

## SECTION 27 – NOTICE OF TERMINATION

### 27.1 NOTICE OF TERMINATION (NOT) *(Rev. 09-29-20)*

A Construction Stormwater General permit or a Rule 5 (327 IAC 15-5) permit require a Notice of Termination (NOT) to be obtained for all projects before final acceptance can be issued. In order to secure approval for permit termination, a Notice of Termination Form-51514 (available on the [IDEM Forms](#) page) must be completed and submitted to the Indiana Department of Environmental Management (IDEM) for review. State law requires 70% uniform density of permanent vegetation for turf areas.

#### 27.1.1 NOT Eligibility Requirements

Once construction activity has been completed, the project site owner is required to terminate permit coverage. Eligibility to terminate a Construction Stormwater General permit or a Rule 5 permit is based on the following criteria:

- Final stabilization of the entire project area, including removal of all temporary stormwater control measures, has been completed. This includes any individual projects within the development area.
- IDEM, in most situations, does not require individual construction sites within a multi-lot project to be permitted separately. The individual lots are permitted through the original project site owner's submittal of the Notice of Intent.
- The project has achieved 70% uniform vegetation density for turf areas.
- There should be no additional land-disturbing activity planned.

#### 27.1.2 Procedures for Acquiring NOT

There are three contract types that need to be considered when obtaining an NOT. These types are: Single Signature, Co-Signature, and LPA contracts. Each type, including their respective steps for obtaining the NOT, is discussed below.

##### **a) Single Signature Contracts**

Single signature contracts makeup most Department contracts, not including design/build contracts. The following steps must be taken by the PE/S for single signature contracts:

##### **Step 1:**

- The Contractor and the PE/S will evaluate the project and agree that 70% uniform density of permanent vegetation has been obtained.
- All temporary stormwater Best Management Practices (BMPs) shall be removed prior to the application for the NOT.

- The PE/S will confirm and document that:
  - All temporary stormwater BMPs have been removed.
  - No further land-disturbing activities are planned for the project.
  - All excess silt accumulations have been removed, areas have been dressed, and vegetation has been re-established to all bare areas in accordance with the contract requirements.
  - Both parties agree that the site meets the 70% uniform density of permanent vegetation coverage for turf areas.
- The PE/S will document actual site conditions by taking photographs as detailed in the Photographic Documentation Procedures below.

**Step 2:**

- The PE/S will notify ES of their desire to request NOT by:
  - Emailing the request to the Stormwater Team Lead of ES and copying the appropriate persons involved with the contract (AE, PM, and District Stormwater Specialist).
  - Attaching the documentation, listed in Step 1 above, to the email along with a written statement of agreement from the Contractor and site photographs as described in the Photographic Documentation Procedures below.
- The ES Manager or Stormwater Team Lead will determine if the site meets the requirements for NOT based on the provided documentation, site visits, and other sources.
- If documentation confirms that the site meets NOT requirements, ES will notify the PE/S and copy the appropriate persons involved with the contract (AE, PM, District Stormwater Specialist) of the decision to sign the NOT. They will also provide the PE/S with a copy of the NOT submittal to IDEM, which will be date stamped by the IDEM Office of Water Quality.
- If documentation fails to confirm that the site meets NOT requirements, ES may schedule a field review with District Construction and the Contractor to discuss additional work that needs to be completed or considered. When necessary work is completed, start back at the beginning of Step 1.

**Step 3:**

- The PE/S will enter the above described information into the SiteManager correspondence log and attach a copy of the NOT submittal into SiteManager. The PE/S will no longer need to wait for the response letter from IDEM prior to final acceptance the contract.

**NOTES:**

At the end of the allowable time for a contract, District Construction will decide on how to proceed if documentation fails to confirm that the site meets the requirements for NOT. Normally, the Department will keep the contract open until the requirements of the NOT are met. Any required weekly and post event site inspection reports and maintenance must continue until the requirements for NOT are met.

**b) Co-Signature Contracts**

On co-signature contracts the ES and the Contractor will each sign the NOT. The Contractor is responsible to provide the PE/S and ES a copy of the NOT submittal form to IDEM. The submittal form shall be date stamped by the IDEM Office of Water Quality. If the Contractor chooses to mail the submittal form to IDEM, they shall provide the PE/S and ES with a copy of the completed and signed submittal form, and proof of certified mail. They shall also provide a written statement that the site met the requirements for NOT and that the submittal was sent to IDEM. The following steps must be taken by the PE/S for co-signature contracts:

**Step 1:**

- The Contractor and the PE/S will evaluate the project and agree that 70% uniform density of permanent vegetation has been obtained.
- All temporary BMPs shall be removed prior to the application for the NOT.
- The Contractor and the PE/S will confirm and document that:
  - All temporary stormwater BMPs have been removed.
  - No further land-disturbing activities are planned for the project.
  - All excess silt accumulations have been removed, areas have been dressed, and vegetation has been re-established to all bare areas in accordance with the contract requirements.
  - Both parties agree that the site meets the 70% uniform density of permanent vegetation coverage for turf areas.

- The Contractor and the PE/S will document actual site conditions by taking photographs as detailed in the Photographic Documentation Procedures below.

**Step 2:**

- The Contractor shall send email notification to the Stormwater Team Lead of ES requesting the NOT. The appropriate persons involved with the contract shall be copied on all e-mail correspondence (PE/S, AE, PM, and District Stormwater Specialist). The email should include:
  - A request to the Stormwater Team Lead of ES for a confirmation of the site meeting the requirements for NOT and ES's willingness to sign the NOT.
  - Documentation, listed in Step 1 above, including a written statement of agreement from the Contractor and site photographs as described in the Photographic Documentation Procedures below.
- The ES Manager or Stormwater Team Lead will determine if the site meets the requirements for NOT based on the provided documentation, site visits, and other sources.
- If it is determined that the site meets the requirements of NOT, ES will notify the Contractor of the decision to sign the NOT.
  - The Contractor shall prepare and sign the NOT form.
  - The Contractor shall deliver the signed form to ES for signature.
  - The Contractor shall deliver the ES and Contractor signed form to the IDEM Office of Water Quality for a date stamp or submit the form by certified mail.
  - The Contractor is required to provide the PE/S and ES a copy of the NOT submittal form which will be date stamped by the IDEM Office of Water Quality. If the submittal form was mailed, the contractor will provide the submitted form and proof of certified mail. The contractor will also provide a written statement that the site meets the requirements for NOT.
- If documentation fails to confirm that the site meets the requirements for NOT, ES may schedule a field review with District Construction and the Contractor to discuss work that needs to be completed or

considered. When necessary work is completed start back at the beginning of Step 1.

**Step 3:**

- The PE/S will enter the above described information into the SiteManager correspondence log and attach a copy of the NOT submittal. A written statement that the site meets the requirement for NOT and, if applicable, proof of certified mail will also be entered into the correspondence log within SiteManager. The PE/S will no longer need to wait for the response letter from IDEM prior to closing out the contract.

**NOTES:**

At the end of the allowable time for a contract, District Construction will decide on how to proceed if documentation fails to confirm that the site meets the requirements for NOT. Normally, the Department will keep the contract open until the requirements of NOT are met. Any required weekly and post event site inspection reports and maintenance must continue until the requirements for NOT are met.

**c) Local Public Agency (LPA) Contracts**

For LPA contracts the LPA's employee in responsible charge will fulfill the role of the Department's Environmental Services Division. The LPA's employee in responsible charge will provide the PE/S with a copy of the IDEM NOT submittal form date stamped by the IDEM Office of Water Quality. If the LPA's employee chooses to mail the submittal to IDEM, they shall provide the PE/S with a copy of the completed and signed submittal form, proof of certified mail, and a written statement that the site met the requirements for NOT and the submittal was sent to IDEM. The following steps must be taken for Local Public Agency contracts:

**Step 1:**

- The Contractor and the PE/S will evaluate the project and agree that 70% uniform density of permanent vegetation has been obtained.
- All temporary BMPs shall be removed prior to the application for the NOT.
- The PE/S will confirm and document that:
  - All temporary stormwater BMPs have been removed.
  - No further land-disturbing activities are planned for the project.
  - All excess silt accumulations have been removed, areas have been dressed, and vegetation has been re-established to all bare areas in accordance with the

contract requirements.

- Both the PE/S and the Contractor should agree that the site meets the 70% uniform density of permanent vegetation coverage for turf areas.
- The PE/S will document actual site conditions by taking photographs as detailed in the Photographic Documentation Procedures below.

**Step 2:**

- The PE/S notifies the LPA's employee in responsible charge requesting the NOT by:
  - Emailing the request to the LPA's employee, and copy the appropriate persons involved with the contract (AE, PM, and District Stormwater Specialist).
  - Attaching the documentation, listed in Step 1 above, including a written statement of agreement from the Contractor and site photographs as described in the Photographic Documentation Procedures below.
- The LPA's employee will determine if the site meets the requirements for NOT based on the provided documentation, site visits, and other sources.
- If documentation confirms that the site meets the requirements for NOT, the LPA's employee will notify the PE/S and copy the appropriate persons involved with the contract (AE, PM, and District Stormwater Specialist) of the decision to sign the NOT.
  - The LPA's employee will prepare and sign the NOT form.
  - The LPA's employee will deliver the form to IDEM for a time-date stamp or submit it by certified mail.
- If documentation fails to confirm that the site meets the requirements for NOT, the LPA's employee may schedule a field review with District Construction and the Contractor to discuss work that needs to be completed or considered. When any necessary work is completed start back at the beginning of Step 1.

**Step 3:**

- The PE/S will enter the above described information into the SiteManager correspondence log and attach a copy of the NOT form submitted to IDEM. A written statement that the site meets the

requirements for NOT and, if applicable, proof of certified mail will also be entered into the correspondence log within SiteManager. The PE/S will no longer need to wait for the response letter from IDEM prior to closing out the contract.

**NOTES:**

At the end of the allowable time for a contract, District Construction will decide on how to proceed if documentation fails to confirm that the site meets the requirements for NOT. Normally, the Department will keep the contract open until the requirements of NOT are met. Any required weekly and post event site inspection reports and maintenance must continue until the requirements for NOT are met.

The documentation of an LPA's NOT determination may be used for process reviews performed by the Department on those contracts as a means of quality assurance for the process.

**27.1.3 Photographic Documentation Procedures**

The procedures for documenting the NOT are as follows:

- Take at least one (1) panoramic photograph and four (4) perpendicular spot photographs, taken from chest height, at locations showing the least vegetated turf areas. They should provide characteristic information of the area. Additional panoramic and perpendicular photographs should be taken in areas of interest for stormwater protection such as at bridges, pipe inlets and outlets, and areas of steep or long slopes. These photographs shall be taken in a digital format.
- Panoramic photographs of turf areas must be in focus and show as much of the vegetated areas as possible.
- Perpendicular spot photographs should be taken in a standing position with the camera at chest height directly above areas of the least vegetated turf. Showing the tips of your boots in the photo is acceptable.

Photographs are best taken between 10:00 AM and 2:00 PM to minimize shadows. Focus the photographs on the turf areas to be considered for NOT and not the roadway or other surrounding areas.

Environmental Services, or the LPA's employee in responsible charge, will base their decision on the information obtained from the photographs taken. They will review the overall look of the turf, its health and coverage, and the general slope conditions in the area. An area density showing less growth but occurring on a flat area, with **low potential for erosion**, may be sufficient for NOT. However, if the same density is located on a steep slope with **higher erosion potential**, it may be determined that the density is not acceptable.

Yellow color of vegetation may be a sign of unhealthy vegetation and may require soil enrichment.

#### **27.1.4 NOT and Contract Acceptance**

If all other work is complete on a contract, but final acceptance is pending the NOT, the Contractor may take down permanent signs and bring out temporary signs to complete any needed work at a later date. **Once the PE/S is successful in getting the NOT**, the Contractor may take down the remaining signs and acceptance of the contract may proceed.

If the Contractor has performed acceptable additional work, as required by the Specifications, the additional costs will be considered for payment. Additional costs will be reviewed for payment on a case by case basis. Additional costs may include, but are not limited to, document preparation on projects that go beyond the completion date for the reason of the NOT, additional seeding or work required for stormwater control, etc. Costs and potential costs should be discussed with the AE, especially if the magnitude of the costs will be high. INDOT may wish to consider additional options.

If obtaining the NOT causes contract time to overrun, a time extension will not be required. The intent is that the time it takes to get the NOT after the completion date should be covered by a Final Inspection Time Waiver similar to when extra work is added to a contract at the final inspection.

#### **27.2 FEDERAL-AID CONTRACTS** *(Rev. 09-30-09)*

The DCD should take appropriate action to ensure that the FHWA representative receives an invitation to the pre-final and final inspection on oversight contracts.