 45' 41.5"

COMPLIANCE SUMMARY	Yes	No	N/A
1. The facility has substantially complied with AZPDES Storm Water Program		X	
2. Violations of R18-11-108 (Narrative Water Quality Standards)	X		
3. Violations of R18-11-109 (Numeric Water Quality Standards)			RESERVED
4. The facility substantially met ADEQ Standards for Best Management Practices (BMPs)		X	

SUMMARY

The project involves the construction of the bridge on Highway 179 (SR-179) crossing Oak Creek, including work within the streambed of Oak Creek, and SR-179 reconstruction between M.P. 310.5 and M.P. 313.8. ADEQ conducted an inspection on February 11, 2009 and completed the inspection on February 24, 2009 during a high flow event. According to the USGS staff gauge at the site, flows were approximately 4.41 feet at 12:57 P.M. during the inspection on February 24. Flows increased to 5.04 feet at 5:25 A.M. on February 25, 2009.

Structural BMPs were observed during the inspection including sediment berms, trackout protection, inlet protection, check dams, a permanent retaining wall, Jersey curbs, straw logs, ¾" gravel, and cobble material. Sediment berms and straw logs were noted along the up and downslope along the SR-179 construction. Gravel bag inlet protection was noted at storm drain and curb inlets along SR-179 between M.P. 313.8 and M.P. 310.5. Cobble material and sand bags were noted along the creek banks, with straw logs on the upslope side of the cobble material. More than one layer of BMPs were noted where construction was occurring close to Oak Creek. Photographs were taken during the inspections and are on file at NRO-ADEQ.

Operators under contract with ADOT for construction projects are required to comply with the construction general permit (CGP) and any additional requirements from ADOT above and beyond the CGP. ADOT shall ensure all applicable provisions of the CGP and the ADOT individual permit are implemented. ADOT is responsible for inspection oversight and shall implement a system to enforce this provision.

OTHER INFORMATION

- ADOT holds a 404 Nationwide Permit (NWP) – 33; Temporary Construction, Access and Dewatering permit valid 4/3/07 thru 4/3/09.
- ADOT holds a 404 Nationwide Permit (NWP) –14; Linear Transportation Projects permit valid 4/3/07 thru 4/3/09.
- ADOT holds a 401 certification valid 4/3/07 thru 4/3/10.

INSPECTOR COMMENTS

ADOT AZPDES Individual Permit (#AZS000018-2008) requirements:

- The ADOT AZPDES Individual Permit requires BMPs to prevent the discharge of solid materials; to minimize offsite vehicle tracking of sediments; and to sufficiently stabilize soil at culvert locations to prevent the formation of rills and gullies during construction (Part 5.2.3.2(2)(f)). Upon discovery that sediment has escaped the construction site, ADOT shall remove offsite accumulations at a frequency sufficient to ensure no adverse effects on water quality (Part 5.2.3.2(1)(b)(ii)).
- Upon discovery that sediment is leaving the site, ADOT shall remove offsite accumulations at a frequency sufficient to ensure no adverse effects on water quality (Part 5.2.3.2(1)(b)(ii)). If BMPs are not operating effectively, ADOT shall perform maintenance within 7 days of discovery and before the next storm event.

INSPECTOR FINDINGS

- Fine sediments were observed to be exposed within Oak Creek near the location of the temporary bridge. This is not import material, but material that has been unearthed near the creek bed. The fines may be subject to washout during times of high flows or intense rainfall as verified by inspection and photographs on February 24, 2009. High flows were observed on that date measuring approximately 4.41 feet at 12:57 P.M. according to the USGS staff gauge located at the site. Flows increased to approximately 5.04 feet at 5:25 A.M. on February 25, 2009, according to the USGS records of the gauge.
- Gravel trackout protection was inadequate at the following locations:
 1. New Age access site
 2. Hillside north entrance
 3. Chapel Road

4. Cathedral Rock Trail
5. Skyline Dr.
6. Jesus Saves driveway

- Storm drain curb inlet protection needs repair. The curb inlet near Circle K had no protection. Some of the gravel bags used for filtration were intermixed with impermeable sand bags. The inlet protection should provide filtration and not obstruction.

- A stormwater outfall located just to the north of The Inn on Oak Creek and across SR-179 from Hillside Shops has been protected using straw logs as the BMP. The BMP at this location has been undermined by the latest storm event rendering the BMP useless. Although a second layer of straw logs are located next to Oak Creek, the BMPs employed at this location are not reducing sediment to Oak Creek “to the extent practicable” as stated in Part IV, Section A(3) of the construction general permit. Please re-evaluate and install a more effective BMP at this location.

- An impoundment located near the retaining walls between the Hillside Shops and SR-179 retains a significant amount of rainfall and runoff. This impoundment was being dewatered via a pump system at the time of the inspection. Discharge from the impoundment was flowing into a wash that flows into Oak Creek. Although a straw log (BMP) was in place in the wash and provided some protection to prevent sediment from entering Oak Creek, the discharge to the wash is not permitted under either the construction general permit or the ADOT individual permit.

Within 30 days:

1. Bring to our attention any determinations that you believe are in error.
 2. Major deficiencies are subject to a Notice of Violation (“NOV”) whereas minor deficiencies are subject to a Notice of Opportunity to Correct (“NOC”).
- Recommendations may be implemented for improved system operation. NOC’s may be escalated to NOV’s where it is judged to be appropriate, such as, but not limited to, situations where repeat violations have occurred or it is deemed necessary for public health.