



**Environmental
Protection Agency**

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korteski, Director

May 3, 2010

Mr. Brian Filburn
Construction Managers of Ohio
521 Byers Road, Suite 201
Miamisburg, Ohio 45342

RE: NOTICE OF VIOLATION, BYERS BUILDING I, NPDES PERMIT # 1GC03042

Dear Mr. Filburn:

On Tuesday, April 27, 2010, I inspected the Byers Building site in Miamisburg to determine compliance with the site's National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit. Based on this inspection, the project is in violation of the following portion of its permit:

1. Part III.G.2.d Sediment Control Practices

A shallow-sided trench (aligned east-west) installed in the fall 2009 towards the south side of the site is conveying runoff to a detention basin located in the southwest corner of the property. Because the trench itself and much of the surrounding area leading in to it is bare dirt, eroded soils are also being carried into the detention basin. Heavier sediments are settling in front of the outlet, but it's possible that a significant amount of finer grained sediment is leaving the site through the basin.

No effective sediment controls were observed in this area. Silt fence installed incorrectly in front of the outlet pipe that drains the temporary trench is not satisfactory. You have two options to address the violation. First would be to temporarily stabilize all disturbed areas upslope from the outlet of the trench. Since the areas in question contribute eroded sediments to runoff that ultimately leaves the site, stabilization requirements as outlined in the permit must be met. See page 16 of the site's NPDES stormwater permit for specific timelines.

The more practical second option would be to install a temporary riser pipe on the outlet of the detention basin so that water is held in the basin longer, allowing more of the suspended sediments to settle out. The riser would have to remain in place until all upslope areas have been permanently stabilized. This option you may recall was discussed when similar issues about controlling eroded sediments presented themselves at the north end of the site early in 2008.

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2. Part III.g.2.b.i Stabilization

Bare soils toward the northwest end of the site where no construction activity is occurring (west of the concrete parking area), must be stabilized in accordance with requirements listed in the above mentioned table (on page 16 of the construction permit). Multiple rows of silt fence have been installed in the area, but given the lack of activity it's clear that disturbed soils should be at least temporarily stabilized, beyond the growth of natural weeds. Minimizing or preventing erosion usually means less effort has to be expended controlling eroded sediment.

In a written response to this letter, please explain what will be done to address violations pointed out in this letter. In addition, please provide copies of weekly inspection records kept for the site for the last 3 months. Also provide a copy of the site's current Stormwater Pollution Prevention (SWP3). Please provide this information within 7 days of receipt of this letter.

If you have questions about this letter, I may be reached at 937.285.6442, or via email at chris.cotton@epa.state.oh.us.

Sincerely,



Chris Cotton
Ohio EPA, Division of Surface Water

ec: Larry Reeder, Enforcement Coordinator, OEPA/DSW/CO
Ellen Stanifer, City of Miamisburg
Jeff McMaken, City of Miamisburg

cc: Ohio EPA/DSW/SWDO Files

CC\bp