BURNS McDONNELL

Developing SWPPPs Across Multiple Jurisdictions

WHAT IS TYPICALLY A STRAIGHTFORWARD PROCESS CAN BECOME COMPLICATED IF THE PROJECT PASSES THROUGH MULTIPLE JURISDICTIONS.

Ken Gouvion, Burns & McDonnell
Tuesday, Sept. 16th

Introductions

Ken Gouvion, CPESC

- BS in Biology w/ emphasis on Environmental Management MS in Biology microbial communities in wetland sediments
- Industrial/Manufacturing, Construction
- Private Consulting
  - CPESC/CISEC/TxDOT Pre-certified Environmental Inspections
  - 30-hour OSHA Certification
  - 40-hour HAZWOPER
  - SWPPPs, construction compliance, inspections, and constructability surveys

Single Site or Simple Site

1. Relatively small footprint
2. Many cases single permitting jurisdiction*
3. Few outfalls that can be easily identified and protected

*Note: Could have multiple layers of jurisdiction (i.e., local and state) This can pose its own problems.

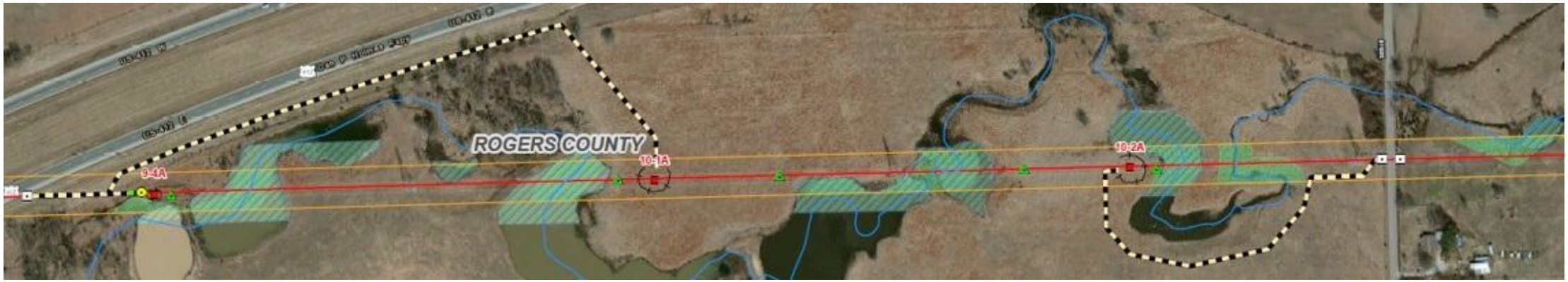
Linear Site

1. Relatively large footprint
2. Can cross multiple jurisdictions such as municipalities, counties, or tribal lands
3. Can have multiple discharge points throughout their length,
4. Making it more challenging to prescribed controls and to depict those controls on ESC Plan

Types of Construction Sites

Linear Site – Portion of Electrical Transmission Line

1. Multiple waterbodies/Single waterbody multiple times
2. Identify and protect each sensitive resource along route
3. Resource or impairment-specific control measures
4. In and out of municipal/county jurisdictions



Permit Comparison: Permit Coverage

Permit Number	Jurisdiction	What is Covered
S-MCST-2208-1	Kansas Department of Health and Environment	Construction activities consist of any activity (e.g. clearing, grubbing, excavating, and grading) which disturbs a cumulative total of one (1.0) or more acres or when the site is a part of a larger common plan of development or sale which will disturb a cumulative total of one or more acres.
MO-RA00000 MO-R100000	Missouri Department of Natural Resources	Construction or land disturbance activity (e.g., clearing, grubbing, excavating, grading, filling, and other activities that result in the destruction of the root zone and/or land disturbance activity that is reasonably certain to cause pollution to waters of the state).
OKR10	Oklahoma Department of Environmental Quality	Construction Activities means earth-disturbing activities, such as the clearing, grading, excavation of land, or other construction-related activities (e.g., stockpiling of fill material; placement of raw materials at the site) that could lead to the generation of pollutants.
TXR150000	Texas Commission on Environmental Quality	Construction Activities include soil disturbance activities, including clearing, grading, excavating, construction-related activity (e.g., stockpiling of fill material, demolition), and construction support activity.
KSR10I000 OKR10I00 OKR10F000 TXR10I000	Environmental Protection Agency	Indian country in the State of Kansas Indian country, with some exceptions, in the State of Oklahoma Oil and gas exploration, drilling, pipelines, and agriculture/silviculture in the State of Oklahoma Indian country in the State of Kansas

Permit Comparison: Submitting for Coverage

State	Threshold	Submission Method	Documentation and Review Timing
Kansas	Standard: 1 or more acres; Common Plan of Development Rainfall Erosivity Waiver: 1 to 5 acres, rainfall erosivity factor of less than 5	Kansas Environmental Information Management System (KEIMS)	NOI and supporting documentation 60 days prior to earth-disturbing activity
Missouri	1 or more acres; Common Plan of Development	Missouri Gateway for Environmental Management (MoGEM)	Application and supporting documentation 14 days prior to earth-disturbing activity?
Oklahoma	1 or more acres; Common Plan of Development Standard and High Priority Construction Sites	OK DEQ Online Reporting System or email at ECLS-StormwaterPermitting@deq.ok.gov	Standard Site – NOI High Priority – NOI and SWP3 14 days prior to earth-disturbing activity, although recommend earlier for High Priority
Texas	Small Construction Site – 1 to 5 acres Large Construction Site – 5 and more acres Low Potential for Erosion – 1 to 5 acres, meets low erosion potential	Small – Self Certified Large – State of Texas Environmental Electronic Reporting System (STEERS) Low Potential For Erosion – Self-Certified	Online NOI Instantaneous approval NOI submitted to affected MS4s 2 days prior to commencing construction
EPA	Regular Construction – 1 or more acres; Common Plan of Development Small Site Waiver – 1 to 5 acres, qualifies for 1 of 3 waiver options	EPA NPDES eReporting Tool, CGP-Net, on the CDX Central Data Exchange	Online submission form 14 days prior to earth-disturbing activity

Permit Comparison: Special Waterbodies and Natural Buffer Zones

State	Special Waterbodies	Buffer Zones
Kansas	Critical Water Quality Management Area; Exceptional State Water; Special Aquatic Life Use Water; Outstanding Natural Resource Water TMDL and 303(d) Listed Waters	Project that discharge within ½-stream mile of special waterbodies are not covered unless KDHE grants permission (typically additional BMPS) Natural buffer around defined drainage course – 50 feet
Missouri	Outstanding National or State Resource Water Water Impaired for Sediment	Undisturbed natural buffer – 50 feet Buffer and ESC devices that provide equivalent of 50-foot buffer Projects the discharge to listed must prove they will not degrade water quality
Oklahoma	Aquatic Resources of Concern; Outstanding Resource Water; TMDL and 303(d) Listed Waters	Standard Site – Perennial, intermittent, and ephemeral streams and drainages - 50 feet; ditches, stormwater conveyances, storm drain inlets – 0 feet High Priority – Perennial and intermittent streams – 100 feet; ephemeral streams and drainages - 50 feet; ditches, stormwater conveyances, storm drain inlets – 0 feet Alternative to vegetated buffers discussed in detail
Texas	TMDL and 303(d) Listed Waters Edwards Aquifer	Establishment of an appropriate natural buffer; no size given. Stormwater control features not considered to be surface waters Edwards aquifer contributing and recharge zones has special requirements for permitting
EPA	TMDL and 303(d) Listed Waters Additional restrictions can vary depending on the State	Establishment of an appropriate natural buffer – 50 feet Buffer and ESC devices that provide equivalent of 50-foot buffer

Permit Comparison: Inspections Timing

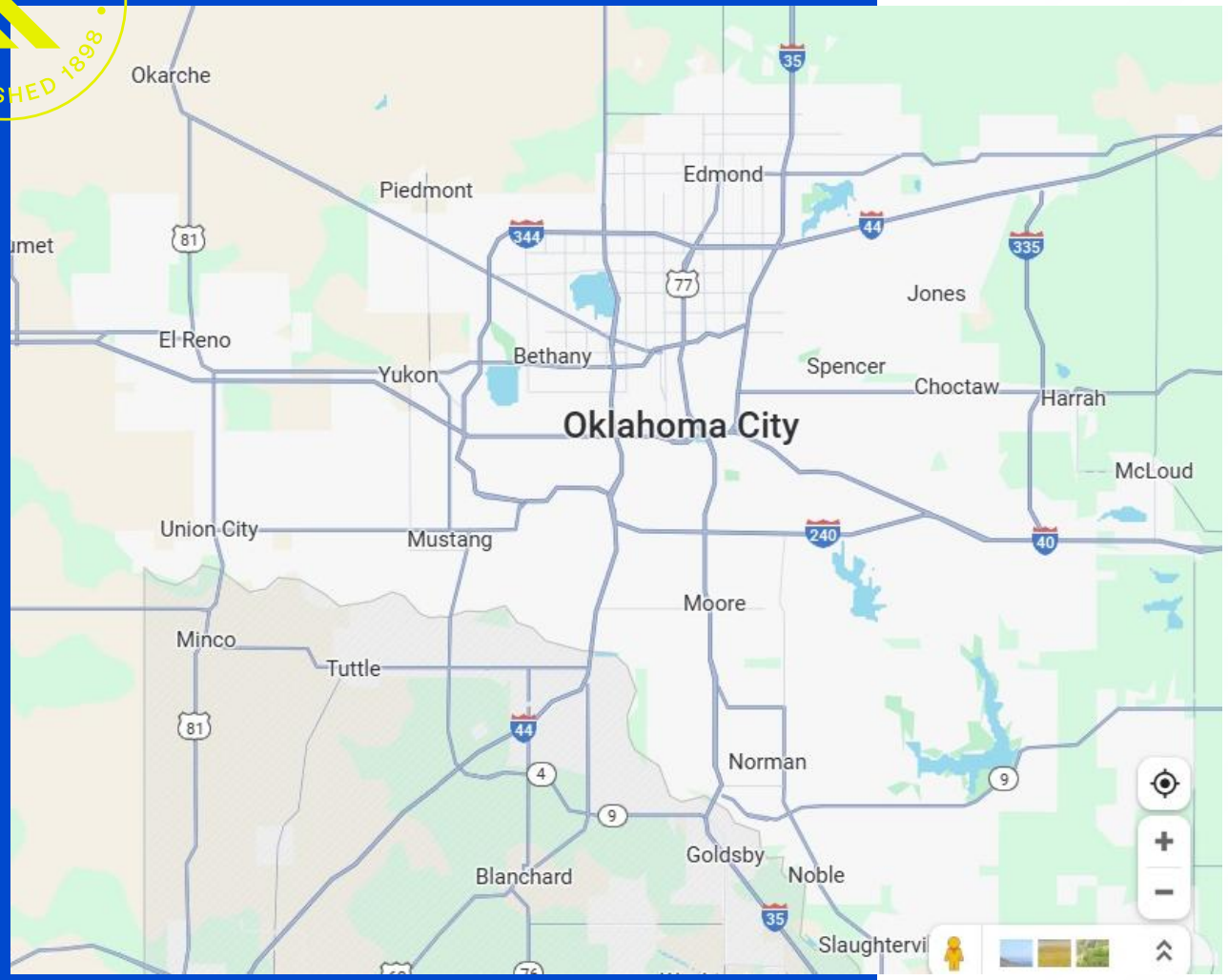
State	Inspections
Kansas	Once every 8 to 14 calendar days and within 24 hours of storm event of 0.5 inches; or once every 7 calendar days Final Stabilization Achieved – Inspections can cease
Missouri	Once every 14 calendar days and within 24 hours of rain event of 0.25 inches; or once every 7 calendar days and within 48 hours of a storm event equal to or greater than a 2-year, 24-hour event Special Waterbodies - Once every 7 calendar days and within 24 hours of rain event of 0.25 inches Frozen Conditions – Once a month Stabilization Achieved – Once a month
Oklahoma	Standard Site – Once every 14 calendar days and within 24 hours of storm event of 0.5 inches High Priority Site – Once every 7 calendar days and within 24 hours of storm event of 0.5 inches Stabilization Activities Completed – Once a month
Texas	Once every 14 calendar days and within 24 hours of storm event of 0.5 inches; or once every 7 calendar days Frozen Conditions – Once a month Arid, Semi-Arid, Drought-Stricken – Once a month and within 24 hours of storm event of 0.5 inches Stabilization Activities Completed – Once a month
EPA	Once every 14 calendar days and within 24 hours of storm event of 0.25 inches; or once every 7 calendar days Frozen Conditions – Once a month Arid, Semi-Arid, Drought-Stricken – Once a month and within 24 hours of storm event of 0.25 inches Stabilization Activities Completed – Twice a month until final stabilization has been reached then once a month

Permit Comparison: Stabilization Requirements

State	Stabilization
Kansas	Initiate immediately if construction will not resume for 14 days, and be completed in 14 calendar days Perennial vegetation, 70% of the undisturbed areas at or near the site
Missouri	Initiate immediately if construction will not resume for 14 days, and be completed in 14 calendar days Perennial vegetation (excluding volunteer vegetation), 70% coverage of 100% of the vegetated areas on site
Oklahoma	Standard Site – Initiate immediately if construction will not resume for 14 days, and be completed in 14 calendar days High Priority – Initiate immediately if construction will not resume for 14 days, and be completed in 7 calendar days 70% of the native background vegetation, with no large bare areas (10 sq ft.)
Texas	Initiate immediately if construction will not resume for 14 days, and be completed in 14 calendar days Uniform (i.e., evenly distributed, without large bare areas) perennial vegetation of at least 70% of the native background vegetation Uniform (i.e., evenly distributed, without large bare areas) perennial vegetation, 70% of the native background vegetation Arid, semi-arid, drought-stricken is stabilized if temporary ESC devices need no maintenance and vegetative cover anticipated in 3 years
EPA	Less than 5 acres – Initiate immediately if construction will not resume for 14 days, and be completed in 14 calendar days 5 acres or greater – Initiate immediately if construction will not resume for 7 days, and be completed in 14 calendar days Uniform (i.e., evenly distributed, without large bare areas) perennial vegetation of at least 70% of the native background vegetation Arid, semi-arid, drought-stricken is stabilized if temporary ESC devices need no maintenance and vegetative cover anticipated in 3 years

Local Authorities Having Jurisdiction (AHJ)

- County Districts
  - Soil & Water Conservation Districts
  - Flood Control Districts
  - County Engineer
- Municipalities
  - Cities
  - Townships
  - MS4s



Oklahoma City Metroplex

- Oklahoma City – Land Disturbing Permit
- Norman – Earth Change Permit
- Moore – Construction Stormwater / Land Disturbance Permit
- Others may have stormwater requirements built into construction permit
- Application processes vary
- Fees vary

Local Entities: Texas

Local MS4 Notification

- All MS4s must be provided with NOI
- Best to contact early in the process
- Different MS4s may request additional documents to be submitted
  - City of Houston – ESC Plans
  - City of Baytown – Stormwater Permit Application, SWP3
  - City of Galveston – ESC Plans
  - City of Deer Park – Storm Water Permit Application, SWP3
  - City of La Porte – Storm Water Quality Permit Application, SWP3
  - Galveston County – Construction General Stormwater Permit Application, attend a meeting to view information video
  - Harris County Flood Plain District – use their BMP details in SWP3
- Be aware of Extraterritorial Jurisdictions (EHJ)

Case Study: One

Tribal/Non-Tribal Lands

State of Oklahoma and Tribal Lands

- New 345-kV transmission line project that spanned four counties and Bureau of Indian Affairs (BIA) land in Oklahoma, including the Choctaw, Osage, and Chickasaw Nations.
- Required a permit from the OK DEQ (OKR10) for the non-tribal land and a CGP (OKR10I000) from the EPA for the BIA land.
- SWP3 was prepared to include the requirements of both the OK DEQ's OKR10 Permit and the EPA's CGP.
- Required one Construction Site Notice on the BIA land and a second Construction Site Notice near the active part of construction on the non-tribal land.
- Two inspection schedules and two inspection forms.
- Similar stabilization schedules.

Case Study: Two

Multiple Municipalities

Multiple Cities/Counties in the State of Oklahoma

- New 345-kV transmission line project that spanned three counties, as well as the Cities of Norman, Moore, and Oklahoma City in Oklahoma.
- Required a permit from the OK DEQ (OKR10), as well as permits for the Cities of Norman, Moore, and Oklahoma City.
- Municipalities require proof of filing of NOI with OK DEQ, and 404 and floodplain permitting.
- Portions of Project located within ARC corridor.
- Similar inspection schedules.
- Similar stabilization schedules.
- Recommend separate inspections for each jurisdiction.

Case Study: Three

Multiple Municipalities

Multiple Cities in the State of Texas

- Upgrade of an existing transmission line project located in the Cities of Deer Park, La Porte, and Pasadena, Texas.
- Discharges to TxDOT ROW.
- Not a full rebuild, limit to specific structures, some topped
- Short transmission rebuild, only 6 miles in length
- Deer Park and La Porte required stormwater permitting.
- Customized SWP3 and ESC Plan to each jurisdiction.

Recap

1. Linear projects create multi-jurisdictional coordination
2. Permitting schedule must account for multiple submittal and review timelines
3. SWP3 must address state-specific special requirements for project areas under each respective jurisdiction
4. Local AHJs may impose more stringent permitting requirements

Questions?

Ken Gouvion, CPESC
Senior Environmental Scientist
kgouvion@burnsmcd.com
Phone: 469-949-8016