



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

September 6, 2011

Re: Washington County
Marietta Commons
Storm Water Construction Activity
Notice of Violation
Permit Number OGC01290*AG

Mr. Larry Lang
Lang Excavating
9371 State Route 60
Waterford, Ohio 45715
Certified: 70101060000178961016

Pat Minnite
PM Company
100 Grand Central Mall
Vienna, WV 26105
Certified: 70101060000178961023

Mr. Mike Holtz
MPH Hotels
785 Nina Drive
Tierra Verde, FL 33715
Certified: 70101060000178961030

Gentlemen:

On August 24, 2011, Lynn Parkins and I visited the Marietta Commons and Fairfield Inn sites on State Route 7. The purpose of the inspection was to determine the compliance status of this site with the National Pollutant Discharge Elimination System (NPDES) permit for discharges of storm water associated with construction activity. The inspection was conducted under the provisions of Ohio's water pollution control statutes, Ohio Revised Code (ORC) Chapter 6111.

We realize that this construction endeavor encompasses two separate projects operating under coverage of the same NPDES General Storm Water Permit. This letter is addressing changes that need to be made on both sites involved.

The following areas need to be addressed:

Permit Coverage:

1. Part III.G.2.d.ii of the permit requires concentrated runoff and runoff from drainage areas, which exceed the design capacity of silt fence or inlet protection,

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to be conveyed to a sediment settling pond. Sites over 10 acres must install a sediment pond. Sediment ponds must be capable of holding 67 cubic yards of storage per on site and off site drainage acre. Sediment must be removed from the sediment pond when the design capacity has been reduced by 40 percent (this is typically reached when the pond is half full).

Upon inspection, temporary sediment traps along the creek had been removed to allow for roadbeds to be graded. The drainage area that the temporary traps were treating is too large for silt fencing alone. Please assess the area for new sediment traps or an alternative form of stormwater control.

2. Part III.G.2.h of the permit states that all sediment control practices must be maintained and repaired until the entire up slope area of the development has been stabilized. According to Part III.G.2.i. of the permit, controls must be inspected once every seven calendar days and within 24 hours after any storm event greater than one half an inch in 24 hours. Repairs must be accomplished within three days of the inspection, except in the case of sediment ponds, which must be repaired within 10 days. In accordance with Part III.G.2.d.vi., if inspections or other information indicates that a control is not functioning or ineffectual, then the permittee must replace or modify the control.

We have requested copies of previous inspection reports from these sites in previous letters with no response. This leads us to believe that no inspections have been performed on the sites. Please begin implementing proper inspection schedules and keep records in congruence with the NPDES permit.

4. In accordance with Part III. D. of the permit, the permittee shall amend the SWP3 whenever there is a change in design, construction, operation or maintenance, which has the potential to significantly affect the discharge of pollutants to surface waters of the state or if the SWP3 proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges.

Ensure that your storm water plan reflects any new additions regarding controls. Please submit copies of the updated storm water plans for both the Marietta Commons and Fairfield Inn sites for review.

5. Part III.G.2.b.i. (Table 2) of the permit requires that any area that will lie dormant for more than 21 days, but less than a year be stabilized within 7 days of the most recent disturbance.

Assess the entirety of both construction sites and implement temporary stabilization requirements as needed.

In addition, we would like to ask Larry Lang specifically to submit NOI's for any and all construction sites he is working on that disturb over an acre of ground, that are not already covered under the general construction permit.

We urge all parties involved to work with the Nichols family to resolve any drainage issues over the next few months.

Sediment and erosion controls for your site must meet the guidelines and design criteria set forth in the above-mentioned *Rainwater and Land Development* manual. A copy of this manual may be obtained by contacting the Ohio Department of Natural Resources, Division of Soil and Water Conservation, at (614) 265-6610.

It is understood that bringing these sites within compliance will take some time. We have allotted a 45 day time frame, starting upon receipt of this letter, to come within significant compliance of permit requirements. Please be advised that failure to comply with the terms and conditions of your NPDES permit within this time frame will be cause for enforcement action to be initiated. This time frame is projected to expire on the work week of October 24-28. A full inspection will be conducted during that week to evaluate compliance.

Violators of ORC 6111 may be fined up to \$10,000 per day of violation. In addition, federal law allows for third party lawsuits for failure to comply with terms and conditions of NPDES permits.

Within fourteen (14) days of receipt of this letter, please submit to me at this office a written notification as to actions proposed to eliminate violations of the permit. Your response should include the dates, either actual or proposed, for the completion of the actions. If you have any questions, please contact me at (740) 380-5277.

Sincerely,



Aaron Wolfe
Storm Water Coordinator
Division of Surface Water

AW/dh

- c: Joe Tucker, City of Marietta
- c: Mark Welch, Pickering Associates
- c: Jonathon Dehmlow (w/enclosure)
- c: Roy & Judy Nichols
- c: Terry Tamburini, Southeastern Ohio Port Authority
- c: Kathy Davis, Washington County SWCD