

# Grand Island Stormwater

## Guidance: Common Plan of Development



Federal and state regulations require all construction projects disturbing over one acre of land to operate under an NPDES stormwater permit. In addition, owners or operators also need permit coverage for smaller projects that are part of a larger common plan of development or sale that collectively will disturb one or more acres.

*A common plan of development or sale is one whole area where multiple separate and distinct land disturbing activities may be happening at different times or on different schedules, but under one proposed plan.*

"One plan" can include any announcement, advertisement, permit application, physical markers, etc, that indicates construction activities may occur on a specific plot. For example, you are working within a common plan of development if you are building on a residential lot inside of a 5-acre development or you are building a convenience store on a small parcel that is part of a large subdivision. Only site 'operators' are required to apply for a permit; subcontractors generally do not need separate permit coverage.

### **Multiple public projects within a jurisdiction**

Large projects within the jurisdiction of one public entity (like a municipality, state, or federal agency) may not be part of an overall "common plan." For example, construction of roads or buildings in different parts of a city could be considered separate plans. Only the interconnected parts of a project would be considered to be a "common plan" (i.e., a building complex with a new street and parking). If individual projects within a larger common plan of development or sale are at least one-quarter mile or more apart *and* the area between the projects is not being disturbed, each project can be treated as a separate plan as long as any interconnecting road or utility project that is part of the same "common plan" is not being disturbed. For example, two wind turbines separated by one mile could be treated as separate plans. However, if the same two turbines and the interconnecting access road were all under construction at the same time, they would generally be considered as part of a single "common plan" for permitting purposes.

### **Master plans**

With long-range development plans that could be completed over an extended period of time, the future construction activities could be considered separate plans as long as the construction activity for interconnected phases does not overlap. For example, a developer may have a long-range development concept for their whole property, with future development based largely on future needs and available funding. A hospital could buy more land than needed for a medical center with a plan to add a medical office complex someday.

### **When construction activity has temporarily ceased**

If a small portion of the common plan of development remains undeveloped and construction activities have stopped, the permit may be closed if all of the following conditions are met:

- Construction activity has ceased for at least 90 days
- At least 90% of all originally proposed construction activity has been completed
- Permanent vegetative cover has been established on all pervious surfaces



For example, a 20-acre residential development may consist of 10 lots, each sized at one-half acre. If only four lots remained with vegetative cover while the other lots were built on and stabilized, the permittee could submit a Notice of Termination. If, at a later date, a builder chooses to work on one of the remaining lots, a City permit would be sufficient because the lot is under one acre in size.

### **Permanent stormwater treatment systems**

An important aspect of the common plan of development is the permanent stormwater management system. Any project or common plan of development is required to construct a permanent stormwater treatment facility if one or more acres of new impervious surfaces is being created. Many common plans of developments will have multiple entities building on different areas and there may be just one stormwater management system to serve the entire project. For example, a developer may have obtained a permit for a housing development but only plans to build roads, selling the lots to individuals or homebuilders. In this case, it is necessary to size the permanent stormwater management system so that it includes the estimated impervious surface area created by the homes and driveways in addition to the roads. Leaving the requirements for providing permanent stormwater management to individual homebuilders should be avoided. If stormwater treatment is left to individual homebuilders, a design should be provided at the time of sale and a deed restriction should be placed on the property to ensure the system will be constructed and maintained. For a commercial development with large lots, it may be appropriate to leave the stormwater treatment requirements to individual lots.