



# Inspectors and Inspections

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# Jackson Station



# Jackson Station






# Inspectors





# Types of Inspectors

- ▶ Private Inspector
  - ▶ Regulatory Public Inspector
  - ▶ Citizen Public Inspectors
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# Private Inspector


- ▶ Employed by the owner, financially responsible person, or contractor
  - ▶ Engineering Company
  - ▶ Inspection Company
  - ▶ Employee of the owner or contractor

# Regulatory Inspectors

- ▶ Government Inspectors
  - ▶ Federal
    - ▶ EPA
    - ▶ Corp of Engineers
  - ▶ State
    - ▶ IDEM
    - ▶ IDOT
  - ▶ Local
    - ▶ County
    - ▶ Municipal



# Citizen Public Inspectors

- ➔ Environmental Groups
  - ➔ Private Citizens
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# INSPECTIONS



# Purposes of an Inspection

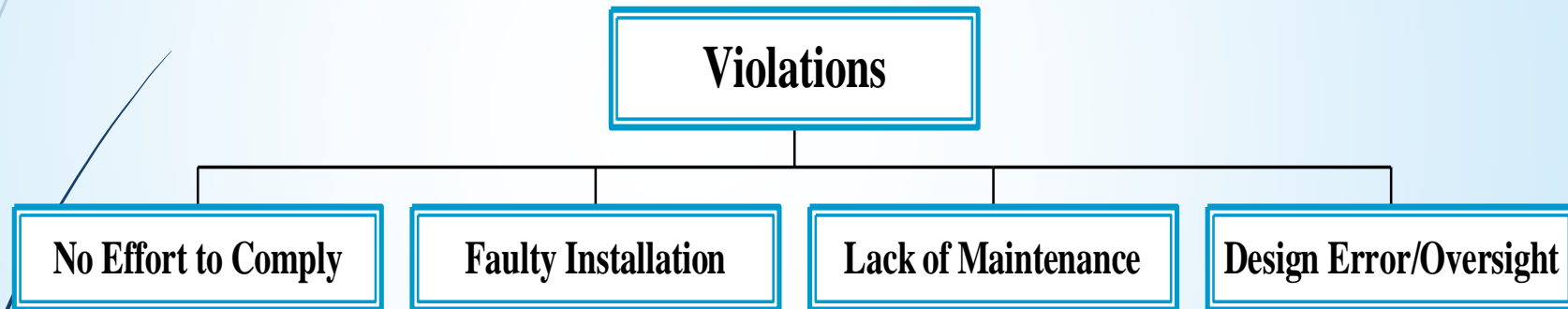
- ➡ **To document the conditions of a construction site, mine, industrial plant site, BMP, etc.. at the time of the inspection.**
  - ➡ **To determine compliance or non-compliance**
- 



# Just the Facts.

- ❖ Do not let personal opinions and feelings determine whether or not a project is in compliance. Be **CONSISTENT, FAIR and IMPARTIAL** with all violators. **The only thing that matters is your professional opinion which should be based solely on facts, not on emotion.**
- ❖ To the extent of the inspector's control, do not allow outside pressures to influence your enforcement decisions.

# Causes of Noncompliance





➤ What should be documented during an Inspection!



# Sedimentation Inspection

- Documents site conditions
- Documents compliance
- Specifies corrective actions
- Communicates to the person responsible
- Documents the inspector's activities
- Basis for Enforcement





# Sedimentation Inspection Report

- ❑ General Information
  - ✓ Mailing Address
  - ✓ Project Number
  - ✓ Person Responsible
  - ✓ Project Location



# Pictures

- ▶ Picture worth a 1000 words
- ▶ Indicate where the picture was taken and what it shows
- ▶ Take only pictures that are needed

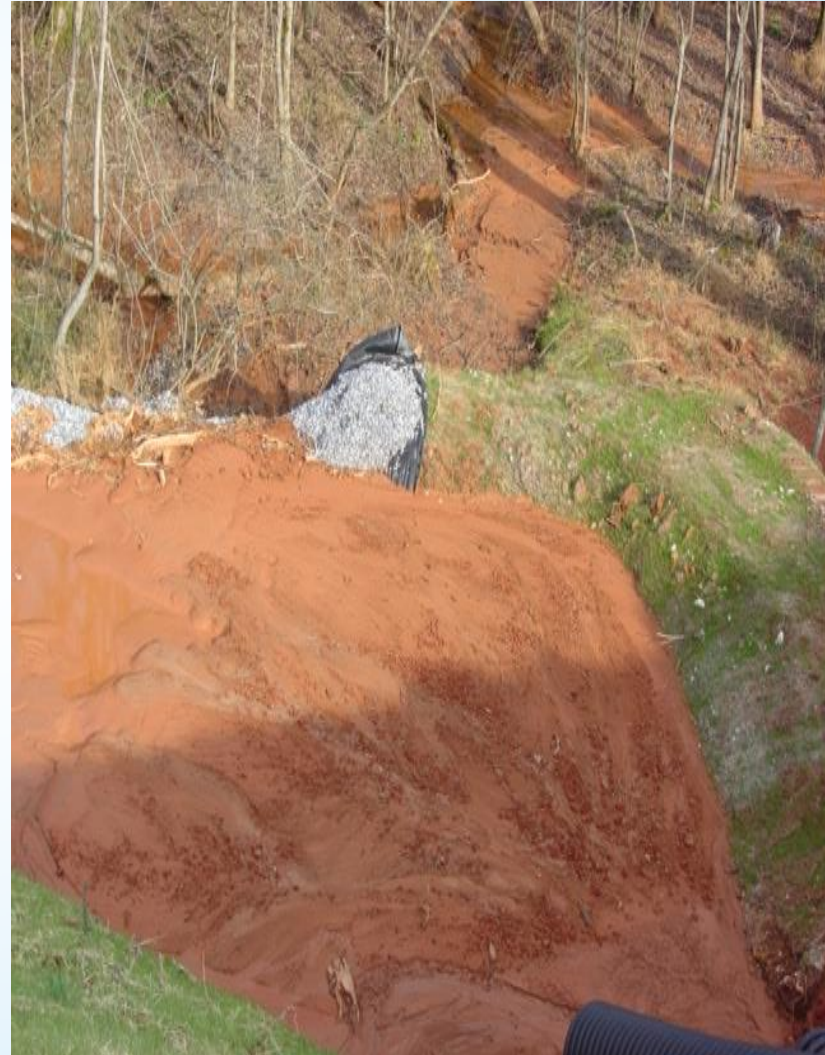
# Sedimentation Inspection Report



- ❖ **The effectiveness of the erosion and sedimentation control plan.**
- ❖ Does the plan design correctly reflect the field conditions?
  - ✓ Are all critical areas shown? Are E&SC measures adequate for protecting critical areas?
  - ✓ Do E&SC measures appear to be sized correctly and placed in appropriate collection areas?
- ❖ In essence, is the plan effective in its overall performance of restraining erosion and retaining sediment onsite?

# Sedimentation Inspection Report

- ❖ **The adherence to the erosion control plan.**
- ❖ Are the erosion and sediment control measures installed as designed? Sized correctly?
- ❖ Are the erosion control and sediment control measures being maintained?
- ❖ Is the disturbance within the disturbed limits shown on the plan?
- ❖ Is the buffer zone being maintained if one is required?





# Violations

- ❖ Be sure to document ALL violations that apply.
- ❖ Violations can always be dropped later, but cannot be added.





# Sedimentation Inspection Report

- Has sedimentation damage occurred?
  - ✓ Yes
  - ✓ No





# Sedimentation Inspection Report

- ❑ If yes, where?
  - ✓ Lake/natural watercourse on the tract
  - ✓ Lake/natural watercourse off the tract
  - ✓ Other property
  - ✓ Description

# Degree harm or damage Caused by the Violation

- ❖ Describe the resource affected by the offsite sedimentation.
- ❖ What was the size and extent of the resource damage?
- ❖ Describe the type of erosion (e.g. rill, gully, sheet, etc.)
- ❖ Estimate the volume of offsite sedimentation.

Degree of offsite damage.





# Sedimentation Inspection Report

- Contact made with
  - ✓ Name
  - ✓ Title
- Inspection Report given or sent to Financially Responsible Party
  - ✓ Given
  - ✓ Sent
  - ✓ Date



# Sedimentation Inspection Report

## ❑ Corrective Actions

- ✓ Narrative or numbered bullets
- ✓ Should be specific enough for reader to understand what must be done and where
- ✓ Should be inclusive enough to cover all the problems at the site



# Sedimentation Inspection Report

## ☐ Comments

- ✓ Identify corrective actions already taken
- ✓ Identify areas that should be provided with ground cover
- ✓ Recommendations or suggestions that are not required as corrective actions
- ✓ Don't make unprofessional comments



# Sedimentation Inspection Report

- Report
  - ✓ Inspector's signature
  - ✓ Others present
  
- Date of Inspection



# Jackson Station



# Wilson Memorial





# To Enforce or Not to Enforce ?

Important things to consider...



- 1) Is there offsite damage?
- 2) What is the extent of the damage?
- 3) Prior knowledge of the law?
- 4) Is the violation willful?
- 5) Is this a battle worth investing in?



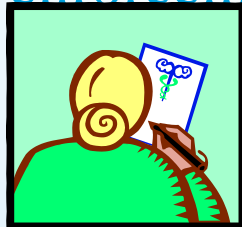
# Enforcement Steps

- ▶ Decide if enforcement is needed
- ▶ Determine type of enforcement
- ▶ Prepare enforcement case
- ▶ Recommend or take enforcement action such as penalties, injunction, etc.

# Preparing The Enforcement Case

## ❖ Getting the Facts

Gathering and documenting the information you need to prepare a solid enforcement case.



## ❖ Telling the Story

Important information to be included in the enforcement package





# Enforcement





# **Administrative Enforcement**

- 1. Informal Violation Letter**
- 2. Formal Notice of Violation (NOV)**

# Violation Letters and NOV

## ❖ Both documents should:

- ❖ Specify the provisions of the law or rule being violated
- ❖ Specify the violations
- ❖ requiring that specific actions be taken to correct the violations and

## ❖ The major difference between a Violation Letter and an NOV is no civil penalty assessed in a Violation Letter.

- ❖ A Civil Penalty may be assessed in an NOV

# Actions the Department may take!

- ❖ Respondent has a 60 day settlement period to enter into an Agreed Order (AO) with the Department
- ❖ After 60 days the Department. may issue a unilateral administrative order
- ❖ The Department may assess Civil Penalties
- ❖ The Department may inter into a Supplement Environmental Project (SEP)
- ❖ The Department may request an Injunction
- ❖ The Department may pursue Criminal Penalties

# Civil Penalties

- ❖ Civil penalties may be up to \$25,000 per day per violation
- ❖ Penalties assessed in accordance with Civil Penalty Policy FNF-002



# Injunctions



# What is an Injunction?

- ▶ A writ or order from a court prohibiting a person, group or entity from carrying out a given action or ordering a given action to be done




# Results of an Injunction

- ▶ Injunction may be used to encourage violator to resolve issues as well as abate environmental impacts.
- ▶ Brings the violator to the table to discuss solutions.
- ▶ Can result in a consent judgment and settlement agreement.



# Phases of Injunctive Relief

- ▶ Temporary Restraining Order
  - ▶ Preliminary Injunction
  - ▶ Permanent Injunction
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# Wilson Memorial





# Questions