



Midwest Environmental Compliance Conference

Using Consultants, Contractors, and Attorneys More Efficiently and Effectively...

"DO YOU KNOW WHAT YOU DON'T KNOW?"

Consultants & Contractors...

- Does my Consultant do the work I need? Environmental Compliance, Design, 404 Permits, Wetlands, NEPA's, air permits (Modeling), NESHAPS, NSPS, RCRA, Compliance testing (submission of results), SPCC plans, Contingency plans, Pre-treatment plans, TMDL's, Sampling, Co-permittee agreements/applications... USE MASTER SERVICE AGREEMENTS-Interview the firm...
- Has the contractor performed this type/level of work in the past and for who? Is my project outside the scope of their experience levels? Have they been cited by the EPA, State DEQ, OSHA, MSHA, or other regulatory agency? Look them up...
- ✓ What do I really need? How can I help the Consultant help me?
- ✓ Qualify your vendors – COI, Co-Permittee, Safety, Training, ETC...
- ✓ Your operation may not have action under CWA, but may under RCRA or CAA...

Step 1: Know your Industry!

- Research old projects, who did any consulting work on the last job? What was needed? Check eCFR / State Titles for any updates or changes in requirements... (Local Post SW needs)
- Use local and National trade groups, peer contacts on who they use for what! Legal staff...
- Create a checklist to prepare before you contact the consultant & provide them with as much information as possible ...

Example:

CHECK		COMMENTS / NOTES
<input type="checkbox"/> Yes <input type="checkbox"/> No*	<p>Is the property zoned for industrial use? <i>IF NO, CONSIDER A DIFFERENT PROPERTY OR ASK FOR HELP TO RESEARCH ZONING CHANGE OR SPECIAL USE PERMITS REQUESTS.</i></p>	
<input type="checkbox"/> Yes <input type="checkbox"/> No*	<p>Does the property have water, power, and adequate access for any vendor/supply traffic needed for production? <i>IF NO, HOW WILL UTILITIES BE PROVIDED? HOW MUCH WATER AND POWER WILL BE REQUIRED? CONSIDER ALTERNATE PORPERTY.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Did the Threatened & Endangered Species checklists indicate need for reviews; notice limitations on certain months when construction may be restricted? This is a self-grading document. <i>IF YES, FIRST CONSIDER ALTERNATE SITE. REVIEW WITH ENVIRONMENTAL AND/OR GAME & PARKS STAFF TO CONSIDER LIMITS ON CONSTRUCTION DATES.</i></p>	

Example:

CHECK		COMMENTS / NOTES
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Did a check of the Wetlands Mapper for the location show any nearby wetlands areas? <i>IF YES, CONSIDER ALTERNATE SITE. THESE ISSUES MAY RESULT IN FULL NEPA EVALUATIONS THAT CAN TAKE A YEAR OR MORE BEFORE APPROVAL. SOME WETLANDS REQUIRE REPLACEMENT THAT CAN BE COSTLY FOR A PORTABLE PLANT.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Using the County GIS site; does the location fall in a flood zone? If so check for any limitations the county may list for that area. <i>IF YES, CONSIDER ALTERNATE SITE. SOME INDUSTRIAL OPERATIONS ARE NOT ALLOWED IN FEMA FLOOD ZONES OR MAY REQUIRE ADDITIONAL BMP'S TO OPERATE. SOME WILL REQUIRE CORPS APPROVALS THAT CAN TAKE MONTHS.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Does a check of the Historical Register site indicate any restrictions in the area? <i>IF YES, CONSIDER ALTERNATE SITE. THIS ISSUE IS USUALLY FOUND IN MORE URBAN AREAS.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Will the operation impact waters of the State? This includes major un-named streams, large ditches, or any conveyance for stormwater. <i>IF YES, CONSIDER ALTERNATE SITE, IMPAIRED OR SPECIAL WATERS MAY RESULT IN ISSUES FOR CONCRETE AND ASPHALT PRODUCTION.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Identify the Receiving waters for the site as indicated in the general stormwater permit. If waters are Special use and/or Impaired check your operation for any limitations the waters may pose. <i>IF YES, CONSIDER ALTERNATE SITE, CHECK IF ANY GROUPS MONITOR THE WATERS (I.E. FRIENDS OF THE CREEK, KEEPERS OF THE LAKES).</i></p>	
	<p>Site selection should include considerations for area; neighbors, traffic, parking for employees, delivery vendors, and production traffic. Consider noise, dust, and any other community relationship issues.</p>	

Example:

CHECK		COMMENTS / NOTES
<input type="checkbox"/> Yes <input type="checkbox"/> No*	<p>Is the Re-location form (portable plants) completed and filed (NDEQ) at least 20 days prior to movement? Make 3 copies, one for water and one for air – copy to plan book.</p> <p><i>IF NO, CONTACT ENVIRONMENTAL FOR HELP BEFORE MOVING IN AND SETTING UP PLANT. YOU MAY BE IN VIOLATION.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Does the project disturb more than one acre of land or more, a Construction Stormwater permit is required. Has a notice of intent been filed? This requires a PE or like certification.</p> <p><i>IF YES, DO NOT START ANY CONSTRUCTION! THIS IS A VIOLATION. CHECK WITH ENVIRONEMNTAL OR LEGAL TO CONFIRM. USUALLY PORTABLE PLANTS DO NOT REQUIRE THIS PERMIT. ALL OTHER PROJECTS MUST BE SCREENED. Douglas & Lancaster Counties have new Post Stormwater requirements that take additional time and resources.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Is the project in Omaha or Lancaster County? These counties require a separate air permit.</p> <p><i>PORTABLE PLANTS SHOULD HAVE AT LEAST STATE PERMITS, MOVING PLANTS INTO THESE COUNTIES DOES REQUIRE ADDITIONAL PERMITS AND IT IS A LOCAL VIOLATION NOT TO APPLY. IF YES, CONTACT ENVIRONMENTAL.</i></p>	
<input type="checkbox"/> Yes* <input type="checkbox"/> No	<p>Will the operation/project require oil and/or fuel storage greater than 1,320 gallons? If yes a Spill Prevention control and countermeasures plan (SPCC) is required. This requires PE certification and may take a month to complete.</p> <p><i>IF YES, CONTACT ENVIRONMENTAL. ALL OIL CONTAINERS MUST BE COUNTED, BULK, 55 GALLON DRUMS, ELECTRICAL TRNSFORMERS, ETC.</i></p>	
<input type="checkbox"/> Yes <input type="checkbox"/> No*	<p>Has a designated staff person been trained to complete required inspections for the SPCC and/or Stormwater Permits?</p> <p><i>THE PLANT SHOULD HAVE A SWPPP WITH AN IDENTIFIED TEAM. IF CHANGES OCCUR, CONTACT ENVIRONMENTAL FOR DOCUMENTATION AND TRAINING.</i></p>	

STEP 2...

- Double check plans, dates, and signed agreements cover all requirements...
- Communicate with all parties during the project, **don't just buy a plan and put it on the shelf**, remember the plans and permits are required by law; and should always be Court ready as the can and will be used as evidence...

QUESTIONS???

- Have your consultant contact the regulatory agency for questions...
- Most agencies have a self reporting audit statute allowing you to “FIX” procedural issues under certain circumstances, research you State... (Ask your Legal staff)
- Our Governments publish everything, it takes some time to find it, dig!!!