

### Administering Environmental Requirements of Highway Construction Contracts

The following progressive steps should be utilized by MnDOT construction personnel for proper administration of the environmental requirements of highway construction contracts. In all cases, document the date and details of conversations / correspondence, whether verbal or written.

1. Direct Contractor (project foreman) to bring the project into compliance. Specify the failure and the time deadline. If the situation is significant, put the directive in writing.
2. Direct Contractor in writing – copying (a) an officer of the entity, (b) ADE-Construction, and (c) the District Engineer – to bring the project into compliance. Cite the environmental or unacceptable work Specs. (e.g., 1701, 1702, 1512, Special Provisions) where appropriate. Identify the amount of retainage that will be withheld from the next payment voucher, citing Specs. 1714 and 1906 where appropriate. Consider consulting OES or appropriate District staff for estimate.
3. Inform Contractor via certified mail – copying (a) surety, (b) MnDOT Chief Counsel, (c) ADE-Construction, (d) District Engineer, and (e) OCIC (Tom Ravn or Joel Williams) – that the Engineer will exercise one or more of the following actions in the event that environmental compliance is not commenced within specified hours of receipt.
  - a. Declare the non-compliant work to be unauthorized, citing Specs. 1401 and 1512. Contractor will not be paid and will be required to reimburse for costs incurred by the MnDOT in providing inspection or acceptable work.
  - b. Suspend total or partial work on the project in accordance with Specs. 1509 and 1501.2.
  - c. Order Contractor in writing to remove its superintendent, or that of Subcontractor, who is not competent, per Spec. 1802.
  - d. Remedy unacceptable work that has not been corrected and deduct cost from money due Contractor, per Spec. 1512. The work may be self-performed by MnDOT or completed by a new contractor, with the cost offset in accordance with Spec. 1512. AG's Office should be consulted prior to taking action.
4. Engineer shall inform OCIC (Tom Ravn or Joel Williams) of the failure. OCIC shall consult with Office of Chief Counsel and may arrange a meeting with Contractor to discuss and subsequently send certified letter to Contractor, copying surety. The letter shall state that failure to comply within specified hours of receipt will result in:
  - a. default of Contractor, after giving due Spec. 1808 notice, and demand of Surety performance;
  - b. possible suspension or debarment by the Minnesota Department of Administration; and/or
  - c. rejection of future bids in accordance with Minn. Stat. § 161.32, subdiv. 1(d).