

ENFORCEMENT RESPONSE PLAN

1. Introduction and Background

This Stormwater Enforcement Response Plan (ERP) codifies enforcement procedures used by the City of North Ogden (City) to enforce provisions of its National Pollutant Discharge Elimination System (NPDES) Statewide Permit No UTR090000 (hereafter referred to as the MS4 Permit). Under the MS4 permit, the City is to control the release of pollutants to and discharges from the municipal separate storm sewer system (MS4) which is owned and operated by the City through rules and regulations controlling stormwater discharges. The MS4 Permit will do the following:

- Control the contribution of pollutants to the MS4 by stormwater and non-stormwater discharges associated with industrial activity and the quality of the stormwater discharged from sites of industrial activity.
- Prohibit illicit discharges to the MS4.
- Control the discharge to the MS4 from spills, dumping, or disposal of materials other than stormwater.
- Require compliance with conditions in the State statutes, rules, permits, contracts, and orders.
- Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including on illicit discharges to the MS4.

The City's MS4 consists of a conveyance or system of conveyances owned by the City that is designed or used for collecting or conveying stormwater, which is not a combined sewer and which is not part of a publicly owned treatment works.

For More Information

North Ogden City Public Works
Inspection Department
168 E Lomond View Dr
North Ogden, UT 84414
(801) 782-8111
pwinspections@nogden.org

Enforcement Activities

- Construction Site Erosion and Sediment Control
- Illicit Discharge Detection and Elimination

Enforcement Types

- Verbal Warnings
- Written Warnings
- Notice of Violations
- Violation Fines
- Red Tag

Appendices

A – Notice of Violation

B – Red Tag

C – Notice of Illegal Discharge

The City's MS4 consists of a conveyance or system of conveyances owned by the City that is designed for sued for collecting or conveying stormwater, which is not combined sewer and which is not part of a publicly owned treatment works.

1.1 PURPOSE

This ERP describes the measures available to the City to exercise its authority. The ERP identifies enforcement procedures designed to encourage a timely response by the discharger. Implementation of the ERP will ensure a consistent response throughout the City and avoid confusion, delays, and disputes over enforcement for stormwater pollution prevention.

An effective enforcement program depends on detailed and comprehensive documentation of all contacts with the alleged violator and of all evidence establishing the violation. Investigations and enforcement actions must be handled quickly. The City is required by the Permit to investigate reports of illicit discharges and initiate enforcement action to eliminate the source(s) of the discharge.

1.2 CITY OF NORTH OGDEN PERMIT HISTORY

The City's current MS4 permit was issued by the State of Utah's Department of Environmental Quality (DEQ). The Utah Pollutant Discharge Elimination System (UPDES) is the Utah version of the National Pollutant Discharge Elimination System (NPDES), which is the permit system mandated by § 402 of the Clean Water Act to control pollutants in waters of the U.S., including storm water. The Utah Storm Water Program is part of the UPDES Program. The scope of the current permit includes all stormwater discharges associated with construction sites, industrial facilities, maintenance facilities, and other activities within the MS4's jurisdiction.

1.3 TYPES OF ENFORCEMENT ACTIONS

The City will use City Code, permits, and penalties to enforce illicit discharges to the City's MS4 system. The City anticipates two general types of stormwater violations: construction sites and illicit discharges or connections to the City's MS4. Potential violators include construction contractors, businesses, industries, private citizens, and other governmental agencies which are detailed below.

1.3.1 Construction Sites

The City's contractors are required to obtain all required permits pertaining to land disturbance activities from various agencies. Permits could include County, DNR, City, or State permits.

The City is responsible for inspection oversight responsibility and must ensure that a trained employee inspects construction activity at sites until final stabilization is achieved. The MS4 permit requires the City to implement a

system to monitor contracted construction activities and to enforce Permit provisions. The City is required to list and describe all violations and enforcement responses taken for construction activities in the Annual Report submitted to the DEQ.

SECTION 1

1.3.2 *Illicit Discharges and Connections*

The Permit also requires the City of North Ogden to take measures to detect and eliminate illicit discharges and connections to the City's MS4. An illicit discharge is defined as any discharge to a MS4 that is not composed entirely of stormwater, with the exceptions of allowable non-stormwater discharges and separately permitted discharges. Illicit connections are defined as any man-made conveyance that connects an illicit discharge directly to the MS4. The City is required to implement a program to minimize, detect, investigate, and eliminate illicit discharges and connections, including unauthorized non-stormwater discharges and spills, into the MS4 system.

2. METHODS OF DISCOVERY OF NON-COMPLIANCE

Reports of a stormwater violation or non-compliance may come from one of the following several resources:

- Reports from City Staff – Illicit discharges and discharges of sediment or other pollutants from the construction sites, facilities, or other sources within the City’s MS4 may be observed by City staff as they conduct normal activities such as driving to or from job sites or when inspecting other activities. Such non-compliance could include water and wind erosion, sediment tracking onto local streets, poor housekeeping, incorrect location or missing concrete washouts, and failed or ineffective best management practices (BMP’s).
- Permit Compliance Activities – Non-compliances may be discovered through Permit-required inspections or monitoring, including construction site inspections, dry weather screening, and stormwater sampling.
- Contractor Compliance Activities – A construction contractor’s failure to comply with the State’s Construction General Permit requirements such as conducting and submitting inspection reports, obtaining annual certifications, preparing and implementing Stormwater Pollution Prevention Plans (SWPPPs).
- Reports from the Public – Public complaints may come directly to City or through other local, state, or federal government agencies.

SECTION 3

3. CONSTRUCTION SITE EROSION AND SEDIMENT ENFORCEMENT

This section imposes the obligation of an applicant to perform their duties in an honest, diligent, and cooperative manner.

The following section describes the City's authority and the mechanisms for enforcing Permit provisions on construction sites within the boundaries of the City's MS4 jurisdiction.

3.1 Compliance Requirements

Compliance with stormwater permits and laws on construction projects within the City's MS4 must be enforced according to these Enforcement Response Procedures and pursuant to North Ogden City Code 10-8: Stormwater and Drainage.

- Applicants are to comply with the State's NPDES DEQ, City, and County permits for regulated construction projects, including the obligation to file NPDES DEQ application and obtain authorization under the State DEQ for each construction project or site. The application shall also file a NOT for each construction project or site, either terminating their responsibility if final stabilization has been achieved, or transferring it to another owner for completion.

3.2 Construction Enforcement

When stormwater non-compliance is identified by the City enforcement actions will be taken promptly but no later than 7 days following identification of the non-compliance. The City will take appropriate sanctions against the applicant based on the nature and severity of the situation. Non-compliances will be classified as minor or major. Major violations are generally those acts or omissions that lead to a discharge of pollutants to stormwater and require immediate attention. Minor violations are generally instances of non-compliance that do not directly result in such a discharge. Serious discharges or an imminent threat of discharge on a project may require an immediate escalation to a higher level of enforcement. The level of enforcement response will depend on several of the following factors:

- Severity of the violation: the duration, quality, and quantity of pollutants, and effect on public safety and the environment
- The violator's knowledge (either negligent or intentional) of the regulations being violated
- A history of violations and/or enforcement actions individual or contractor
- The potential deterrent value of the enforcement action.

The City will use a progressive enforcement policy, escalating the response when an applicant fails to respond in a timely manner. If the City identifies a deficiency in the implementation of the approved SWPPP or amendments and the deficiency is not corrected immediately or by a date requested by the City, the project is in non-compliance. The recommended sequence of enforcement actions are detailed below.

SECTION 3

3.2.1 Verbal Warning

This action is a verbal exchange between an inspector or the resident engineer and the alleged violator. The information exchanged will be documented by the inspector and logged in the City of North Ogden's building permit inspection database. Typically, no letter is written if the problem is correctly immediately and the inspector or resident engineer observes the corrective action and deems it appropriate.

3.2.2 Notice of Violation

A Notice of Violation (NOV) may be issued if the non-compliance continues for 7 days after the verbal warning is issued, if the non-compliance cannot be corrected while the inspector is on site, or if the non-compliance is a significant violation. The NOV will document the reasons why the discharge is illegal and will provide a deadline for compliance. Based on the type and severity of the non-compliance, the period between the verbal and NOV may not wait the full 7 days. Compliance is required within 7 days to avoid additional enforcement actions; however, if the situation warrants, a shorter or longer deadline may be permissible. A sample letter to violators is provided in Appendix A.

3.2.3 Red Tag

If the verbal and NOV do not result in corrective action by the documented deadline, the City may Red Tag (full or partial shut down) the construction site. Upon successful corrective action in response to the red tag, along with payment of fines and approval by the city, work may begin at the site. Example of a Red Tag are provided in Appendix B.

3.2.3.1 Temporary Suspension of Work

If immediate action is required due to an imminent threat of discharge or if the contractor does not respond the warning letter within the required time frame, the City may temporarily suspend work on the project until the corrective action has been completed.

3.2.3.2 Require Corrective Action

The city may require the permit holder to undertake corrective or remedial action to address any release, threatened release, or discharge of the hazardous substance, pollutant or contaminant, water, wastewater, or stormwater.

3.2.3.3 Revocation of Permit

The City may revoke any permit issued to the permit holder if corrective action is not completed by the documented deadline.

SECTION 3

3.2.3.4 *Abatement*

The City may correct the deficiency or hire a contractor to correct the deficiency if corrective action is not completed by the documented deadline. This issuance of a permit constitutes a right-of-entry for the City or it's contractor to enter the construction site for the purpose of correcting deficiencies in erosion control. If the City corrects the deficiency or hires a contractor to correct the deficiency, the City may require reimbursement to the City for all costs incurred in correcting stormwater pollution control deficiencies, pursuant to City Code.

4. ILLICIT DISCHARGE AND CONNECTION ENFORCEMENT

The Permit requires the City to implement and enforce a program that ensures that the City effectively prohibits non-stormwater discharges into its MS4. In addition, neighboring property owners are not allowed to occupy, use or interfere with public ROW without permission. Any discharge/connection without permission is an illegal encroachment on the City's MS4. A discharge/connection can be discovered in two ways, either through routine inspection or due to a complaint.

Similarly to the process in **Section 3.2**, notification of observed illicit connections or discharges will be carried forward to the alleged illegal connector/discharger by the inspector or observer. The City will use the following progressive enforcement policy, escalating the response when a discharger fails to respond in a timely manner.

4.1 Verbal Warning

When a routine inspection of the drainage system identifies an illegal connection/discharge to the City's MS4 system, the inspector documents the discharge on a IDDE Inspection Form or in their City electronic management system, which will be provided to the City Engineer within 48 hours, as well as notify other departments and agencies as appropriate.

If the source of the connection is evident, the observer/inspector will contact the connector/discharger directly by phone or in person to discuss elimination. The communication will include requesting any permits or other authorization and providing a follow-up date (within 15 days). If the discharge is permitted or authorized (documentation is required), no further action is required; if the discharge is not authorized, it will need to be addressed or ceased within 15 days.

4.2 Written Warning

If after 15 days of the verbal warning the illicit connection/discharge has not been corrected, the Public Works Director will issue a "Notice of Illegal Discharge and Demand for Corrective Action" letter to the property owner (Example letter in Appendix C). The letter will request that the connection/discharge be ceased or removed within 30 days. A follow up inspection will be performed by a City staff member to ensure compliance. If the connection/discharge has not been corrected, the incident will be referred internally to the City Engineer for further review.

4.3 Remove of Connection/Discharge

The City may remove the illegal connection/discharge if it has not been corrected within a suitable timeframe. If the City removed the illegal connection/discharge, the responsible party is subject to fines and civil action for damages.

4.4 Civil Action

SECTION 5

5. EMERGENCY RESPONSE CONDITIONS

The City MS4 Permit identifies “discharges from emergency situations where federal rules specify washing as the preferred method to assure public safety” as an authorized non-stormwater discharge. Discharges or flow from firefighting activities and other discharges authorized by the City and/or State Duty Officer that are necessary to protect health and safety are not subject to enforcement action.

SECTION 6

6. REPORTING REQUIREMENTS

The City shall provide a list and description of all violations and their resolutions, including any enforcement actions taken against contractors, corporations, or other entities in the Annual Report to the DEQ. At a minimum, the inspector should document the source of the complaint, the date, the time, the contact person (if any), a description of the nature of the non-compliance or illicit discharge, actions taken, and final resolution.

APPENDIX A
NOTICE OF VIOLATION



Date:

Name

Address

City, State, Zip

To Whom it May Concern:

Today the Public Works Inspection Department for North Ogden City visited your property at **{insert property location}** for a SWPPP Inspection and found the following violation(s):

- Portable toilet is less than 10' behind curb and gutter and/or is not securely staked to the ground.
- Concrete, stucco, masonry, or water-based paint illegally washed out onto the ground and not into an approved washout
- Non-approved track out pad
- Non-approved curb ramps
- Missing proper BMP's
- Missing inlet protection on the project site and on adjacent roads that are immediately down gradient from the site
- Evidence of dirt, mud, and/or rock being tracked out onto the roadway needing to be swept/cleaned up
- No posted or accessible SWPPP Plan
- Waste, debris, and blowable trash not properly cleaned up, contained, and/or disposed of
- Other:

If not corrected in the time frame marked below, fines and corrective actions will be issued that could result in the above-mentioned site being red tagged until in compliance with SWPPP standards.

- 7 Days to Correct Action Must be completed no later than:

- Immediate Action Needed

Thank you for your attention,

David Espinoza

Public Works Director

Jaime Gil

Public Works Inspector

Dylan Hill

Public Works
Inspection Superintendent



APPENDIX B
RED TAG



RED TAG



North Ogden City
168 E Lomond View Dr
North Ogden, UT 84414
(801) 782-8111

Address: _____

Red Tag Notice Number: _____ Date: _____

Notice given to: _____

Notice posted at: _____

As authorized by the North Ogden City Code, you are hereby directed to stop all construction work for the following reasons:

Name: _____

Signature: _____

Inspector – North Ogden City

Office: _____

Cell: _____

Email: _____

Do not remove this notice until authorized by North Ogden City

Correction of the above must be completed and approved by a member of the city staff before proceeding

APPENDIX C
Notice of Illegal Discharge and
Demand for Corrective Action



NOTICE OF ILLEGAL DISCHARGE OR CONNECTION

Person or Business Name
Address
North Ogden, UT 84414

Dear Property Owner:

North Ogden City is responsible for maintaining the storm sewer system. The Utah Department of Environmental Quality (DEQ) Municipal Separate Storm Sewer System General Permit requires the City to control the amount of pollutants entering the drainage system. Part of this charge is the detection and elimination of illegal discharges or connections to the system that may contain pollutants or are otherwise not allowed. Left uncorrected, any pollutants entering the system will ultimately impact nearby streams, as storm drainage is not treated at any sort of treatment facility. Any discharge/connection without permission is illegal and requires immediate termination of the discharge.

An inspection of the draining system has occurred in the vicinity of your property and an illegal connections/discharge was discovered entering into the City system. The discharge/connection was discovered on <insert date> at <insert business name and address>.

Indicators or Source include piping and staining.

Photographs of this discharge/connection are enclosed with this letter. In addition, I have enclosed an aerial photograph showing the location of this discharge/connection.

This discharge or connection must be ceased or removed within <insert> days. A follow-up investigation will be conducted after that time to ensure compliance. If the situation is not corrected, the City will take corrective measures, which may include the issuance of a fine. In the alternative, the City may remove the discharge/connection and bill you directly pursuant to City Code Chapter 10-8: Stormwater and Drainage. If the illegal discharge/connection cannot be removed within 30 days, you do not understand this notice, or you disagree that an illegal discharge/connection exists at your property, please contact me with further details or explanation by calling (801) 782-8111 or by email at pwinspections@nogden.org.

Sincerely,

<Insert Name>
North Ogden Public Works Inspector
165 E Lomond View Dr
North Ogden, UT 84414
(801) 782-8111

Enclosure (photographs)

CC: