



## COMMISSIONER OF MURRAY COUNTY OFFICE OF LAND DEVELOPMENT

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June 8, 2018

To Contractors, Builders and Developers,

As part of an ongoing effort to comply with Federal, State and local regulation, as required by the EPA and Georgia EPD, Murray County will require anyone desiring to construct a new home on any vacant lot located within a Common Plan of Development (Subdivision) established on or after August 1, 2000 to submit a "NOI" (Notice of Intent) to obtain coverage under the NPDES GAR100003 permit as a Tertiary Permittee and an Erosion Sedimentation and Pollution Control Plan for the proposed building site. A "Tertiary Permittee" means either the Owner or Operator of a remaining lot(s) within a common development (established on or after August 1, 2000) conducting a construction activity where the primary permittee and all secondary permittees have submitted a Notice of Termination or where a primary permittee no longer exists.

Also, we will require that a copy of your current Erosion and Sedimentation Certification (Blue Card) be on file in our office before any permit may be issued.

The purpose of a Tertiary Permit and the Blue Card, is to satisfy the Georgia EPD requirement of providing an ESPC plan, that shows the erosion control measures that will take place on buildable lots located within a Common Plan of Development (Subdivision), and who will be accountable for putting those measures in place. Each individual lot in a subdivision must be under a Primary, Secondary, or a Tertiary Permittee. A Level IIA/engineer designs an ESPC plan for each lot and it is up to the permittee to comply with that plan. This means that you, as the builder, will become responsible as the Tertiary Permittee.

These requirements will be effective immediately. Any forms or assistance you may need will be available through my office or the Murray County Building inspection office.

For your convenience, I have enclosed a Tertiary Guidance Document and other information that may be helpful. Please do not hesitate to contact me if you have questions.

A handwritten signature in blue ink, appearing to be "Dick Barnes", is written over a horizontal line.

Dick Barnes

Land Use Administrator

**TERTIARY PERMITTEES - *Current owners of lots within an existing Common Development without a designated Primary Permittee and the current owners intend to initiate construction activities –***

**OPTION (1)** – the owner may submit a **Notice of Intent – Initial Notification** for each individual lot (including individual lots with land disturbances less than one acre) as a Tertiary Permittee at least 14 days prior to commencement of construction activities for coverage and compliance under the current NPDES General Permit No. GAR100003.

A new Erosion, Sedimentation and Pollution Control Plan for each individual lot must then be prepared and submitted in compliance with the special conditions in Part III and in accordance with Part IV of the current NPDES General Permit No. GAR100003.

The Primary Permittee is solely responsible for the payment of NPDES General Permit fees for all planned land disturbing activities, including land disturbing activities within a Common Development planned by a Secondary Permittees and/or Tertiary Permittees. **Tertiary Permittees are not responsible for paying NPDES General Permit fees.**

For each Notice of Intent submitted, Tertiary Permittees must submit a **Notice of Termination** in compliance with Part VI of the current NPDES General Permit No. GAR100003.

For example, a builder/developer purchases 20 individual lots within a Common Development without a designated Primary Permittee – the builder/developer may submit a NOI as a Tertiary Permittee for each individual lot with a Plan for each individual lot (i.e., 20 Notices of Intent, 20 Plans and 20 Notices of Termination).

**OPTION (2)** – if the total land disturbance within the owner’s construction site is **less than five acres and the total land disturbance within each individual lot is less than one acre**, the owner may submit a single Notice of Intent – Initial Notification for the entire construction site as a Tertiary Permittee, Tertiary Permittee must submit the Notice of Intent – Initial Notification at least 14 days prior to commencement of construction activities for coverage and compliance under the current NPDES General Permit No. GAR100003.

A new Erosion, Sedimentation and Pollution Control Plan(s) for a “typical” individual lot(s) must then be prepared and submitted in compliance with the special conditions in Part III and in accordance with Part IV of the current NPDES General Permit No. GAR100003. Thus, an Erosion, Sedimentation and Pollution Control plan for the entire construction site is not required.



**Tertiary Permittees are not responsible for paying NPDES General Permit fees.** The Primary Permittee is solely responsible for the payment of NPDES General Permit fees for all planned land disturbing activities, including land disturbing activities within a Common Development planned by a Secondary Permittees and/or Tertiary Permittees.

If the total land disturbance that is *less than five acres and the total land disturbance within each individual lot is less than one acre with a Plan(s) for a "typical" individual lot(s)*, the Tertiary Permittee may submit a **Notice of Termination** for each individual lot within the construction site.

For example, a builder/developer purchases 20 individual lots within a Common Development without a designated Primary Permittee and *total land disturbance is less than five acres and the total land disturbance within each individual lot is less than one acre* – the builder/developer may submit a single NOI as a Tertiary Permittee for all 20 lots with a Plan(s) for a typical individual lot(s) (i.e., one Notice of Intent, Plan(s) for typical individual lot(s) and multiple Notices of Termination for individual lots).

**OPTION (3)** – the owner may submit a single Notice of Intent – Initial Notification for the entire construction site as either a **Tertiary Permittee** or a **Primary Permittee of a Common Development** (if the total land disturbance is equal to or greater than one acre) at least 14 days prior to commencement of construction activities for coverage and compliance under the current NPDES General Permit No. GAR100003.

A new Erosion, Sedimentation and Pollution Control Plan for entire construction site must then be prepared and submitted in compliance with the special conditions in Part III and in accordance with Part IV of the current NPDES General Permit No. GAR100003. The Primary Permittee must provide a copy of the Plan or applicable portions of the Plan to the Secondary Permittees conducting any construction activities. Secondary Permittees are allowable only when there is a designated Primary Permittee of a Common Development.

**Tertiary Permittees are not responsible for paying NPDES General Permit fees.** The **Primary Permittee of a Common Development** is solely responsible for the payment of NPDES General Permit fees for all planned land disturbing activities, including land disturbing activities within a Common Development planned by a Secondary Permittees.

The permittee must submit a **Notice of Termination** in compliance with Part VI of the current NPDES General Permit No. GAR100003.

For example, a builder/developer purchases 20 individual lots within a Common Development without a designated Primary Permittee – the builder/developer may submit a single NOI as a Tertiary Permittee for all 20 lots with a Plan for the entire construction site (i.e., one Notice of Intent, one Plan for the entire construction site and one Notice of Termination) or the builder/developer may submit a single NOI as a Primary Permittee for all 20 lots with a Plan for the entire construction site (i.e., one Notice of Intent, one Plan for the entire construction site, NPDES General Permit fees and one Notice of Termination).

## **STATE NPDES REQUIREMENTS**

This Notice is to clarify the obligations of the owner and/or contractor when conducting land disturbing activities in Georgia in order to be compliant with “The Georgia Erosion and Sedimentation Act” (GESA) and the “The National Pollutant Discharge Elimination System” (NPDES) – General Permits for Storm Water Discharges Associated with Construction Activity (Permit), as follows:

### **Projects that regardless of size will result in land disturbance near warm water streams:**

- As per O.C.G.A. 12-7-6 (b) (15) and Section IV of the NPDES Permit for Storm Water Discharges, it is unlawful to conduct land disturbing activities within twenty-five (25) feet of the banks of State Waters deemed warm water streams by GA DNR Rules for Water Quality Control 391-3-6-.03

### **Projects that regardless of size will result in land disturbance near cold water (i.e. trout) streams:**

- As per O.C.G.A. 12-7-6 (b) (16) and Section IV of the NPDES Permit for Storm Water Discharges, it is unlawful to conduct land disturbing activities within fifty (50) feet of the banks of State Waters deemed cold water streams by GA DNR Rules for Water Quality Control 391-3-6-.03
- A stream buffer variance can be approved and/or denied by the Director of GA EPD.

Before any land disturbance in the stream buffer other than activity exempted as Minor Land Disturbing Activity, roadway drainage structures (i.e. culverts, etc.), or water and sewer line crossing can take place, a stream buffer variance must be applied for and granted by the GA EPD Director.

### **Land disturbance characterized as minor land disturbing activities:**

- As per O.C.G.A 12-7-17(3) in GESA and Part 1(C)(1)(c) in the NPDES Permit, “minor land disturbing activities include home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;”
- Structures included but not limited to decks, patios, gazebos, walkways, viewing platforms, picnic shelters, fire pits, BBQ pits, and sign kiosks can encroach into the buffer if 100 square feet or less, disturbance is minimized, and the site is stabilized at the end of each working day until completion; and,
- Amount of allowed rip rap in the buffer is 100 linear feet or less and the total amount of rip rap allowed in the buffer is 1,000 square feet; however, the disturbance of the existing buffer vegetation should be minimal, and the site should be stabilized at the end of each day until project completion.

### **Projects that result in land disturbance greater than or equal to one (1) acre:**

- The owner and/or contractor must submit the Notice of Intent (NOI) and the Erosion and Sedimentation Control Plan (ESPCP) to the Mountain District Office fourteen (14) days prior to the initiation of land disturbance; and,
- The NPDES Permit requires that the ESPCP, a copy of the NOI and certified mailing receipt, and the fee payment return receipt be onsite at all times; and, the Permit requires that Best Management Practices (BMPs) be installed and maintained as described in the site’s approved ESPCP to include installation of all initial BMPs prior to beginning clearing and grubbing. In addition, all other Permit requirements for design professional certification, permittee inspections, discharge sampling, etc. must be met from the initiation of land disturbance to when the site meets the Permit requirements for final stabilization and a Notice of Termination is filed.

### **Projects that result in land disturbance less than one (1) acre:**

GESA requires that all land disturbance projects excluding single family residences, but regardless of size, within two hundred (200) feet of perennial State Waters have a planned set of BMPs in accordance with the standards in the Manual for Erosion and Sediment Control in Georgia (Green Book).

**Projects that result in land disturbance less than one (1) acre within a common plan of development:**

- The owner and/or contractor must submit the Notice of Intent (NOI) and the Erosion and Sedimentation Control Plan (ESPCP) to the Mountain District Office fourteen (14) days prior to the initiation of land disturbance;
- The permittee should submit the NOI as a secondary permittee, if there is an active primary permittee associated with the common plan of development; If there is no active primary permittee, the permittee should submit the NOI as a tertiary permittee;
- The NPDES Permit requires that the ESPCP, a copy of the NOI and certified mailing receipt, and, the Permit requires that Best Management Practices (BMPs) be installed and maintained as described in the site's approved ESPCP to include installation of all initial BMPs prior to beginning clearing and grubbing; and,
- Under a tertiary permit, If the total land disturbance is less than five (5) acres and the total land disturbance within each individual lot is less than one (1) acre, the permittee does not have to retain a design professional to inspect the installation of the initial sediment storage requirements and perimeter control BMPs within seven (7) days after installation; and The ESPCP does not have to provide an estimate of the runoff coefficient or peak discharge flow of the site prior to and after the construction activities or the existing data describing the soil or the quality of any discharge from the site.

**Projects that are associated with common plans of development that result in land disturbance greater than or equal to fifty (50) acres at any one time:**

- If owner is going to disturb over fifty (50) contiguous acres, the owner and/or contractor must complete a form letter listing criteria for the disturbance request;
- If the site meets the 50 Acre Disturbance Decision Rationale checklist, EPD will send a form approval letter to owner and/or contractor;
- Upon approval, the owner and/or contractor shall submit a single copy of the Plan to the appropriate GA EPD District Office;
- EPD will approve or disapprove requests within thirty-five (35) days of receipt; however, failure of EPD to act within the 35 days shall be considered an approval of such requests;
- If EPD approves of the request to disturbed fifty (50) acres or more at any one time, the Plan must include at least four (4) additional BMPs from Part III.C.2 (a)-(u) from the Permit and shall be included on the Plan.

**The following are a list of references for additional information regarding the ESPCP and NPDES Permit:**

- <https://epd.georgia.gov/npdes-construction-storm-water-general-permits>

Stream Buffer Variance Forms:

- <https://epd.georgia.gov/erosion-and-sedimentation-forms>

Greenbook BMPs:

- <https://gaswcc.georgia.gov/technical-guidance-0>

GA EPD Minor Land Disturbance Guidelines:

[http://epd.georgia.gov/sites/epd.georgia.gov/files/related\\_files/site\\_page/Minor%20Land-Disturbing%20Guidance%20revised%20May-2016.docx](http://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/Minor%20Land-Disturbing%20Guidance%20revised%20May-2016.docx)

**TERTIARY PERMITTEE**  
**SUBDIVISION LIST**  
**06/12/2018**

1. Brookhaven	04/15/05
2. Carters Overlook	12/20/06
3. Cobb Hills	04/17/03
4. Deer Park	12/01/02
5. Eagles Nest	10/19/00
6. Foxes Grove Ph. II	12/17/02
7. Franklin	08/16/01
8. Keswick	01/14/02
9. Kings Park	12/05/01
10. Liberty Heights	07/27/06
11. North Star	02/22/01
12. O'Neil Springs Ph. II	01/23/07
13. Red Oak	08/28/06
14. The Summit	09/27/04
15. Wellington Ph. II	02/22/01
16. Wellington Ph. III	03/21/05