

How did the Permittee violate the Corps permit issued for Cypress Creek Town Center?

The Permittee failed to maintain the site in good condition resulting in the discharge of turbid water into Cypress Creek. In doing so, the Permittee also failed to comply with the state Environmental Resource Permit, a requirement of the Corps permit.

Has the Permittee been cited by the Corps for other violations on this site in the past?

There have been 2 incidences of noncompliance with the Corps permit. The first occurred in August of 2007 and involved the clearing of a wetland that was not authorized to be impacted and also the offsite discharge of sediments and turbid water into Cypress Creek. The second incident was discovered by the Corps on January 24, 2008, and again involved discharge of sediments and turbid water into Cypress Creek.

Why did the Corps suspend the permit for this project?

By discharging turbid water into Cypress Creek on two occasions and failing to comply with the state Environmental Resource Permit, the Permittee failed to comply with the Corps permit. The Corps' decision to issue the permit was based on assurances that adequate storm water management practices would be implemented and the state Environmental Resource Permit would be complied with. It is clear to the Corps that these assurances have not been met. The permit will be suspended until the Permittee can provide assurance that a solution to the problem has been developed and implemented.

How has Cypress Creek been affected?

The Corps is currently in the process of identifying any adverse impacts that may have occurred to Cypress Creek and adjacent wetlands.

Why did the violation occur?

The Corps identified one of the stormwater ponds constructed adjacent to Cypress Creek, in the southwest corner of the project site, as the main source of the turbid discharge. The precise failure of this pond to adequately control discharge has not been identified at this time.

What has been done to fix the problem and prevent additional turbid discharge to Cypress Creek?

The Corps inspection of January 24, 2008, found temporary structures constructed of plywood board at the discharge weir of the stormwater pond. The structures did not provide assurances of permanent cessation of discharge from the project site. The Corps is requiring Initial Corrective Measures, (a plan to be provided by a certified Professional Engineer) which will temporarily prevent discharge of turbid waters from leaving the project site. A plan to address the situation permanently will be required.

What effect does the permit suspension have on the development of Cypress Creek Town Center?

The permit will remain suspended until the Permittee can provide assurance that a solution to the problem has been developed and implemented. The Permittee is no longer authorized to work in areas that have been identified as waters of the United States.

Now that the permit has been suspended, what happens next?

The permit will remain suspended until the Permittee can provide assurance that a solution to the problem has been developed and implemented. Within 10 days of the suspension, the Permittee must provide the Corps with a written plan to prevent future turbid discharges. The Corps will then decide to reinstate, modify, or revoke the permit.

How does the permit suspension affect the ongoing lawsuit filed by the Sierra Club against the Corps?

The permit suspension has no relationship with or bearing whatsoever on the pending lawsuit.