



Environmental
Protection Agency

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

May 16, 2011

Mr. Nathan Kennedy
Clark County Administrator
50 East Columbia St
PO Box 2639
Springfield, OH 45501-2639

RE: Stormwater Program Evaluation, NPDES permit # 1GQ00004

Dear Mr. Kennedy:

On Tuesday, March 26, 2011, I conducted a "screening evaluation" of Clark County's stormwater management program. The county was represented by Jereme Best and Chris Simpson (Clark County SWCD); Tom Bender, Paul DeButy and Dean Fenton (Clark County Engineer's office); and Rick Miller from the Clark County Combined Health District. The evaluation consisted of discussions about the 6 "Minimum Control Measures" (MCMs) that provide the framework for municipal stormwater programs. The intent was to evaluate program activities over the first 5 year term of the small MS4 general permit.

Note that following the discussion of activities for each MCM, specific annual reporting requirements and performance standards, taken directly from the current permit, are listed. Also note that future stormwater program reviews will likely be true audits, and will look at each aspect of the county's program in greater detail.

Based on my review of the county's current stormwater management plan, recent annual reports, and our discussion, I offer the following observations and recommendations:

MCMs 1 and 2 – Public Information, Participation, Education and Outreach

It's not clear how various public outreach activities orchestrated by the Miami Conservancy District (MCD) have benefitted residents of Clark County. MCD agreed to assist numerous MS4s within its jurisdictional area with stormwater education and outreach work. Collaboration with MCD is welcome, since it makes little sense for certain MS4s to create the same kinds of outreach and education events/materials that MCD creates on a routine basis. But the county must be able to show some sort of involvement with or benefit from the outreach activities/materials developed by MCD. Otherwise, including this information in annual reports merely reiterates information MCD provides in its annual reports.

Much of the county's recent educational effort is aimed at residential septic system owners. Other efforts are focused on litter prevention, scrap tire management and proper solid waste management. Copies of relevant newsletter articles or other materials have not been provided in recent annual reports, nor do they show up in the current version of the county's stormwater management plan (SWMP). In the future, articles and brochures or other publications containing stormwater-specific information should be included along with respective annual reports.

Numbers of people exposed to various messages in published articles or other materials is important, despite the inability to discern if people actually took a given message to heart. But figures provided must be reasonable. For example, at the 2010 Clark County Fair, a booth set up by the SWCD to provide information about agricultural and urban runoff purported to reach 94,000 people. While it's likely that many people walked past the booth during the fair, and it's not practical to expect someone to count every person who shows interest in the information displayed, it's just plain inaccurate to say that every last fairgoer was reached by the information provided. If there's no way to count, and a plausible number cannot be "guesstimated", then no numbers should be reported at all.

Little mention was made about using the internet as a way of making stormwater information available. The county should explore this option in the future. Links to existing publications made available by Ohio EPA and USEPA can be established, and locally developed publications can be archived electronically after hardcopies have been distributed. Websites can also be set up to determine how many people have visited, which may help gauge the level of interest in stormwater management issues.

Recommendations

Because Clark County's original stormwater management plan (SWMP) is outdated, it should be rewritten to more accurately reflect the specific outreach strategies the county currently uses, and will seek to exploit, in the future. Reference to activities orchestrated by the MCD will only be considered relevant to its SWMP if Clark County can demonstrate that residents were exposed to distributed messages. The revised SWMP should include a discussion of the county's use of the internet, and how it intends to incorporate (and archive) basic stormwater information within its web site. USEPA and Ohio EPA have significant amounts of relevant information available on line that could be easily accessed from links placed in an appropriate section of the website.

Copies of newly written stormwater related articles should be included with future annual reports. If previously published articles will be re-used in some way, then copies do not have to be included in subsequent annual reports. Ideally, articles can be archived on-line for future reference.

MCM 1 - Performance Standards Clark County's stormwater public education and outreach program shall include more than one mechanism and target at least five different stormwater themes or messages over the permit term. At a minimum, at least one theme or message shall be targeted to the development community. Stormwater public education and outreach shall reach at least 50 percent of the county's population over the permit term.

Annual Reporting Annual reports shall identify each mechanism used, including each stormwater theme, audience targeted and estimate of how many people were reached.

MCM 2- Performance Standards Clark County's stormwater public involvement and participation program shall include, at a minimum, five public involvement activities over the permit term.

Annual Reporting Annual reports shall identify each public involvement and/or participation activity conducted, including a brief description of each activity and an estimate of how many people participated.

MCM 3 – Illicit Discharge Detection and Elimination (IDDE)

Mapping It's not clear if all storm sewer outfalls within the designated MS4 area have been mapped or not. The Miami Conservancy District agreed to map outfalls on behalf of Clark County (and subsequently of all its township co-permittees), but it's not clear if the work has been completed. Past annual reports do not speak to the issue, and all outfalls were to have been mapped by March, 2008. MCD apparently marked as outfalls discharging pipes that may be old field tiles not connected to the regulated storm sewer system. The revised SWMP must clarify the status of Clark County's storm sewer outfall mapping efforts. Note that by January, 2014, mapping of the entire regulated storm sewer network is to be completed. The revised SWMP also should explain which department is responsible for updating completed maps.

Copies of completed maps do not have to be submitted to Ohio EPA, but must be made available upon request.

IDDE Ordinance Clark County apparently does not have specific language in either an ordinance or other regulatory mechanism that clearly prohibits illegal discharges of improper materials or wastes into its storm sewer network. In response to a letter from OEPA dated April 16, 2009, which cited Clark County for not having an illicit discharge ordinance, a copy of the county's interim sewage disposal regulations was submitted. These regulations do not speak to the need to prohibit, through ordinance or other regulatory mechanism, discharges of other pollutants besides sewage into the regulated storm sewer network.

Concern was expressed about Clark County's inability to create ordinances (or other regulatory mechanisms) as required under Phase II stormwater regulations. While counties are limited in their ability to create ordinances, Clermont County found a way to address the requirement by including in its Water Management and Sediment Control regulations language that prohibits the discharges of wastes or other materials into its regulated storm sewer system. These regulations also provide the authority inspectors need to access and investigate suspected sources of illicit discharges. An email from John McManus, Clermont County's stormwater program manager, which included rules and regulations the county uses to address illicit discharges, was forwarded to Jereme Best on May 5, 2011. While illicit discharges (other than sewage) into regulated storm sewers may be rare, Clark County should consider Clermont County's approach to meeting this permit requirement.

The county's revised SWMP must explain its approach to dealing with illicit discharges that are not sewage related. The narrative portion of the plan can discuss in general terms the overall approach, and include specific rules and regulations as an attachment to the plan.

Home Sewage Treatment Systems (HSTS) Clark County, within the designated MS4 area, has a significant number of discharging HSTSs. Some are true discharging systems, while others are on-lot systems that are failing so badly as to discharge into the MS4. To comply with the small MS4 general permit, a list of HSTSs known to be discharging into regulated storm sewers is to be included with the county's SWMP. Annual reports would include, in theory, smaller lists of properties which have either fixed their systems or connected to a sanitary sewer.

Dry Weather Screening— The county has not undertaken dry weather screening of its storm sewer outfalls, which are points at which discharges to a water of the state occur. Work has been done to identify flows coming from septic systems, which is certainly useful, but current requirements call for all storm sewer outfalls to be screened at least once over the 5 year permit term.

The county's SWMP should be revised with a discussion of its outfall screening program, including such things as numbers of outfalls screened per year and their locations. The discussion should include information about what will be done if a potentially problematic discharge has been detected. Specific information about detected discharges and how they were addressed can be provided in annual reports. The performance standards listed below should be helpful at guiding the county in its efforts to revise this section of its SWMP.

The revised plan should also explain the system the county uses to take and follow up on illicit discharge complaints. Reporting every call received about open dumping is beyond the scope of the small MS4 permit requirements.

MCM-3--Performance-Standards, Clark County's illicit discharge detection and elimination program shall include or have included an initial dry-weather screening of all stormwater outfalls over the permit term. The program shall establish priorities and specific goals for long-term systemwide surveillance of the MS4, as well as for specific investigations of outfalls and their tributary area where previous surveillance demonstrates a high likelihood of illicit discharges. Data collected each year shall be evaluated and priorities and goals shall be revised annually based on this evaluation. Clark County's storm sewer system map shall be updated annually as needed.

Annual Reporting Annual reports shall document the following: (1) number of outfalls dryweather screened, (2) number of dry-weather flows identified, (3) number of illicit discharges identified, (4) number of illicit discharges eliminated, (5) provide schedules for elimination of illicit connections that have been identified but have yet to be eliminated and (6) summary of any storm sewer system mapping updates

MCM 4 – Construction Site Stormwater Runoff Control

Inspection records were not requested during the review, but information included in recent annual reports suggests the county has been inspecting active construction projects for compliance with erosion and sediment control requirements.

What's not clear from the original SWMP is the review process new projects (which will disturb more than an acre of land) follow from initial proposal until final approval. The Clark County Engineer's Office is the primary entity responsible for reviewing most, but not all, new projects. The county's revised SWMP must explain this review process, with emphasis on how proposed erosion and sediment control practices are evaluated and approved. The revised SWMP must also explain the regulatory basis behind the county's construction program, with general reference to the finalized ordinance in the narrative section of the plan. Bonding of projects should be explained, along with the enforcement process the county will use when dealing with chronic violators of erosion and sediment control requirements. The final version of the ordinance can be included as an attachment to the plan.

MCM 4 - Performance Standards Clark County's construction site stormwater control program shall include preconstruction stormwater pollution prevention plan review of all projects from construction activities that result in a land disturbance of greater than or equal to one acre. To ensure compliance, these applicable sites shall be initially inspected. The frequency of follow-up inspections shall be on a monthly basis unless the county documents its procedures for prioritizing inspections such as location to a

waterway, amount of disturbed area, compliance of site, etc. If the county initially had coverage under a previous version of this permit it shall revise the program to satisfy these performance standards, if needed, within two years of when coverage under this general permit was granted.

Annual Reporting Annual reports shall document the following: (1) number of applicable sites in Clark County's jurisdiction, (2) number of pre-construction stormwater pollution prevention plan reviews performed, (3) number and frequency of site inspections, (4) number of violation letters issued, (5) number of enforcement actions taken and (6) number of complaints received and number followed up on.

MCM 5 – Post Construction Stormwater Management in New Development

It's not clear how Clark County's construction project review process accommodates post-construction stormwater runoff management requirements that focus on water quality, versus water quantity. Recent annual reports suggest that post-construction BMPs are being reviewed prior to the start of construction of regulated projects, but the original SWMP provides little detail about the review process itself. It's also not clear if the county performs as-built inspections to determine if proposed BMPs were installed according to the plans. Lastly, there is no information in the original plan concerning maintenance agreements that need to be in place to ensure that post-construction BMPs function as designed.

Clark County must revise its SWMP to address the issues pointed out above. Relevant ordinance language which requires the installation of post-construction water management features can be referenced in the narrative, with relevant sections of the ordinance included as an attachment or appendix to the revised plan.

MCM 5 – Performance Standards

Clark County's post-construction SWMP shall include pre-construction stormwater pollution prevention plan review of all projects from construction activities that result in a land disturbance of greater than or equal to one acre to ensure that required controls are designed per requirements. These applicable sites shall be inspected to ensure that controls are installed per requirements. The program shall also ensure that long-term operation and maintenance (O&M) plans are developed and agreements in place for all applicable sites. If the county initially had coverage under a previous version of this it shall revise its program to satisfy these performance standards, if needed, within two years of when coverage under this general permit was granted.

Annual Reporting Annual reports shall document the following: (1) number of applicable sites in Clark County's jurisdiction requiring post-construction controls, (2) number of pre-construction stormwater pollution prevention plan reviews performed, (3) number of inspections performed to ensure as built per requirements and (4) number of long-term operation and maintenance (O&M) plans developed and agreements in place.

~~**MCM 6 - Pollution Prevention/Good-Housekeeping for Municipalities**~~

Little time was spent discussing this section, but information provided in the most recent annual report suggests Clark County and its township co-permittees are 1) training appropriate staff about stormwater issues and better materials management; 2) recording the amounts of salt used in winter for road deicing, and 3) tracking amounts of street sweepings collected and disposed. Future annual reports must contain details about the training workers have been given, such as program agendas or other relevant information.

The revised SWMP must explain the kinds of things Clark County and its stormwater program co-permittees have done in recent years to improve the efficiency with which materials such as pesticides, herbicides, fertilizers, and de-icing salts have been used. Other ways in which materials are being managed to reduce potential impacts to stormwater runoff should be highlighted in the revised plan.

Note that townships which report composting street sweepings without first seeking permission from OEPA are technically in violation of solid waste management regulations, as street sweepings are by definition considered solid waste. Options exist for reusing street sweepings, and can be obtained from OEPA's Division of Solid and Infectious Waste Management.

MCM 6 - Performance Standards Clark County's pollution prevention/good housekeeping program shall include, at a minimum, an annual employee training. Its operation and maintenance program shall include appropriate procedures, controls, maintenance schedules and recordkeeping to address Part III.B.6.d.iii of the small MS4 permit.

Annual Reporting Annual reports shall document the following: (1) summary of employee training program(s) implemented with number of employees that attended and (2) summary of activities and procedures implemented for Clark County's operation and maintenance program.

Conclusions

Clark County has taken a somewhat fractious approach to addressing phase II stormwater management requirements. Overall it appears to be addressing many of the specific requirements for each of the 6 MCMs, but as alluded to repeatedly in this letter, the county's original SWMP from 2003, based on a template created by the MCD, is outdated and inaccurate, and in need of a thorough re-write.

The goal of a rewritten plan is to have a document that explains the County's stormwater program in a way that can be easily understood by a reasonably intelligent person. The small MS4 general permit, despite its somewhat overbearing approach,

Mr. Nathan Kennedy
May 16, 2011
Page 8

should still serve as the framework around which the plan is rewritten. It is expected that the county and its co-permittees will have its revised SWMP in place by the time the next small MS4 general permit has been implemented, early in 2014.

If there are questions about anything in this letter, I can be reached at 937.285.6442 or via email at chris.cotton@epa.state.oh.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Cotton". The signature is fluid and cursive, with a large initial "C" and a stylized "Cotton".

Chris Cotton
Division of Surface Water

cc: OEPA/SWDO/DSW Files
Anthony Robinson, OEPA/CO/DSW

Ec: Jereme Best, Clark Co SWCD

CC/mab