

A routine news bulletin to provide project managers and district environmental staff with current permit requirements, training opportunities and other environmental related guidance.

THREATENED AND ENDANGERED SPECIES

NDOR Monitored Whooping Cranes near Columbus, NE

A huge kudos needs to go out to District 3 Project Manager, Steve Trosper, and District 3 Environmental Coordinator, Scott Brummond, regarding whooping cranes stopping near a project north of Columbus, NE! Steve is the NDOR Project Manager on a concrete crack sealing project just south of Platte City, NE, along Highway US-81. Due to the duration and nature



of the activities on this project, no conservation conditions were required; however, when it was identified that whoopers were in the area, Steve stopped work on the project and contacted Scott, who contacted NDOR Environmental to coordinate. Steve was able to get photos of the cranes using a wetland adjacent to the highway and the project area to verify they were, in fact, whooping cranes. It was determined that work would be suspended just in the area where the cranes were roosting and feeding until they resumed their migration and Steve would conduct morning surveys to determine if they were still in the area. On Tuesday morning, April 6, confirmation was received from the Nebraska Game and Parks that the whooping cranes had

continued on their migration trek and had moved out of the area. Work resumed on the concrete repairs project.

The whooping cranes consisted of a family group of three. Whooping cranes typically migrate in family groups and will stop to rest and feed at wetland complexes throughout Nebraska during spring and fall migrations. This family group was not only using a Nebraska Game and Parks Wildlife Management Area, but was also recorded using the adjacent NDOR Tarnov Wetland Mitigation Bank site during their stay. These cranes are part of the only remaining wild, self-sustaining migratory population of whooping cranes which breeds in the summer in Canada and winters in Texas. They are federally and state-listed endangered and protected under the Endangered Species Act and Nebraska Nongame Endangered Species Conservation Act. At last count (2014-2015 surveys), there are approximately 308 whooping cranes in this wild population, so it was a rare and exciting site to see them using an NDOR wetland mitigation bank site!

If whooping cranes are sighted on your project, STOP work and contact NDOR Environmental biologists immediately! These birds are protected and often closely followed by fish and wildlife agencies and local citizen scientists. It is highly likely that if you see them, someone else may also know they are there and are monitoring them closely, so when in doubt, give a call!

Contact Information:

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DISTRICT ENVIRONMENTAL TRAINING RECAP

The following summarizes questions and answers that came up during the recent environmental training meetings held across the state at each of your District Offices. We thought it would be helpful for everyone to see the responses. The questions/answers are grouped by category.

➤ Erosion Control/Stormwater General Questions

Q: Do all subcontractors need to fill out the *Potential Non-Sediment Pollutants Inventory* (PNSPI) form that is included in the Storm Water Pollution Prevention Plan-SWPPP (e.g. would a trucking subcontractor with no onsite storage need to complete one)?

A: If the sub is only transporting borrow and not storing materials on the site, they probably don't need to complete the form. We often recommend that copies of the PNSPI sheets be taken to the pre-con to be handed out to each contractor for completion.

Additional Clarification: This would apply to trucking/delivery companies whose sole purpose is delivering materials to the job site for other contractors, since they would not be storing materials onsite. Contractors storing materials on site would need to fill out the Non-Sediment Pollutant Inventory.

Q: If the erosion control sub is unavailable, can the prime bring in someone else to do the work or do the work themselves?

A: This has come up in the past. We don't have a problem with it, be sure to have documentation that the new sub is approved to be an NDOR contractor. They also need to be set-up in Site Manager to be able to document pay items. We would recommend contacting the Construction Office.

Additional Clarification: The prime contractor is always available to do the work, and may be a more efficient and timely person to perform the work. The additional erosion control subcontractor, would have to be an approved subcontractor for that project. This addition would have to be approved through the Construction Office, if it was not included in the original contract. All of this assumes that all parties have obtained Erosion & Sediment Control Certification.

Q: What's on a typical Temporary Erosion Control Plan?

A: The Temp Erosion Control Plan should match what is installed in the field. Section 9 of the SWPPP provides a list of items that should be documented on the Temporary Erosion Control Plan. This includes temporary or permanent erosion controls (e.g. dates of seeding, blankets installation, temporary slope drain installation, and contour cultivation), temporary or permanent sediment controls (slash mulch, silt traps, ditch checks, construction egresses, and silt fences), as well as other sources of pollutants or pollutant controls (portable toilet locations, equipment maintenance areas (including fueling), material storage, washout locations, and the locations of spill response kits). Should your project receive a regulatory inspection, the inspector will want to see dates, "working documents", red marks and updates as needed. This plan should be fairly worn and marked up by the end of the project.

Q: Can we get an example of a good Temporary Erosion Control Plan?

A: One example is provided on the NDOR Environmental Webpage:

<http://roads.nebraska.gov/media/4622/example-temp-erosion-control-plan.pdf>

Q: How many times can you perform maintenance such as clean-out on a silt fence before it should just be replaced?

A: It will vary from control to control. Evaluate wear and tear, if it's still holding sediment back and doing its job you will be fine with a clean-out. The number of previous clean-outs, repairs, plugging of the pores, stretching of the fabric, and soil conditions are other factors to consider. 12-18 months is a reasonable lifespan for silt fence. They will degrade faster over the winter months.

Additional Clarification: 12-18 months would assume a silt fence with a low sediment load, and low UV exposure. Silt fence in high strain situations would require replacement much sooner.

- Q: Have you decided if maintenance is going to keep doing maintenance during establishment?
- A: District management needs to decide how these issues will be fixed. That could be a separate contract for repairs, providing appropriate man power and equipment for maintenance, or several other options.
- Q: During Pre-Con, our policy is to get the spill plan and the authorization number for permitted areas outside of our ROW, but not the actual authorization letter for contractor permitted areas, is that sufficient?
- A: That should be sufficient. The letter would not provide much additional detail and these records can now largely be viewed on the NDEQ's website.
- Q: Are you expecting that EPA will be returning to the state soon as a result of this audit? (NDOR was recently audited by the EPA for compliance with their Municipal Separate Storm Sewer System Permit—MS4)
- A: Based on the fact that this was a programmatic MS4 audit, and not a specific Construction Storm Water (CSW) program audit, it's possible they will start looking for permitted projects to inspect. We are the last state out of the 4 states in EPA Region 7 to face some increased attention for CSW permitted projects. We will continue to operate our program and focus on areas of concern highlighted during the audit.
- Q: For shouldering jobs with barely any ground open, doesn't 7 days seems like an overbearing timeline for a corrective action?
- A: This may come down to what triggered the corrective action, some corrective actions, 7 days may not be necessary, others it might be very appropriate. Regardless, 7 days is the current policy.
Additional Clarification: For shouldering projects where we have minimal soil disturbance there is typically a grass buffer adjacent to the project that will provide sediment control for the open shoulder. The bare soil can be considered an active work area and therefore does not require stabilization until the work is completed. With this approach no corrective action is warranted. If stabilization is not provided at the end of the project then yes a corrective action should be noted and it must be addressed within 7 days.
- Q: What do you do for rain event inspections on a job that is spread out district wide?
- A: The majority of these jobs will not require a SWPPP. If the project doesn't have a SWPPP you don't have to worry about rain event inspections. For projects such as the "Districtwide" type, the main environmental commitments on the inspection are related to NEPA (News Release, Traffic Control etc.) and Good Housekeeping (Hazardous Materials Management, Dust, Trash, etc.).
- Q: During our recent District Environmental Trainings we discussed a photo of a bucket sitting out in the open with used oil in it. Would you still document something like the oil incident in ECOD if the contractor addresses it immediately?
- A: Yes, document it and if they address it right away you can date it out. By documenting these things in ECOD we are demonstrating our ability to manage the projects for environmental requirements. Also, we wouldn't want to get into a situation where the contractor is taking a week or 2 for something that should be an immediate action finding.
- Q: Can a guardrail guy do the environmental inspection?
- A: If they have taken the Erosion and Sediment Control class and are certified, they are eligible to do the inspection. If that is the contractors rep for the day, and he is certified that is okay.
Additional Clarification: This is referring to the requirement within the B-3 special provisions that the contractor provide personnel to assist with the environmental/Stormwater inspections.

➤ Environmental (B3) Special Provision Questions

- Q: If there is a rain event incentive & it rains again in 3 days, it's likely that we wouldn't be able to complete the corrective actions because it's too wet.
- A: The B3 Special Provision requires the contractor to submit a written request to the project manager for an extension. The request should outline their plan to address the required action as soon as possible. If the Project Manager approves the extension, the "Restoration Due Date" can be adjusted in ECOD to accommodate the work. Note: There may need to be additional BMPs placed in the area to serve as backup while the area dries out. For example, add a wattle behind the silt fence until the silt fence can be cleaned out. We should probably generate some form of documentation, such as an email or a note in the diary, that it is too wet to do the work. We can then establish a new timeline and modify the timelines/deadlines in ECOD.
- Q: If there is a CA on a Non-SWPPP project, do we hold the contractor to the 7 days to initiate a corrective action?
- A: NDOR's policy is 7 days to address corrective actions. While B3 does not apply there are other tools such as withholding estimates that can be utilized to enforce this. All corrective actions should be documented in ECOD.
- Q: Is there a way to put the B-3 Spec lumped in with similar provisions in the packet for ease of review?
- A: This option will be explored further.
Additional Clarification: The entire contract is available online. Specific provisions can be printed off and grouped however you like. There may be opportunities to improve the environmental special provisions, and we will continue to look at that.
- Q: Some of the NEPA questions don't seem environmentally related to the contractors, they question if we can actually assess a disincentive?
- A: The B-3 Spec says 'storm event' & these wouldn't all be storm event related. However, the Lump Sum and withholding of estimates may be an option for enforcement.
- Q: I have a project with no commitments, but we still have a pay item for compliance, do we have to pay it?
- A: Any project with a Green Sheet will have some sort of environmental commitment and as long as they adhere to those commitments they are owed that environmental compliance lump sum payment.
- Q: Is the timeframe for the disincentive based on when you hand the punchlist to them?
- A: Yes, the timeframe for when the 7 day count starts for a contractor should be when they receive the report. They may be receiving the reports electronically through ECOD (email) or you may be handing them a hard copy. If they are getting the emails, you shouldn't be required to also hand a hard copy to them. This is why it is critical for NDOR project inspectors to distribute the inspection report to contractors immediately after completing the inspection and no later than 24 hours after inspection. Remember to contact Gabe Robertson if you would like to add contractors to the email distribution list for ECOD reports.
- Q: Where does the money come from in the contract for the contractor to provide an inspector?
- A: That would come from the "Environmental Commitment Contractor Compliance" lump sum payment.

➤ New Change Order **Environmental Review** Process Questions

- Q: Are contingency change orders going to need to go through the change order process, since they should have been anticipated during the initial review?
- A: Contingency items are on the draft exemption list.
Additional Clarification: All change orders must go through the process. The new environmental review process will include certain exempted items. Contingency change orders are included on the Environmental Review - Exemption List.
- Q: Will a tree removal change order need full environmental section review?
- A: If the clearing is conducted within the ROW, outside of migratory bird season, it should not need the full Environmental Section review.
- Q: Would you consider having another person in the district eligible to perform the Change Order Environmental Review in the event the District Environmental Coordinator (DEC) is unavailable?
- A: We are currently discussing alternatives for approvals in the event that the DEC is unavailable.
Additional Clarification: The DEC will not be approving the change order but rather signing off on the environmental review process for the change order. So for this process we are looking at having a backup if the DEC is unavailable to expedite the process.
- Q: How will the change order checklist be routed?
- A: The checklist should be included with the change order to central.

➤ ECODatabase (ECOD) Questions

- Q: With ECOD migratory bird inspections, the inspections are conducted all week and then submitted at the end of the week, will the upcoming software update still allow you to work with them like you could before?
- A: Yes, the Threatened and Endangered Species and Migratory Bird Surveys in ECOD will continue to function exactly as they do now.
- Q: When you do a Corrective Action (CA) and send it to the Project Manager, does that go automatically to the Prime?
- A: No they do not automatically get the reports unless you have directed us to add them to the distribution list. You will need to contact gabe.robertson@nebraska.gov and provide him with a contact email for the Prime.
- Q: If we set up the contractor on the email list in ECOD, do they just get the inspection report, or do they also receive the CA log?
- A: If they are on the distribution list, they will receive both the inspection report and punch list (corrective action log) in the email.
- Q: If we mark N/A for an item in ECOD, do we need to note why?
- A: You will not be required to note why, however, additional documentation may be warranted to describe the situation. If you will be repeating the "N/A" selection for an extended period of time you do not need to keep documenting why every time you fill out the report. Just add some comments on the first report so it is documented in the records.
- Q: Can we re-order the corrective actions so that it will sort them by stationing?
- A: The system will not sort by stationing as of today. You can however enter BMPs into ECOD in a preferred order and they will stay that way on the report. They would all have to have the same "Restoration Due Date" however.

- Q: When you sync, ECOD is adding the inspection report onto the computer (local drive) so we should not have to keep a hard copy in the SWPPP?
- A: Correct, you do not have to add a hard copy to the SWPPP binder. Up to six months of inspection reports are saved to your machine. In addition, copies are sent to Headquarters and are also uploaded to OnBase.
- Q: Are these inspections going to automatically go into OnBase?
- A: Yes, all inspection reports are being added to OnBase.
- Q: Is there a way to prioritize CAs?
- A: The system will sort corrective actions by Due Date with the oldest at the top. Also, immediate action findings (24 hour fix) will always be listed at the top of the corrective action list as they are priorities.
- Q: Some of the NEPA questions are confusing, and we're not sure how to answer them. Is there guidance for this?
- A: Yes please review the project green sheets for additional details on the commitments in ECOD. If that doesn't answer your question, please contact the environmental office at Headquarters for further clarification. We want you to understand the reason behind the questions so they can be addressed properly.
- Q: The tern and plover survey default setting is set to Monday, Wednesday, and Friday surveys, but this may not always match the days when construction occurs, can we add all the days so that we can choose which days we do the surveys on?
- A: Yes, we will turn on additional days in ECOD to better accommodate fluctuating work schedules.
- Q: How long will the new sync process take; will I have to wait 10 minutes to start a new report?
- A: No, the new sync process should be pretty much instantaneous and will be working in the background to minimize delays. So you should be able to start working in the system immediately while updates are still occurring. The more you use the system the quicker the system is able to update. For example if you only log in every 6 months, there may be more of a delay than inspectors who are using it monthly. Overall there should be a vast improvement on sync time.
- Q: Can we use the new ECOD version in the field?
- A: Yes, you will still be able to take your laptop out in the field and record an inspection. You can finalize the inspection and print it off in the job trailer as well if you need to. Keep in mind that the inspection will not be distributed electronically through email until you establish an internet connection and open up ECOD.
- Q: When we pass a project off to maintenance for Establishment can we (Project Manager) be the second notification instead of the primary?
- A: Yes, we can modify your notifications for different phases of the project and report types. Please contact gabe.robertson@nebraska.gov with this request.
- Q: Is there any way to get a "draft" inspection report before the actual inspection?
- A: Yes this can be done by logging into ECOD and starting a new inspection. Then skip directly to the "Finalize" report section and scroll down to where you would "Sign and Seal" the report. On the left is a "Make Draft" button that allows you to print a draft PDF. This will have all the inspection questions for you to take out and also has some white space where you can add stationing for Field BMPs that may need added. This gives you a usable field document to make notes on etc. We are looking at developing a "Draft Inspection Report" button right on your Projects List homepage that will make this process much easier.

➤ National Environmental Policy Act (NEPA) Related Questions

Q: Why did items such as the traffic control questions get included into the ECOD reports?

A: The traffic control questions and other NEPA questions pertain to the human, social and physical environment. For example if the project restricts access to a business for an unacceptable period of time, measures must be put in place to provide that business access. We are using ECOD to maintain these commitments and document that we have maintained them.

Q: What's the point of the ECOD question about excavating to the proper depth? What if there is need for a field change to the excavation depth?

A: The question may relate to potential contamination & hazardous materials (e.g. soil or water contamination from an old gas station), or historic preservation. Making that commitment avoids a possible Phase II review. Essentially a commitment was made to avoid excavation beyond a certain depth in order to avoid impacting a resource. If a field change is required it should be evaluated for impacts.

Q: With all the documentation we're supposed to provide for NEPA questions, do you want that put into ECOD?

A: Yes, please add any comments in the "Notes" box under the question. For example: "Prime Contractor contacted airport authority on 3/5/2016. Email added to project file." Many of the NEPA questions are one-time questions and once you've satisfied the commitment, they won't show up on future inspections.

Q: What is NESHAP?

A: NESHAP stands for National Emission Standards for Hazardous Air Pollutants and it relates to hazardous air emissions, like asbestos.

Q: Can the NESHAP question be a one-time question?

A: We currently have options for a one-time question or ongoing, but with this commitment there may be 3 bridges being worked on at three different times throughout a project. So if the question is set as a one-time question the system would not prompt you after completing the question for the first bridge. If this inspection commitment is added to your project it will not be a one-time question as we can't predict when the bridge work will occur and there may be multiple bridges on the project.

Q: The contractor is required to coordinate with Nebraska Department of Environmental Quality (NDEQ) regarding wellhead protection, what are they supposed to coordinate on. NDEQ seems to have limited information.

A: Wellhead Protection is a voluntary program for the water utility and the DEQ can't require that they participate or that they implement any standardized rules. Because of this, every community may be slightly different. NDEQ was provided as a starting point to coordinate concerning the requirements to work within a wellhead protection area. We would advise the contractor to coordinate with the local entity prior to contacting NDEQ.

Q: If Hwy Paleontology has already signed off on the project, why would I give them notice?

A: Hwy Paleontology is different from Historical. Those notices are for Shane Tucker (Highway Paleontologist), who is looking for fossils. The notice is to let him know when grading is occurring so that he can be available to observe and look for fossils.

➤ Threatened and Endangered Species/Migratory Bird Questions

Q: Were there any Whooping Cranes sighted in Nebraska this year? How far east?

A: Yes there were Whooping Cranes in Nebraska. The most easterly sighting was at Branched Oak Lake in Lancaster County.

Q: Some projects contain commitments to mow ROW to ROW for Massasauga and also contain 'Do Not Disturb' wetland conditions, which one do we follow?

A: While under certain conditions it is okay to mow an area marked as wetlands, stay out of the Do Not Disturb areas. Massasauga will most likely be killed by equipment. If you need to drive in the Do not Disturb areas, we need to conduct a survey first.

Q: Is there anything that can be done to minimize the answering of repeated questions in ECOD for Pallid Sturgeon, Lake Sturgeon, and Sturgeon Chub? Can they be grouped into one?

A: It was set up individually because all 3 species may not be present in each area/county. We'll take a look at how incorporating those 3 questions into one effects our reporting to the resource agencies.

Q: Can we turn off the River Otter question if no otters are observed during survey?

A: Yes, we should be able to do that.

Q: I have a project that's going to have bald eagle on it, if the survey results with no nests being found will I have to answer the bald eagle questions every inspection?

A: No, we can turn off the question in this scenario.

Q: Is it true that the FAST ACT is going to allow for the take of swallows?

A: There are certain conditions for the take provision. Based on research coming out of Kansas, we will likely rarely meet the conditions and rarely use the provision.

➤ Wetlands/404 Related Questions

Q: Can you explain the Nationwide 3A&C?

A: These are non-notifying permits which only certain activities qualify for. There is still a permit in place and we have standard commitments in place to address it. We are still operating under a USACE permit but no submittal to the Corps is needed for this type of permit.

Q: With the Nationwide 3, do we still need to do a close-out as we would for an individual 404 permit?

A: This hasn't been determined yet, we probably need to determine what works best for us. We might want to do a close-out and just keep it on file for our records to be consistent with the way we operate under individual 404 permits.

Q: With the new wetland banking agreement, will the old sites be grandfathered in and still available for credits?

A: Yes, but we will not be seeking to consume those credits immediately since their service areas provide significant flexibility in comparison to the new agreement.

Q: When you design the LOC do you tighten the LOCs to avoid stuff like adding rip-rap?

A: If the work needs to be done, it should be accounted for by the LOC.

Q: For the Nationwide Permit 14, can we remove questions related to temporary fills?

A: Temporary fills are often included in the notification if the need is identified up front so we would want to leave that in place.

Q: What is the minimum size of wetland area to qualify for consideration for mitigation?

A: There is no regulatory minimum, though at times the Corp has taken issue with the size. We are likely looking at sites around 20 acres for future mitigation.

Q: Do you always purchase the land at a mitigation site?

A: NDOR always has, but that doesn't eliminate alternative options from consideration. Typically, there would be conditions and the land owner would likely just want to sell it.

If you would like clarification on any of these topics please contact the Roadside Stabilization Unit at (402) 479-4499.

VEGETATION MANAGEMENT

Vegetation Inspections

Please let your District Environmental Coordinator know when you believe your project is ready for a close-out inspection. Carol Wienhold is scheduling inspections now. Vegetation in all seeded areas should have a good start prior to scheduling the inspection.

Contact Information: Carol Wienhold, (402) 479-3917

EROSION CONTROL TRAINING

Erosion Control Training

There are no classes currently scheduled.

We are in the process of scheduling additional classes. If you need to take the initial certification class please contact us to get on a waiting list. In the meantime you can access the LTAP website <http://ne-ltap.unl.edu/erosion-control> and take the "Interim Certification Course" that will temporarily certify you for 6 months.

Please note that the Online Re-Certification is available on the UNL-LTAP website as well.

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