



State of Ohio Environmental Protection Agency

Southeast District Office

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Logan, Ohio 43138

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

September 15, 2010

**Re: Washington County
Marietta Commons
Storm Water Construction Activity
Notice of Violation
Permit Number 0GC01290*AG**

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

Dear Mr. Lang:

On July 7, 2010, Lynn Parkins, Chris Stephan and I visited your site 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. 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, 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). **Install a sediment pond at the foot of the hill on the down gradient side of the new hotel pad area. Flows from the pad and the hillside have caused failure of the silt fence above the Nichols property. Two of the four sides of the disturbed pad had no controls. Install proper controls immediately.**
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. **Please submit copies of storm water inspection reports for the previous three months for review.**

3. Part III.G.2.d.v. of the permit states that a recommended minimal setback of 25 feet from the high water mark shall be maintained adjacent to any streams. No structural practices shall be installed in the stream. Where impacts are unavoidable, due to the nature of construction activity, the project should be designed to limit the number of stream crossings and minimize the width of the disturbance. **Please grade and stabilize the areas adjacent to the stream as soon as possible.**
4. **Ensure that your storm water plan reflects any new additions regarding controls.**
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. **The new hotel pad does not comply with this requirement.**

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.

Please be advised that failure to comply with the terms and conditions of your NPDES permit may be cause for enforcement action pursuant to the Ohio Revised Code Chapter 6111.

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 taken or 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/mlm

c: Joe Tucker, City of Marietta