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CITY OF NEWARK



State of Ohio Environmental Protection Agency

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November 1, 2010

John Trujillo
City of Newark
34 S Fifth Street
Newark, OH 43055

**Re: Storm Water Audit Findings of Newark
(Facility Number: 4GQ00005*BG)**

Dear Mr. Trujillo:

This letter is written in follow-up to my storm water audit of the city of Newark conducted on October 25, 2010. The audit was performed to assess your compliance with Ohio EPA's Small Municipal Separate Storm Sewer System (MS4) storm water permit (OHQ000002). I would like to thank you and all Newark's staff for answering questions and providing information during the audit. As a result, I have the following comments regarding your program and the implementation of the six minimum control measures:

Public Education and Outreach (Minimum Control Measure #1):

Permit Requirements:

You shall implement a public education program to distribute educational materials to the community to conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff.

Decision process. You shall document your decision process for the development of a storm water public education and outreach program. Your rationale statement shall address both your overall public education program and the individual Best Management Practices (BMP's), measurable goals and responsible persons for your program. The rationale statement shall include the following information, at a minimum:

- How you plan to inform individuals and households about the steps they can take to reduce storm water pollution.
- How you plan to inform individuals and groups on how to become involved in the storm water program (with activities such as local stream restoration activities).

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



- Who are the target audiences for your education program who are likely to have significant storm water impacts (including commercial, industrial and institutional entities) and why those target audiences were selected?
- What are the target pollutant sources your public education program is designed to address?
- What is your outreach strategy, including the mechanisms (e.g., printed brochures, newspapers, media, workshops, etc.) you will use to reach your target audiences, and how many people do you expect to reach by your outreach strategy over the permit term?
- Who (person or department) is responsible for overall management and implementation of your storm water public education and outreach program and, if different, who is responsible for each of the BMPs identified for this program.
- How will you evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

Performance Standards: Your storm water public education and outreach program shall include more than one mechanism and target at least five different storm water themes or messages over the permit term. At a minimum, at least one theme or message shall be targeted to the development community. Your storm water public education and outreach program shall reach at least 50 percent of your population over the permit term. Your annual report shall identify each mechanism used, including each storm water theme, audience targeted and estimate of how many people were reached by each mechanism.

Permit Violations:

- No direct violations were noted concurrent with my review of this minimum control measure.

Education Items implemented by Newark:

- The city has elected to implement a website with respect to storm water pollution prevention and education.
- Newark has developed a construction site document which is directed towards the development community addressing proper storm water management for construction sites resulting in land clearing activities *greater than one acre*.

- The city has implemented a school curriculum program for grades K through 12
- The city has developed newsletters which are inclusive as a supplement to utility bills and mailed to all citizens of Newark, Ohio.
- The city has initiated TV and radio broadcasts specific to "Leaf Pickups" and "Hazardous Waste Collection Days."
- The city of Newark is working closely with Ohio EPA with respect to the TMDL for the Licking River to determine additional storm water impacts from the MS4 System. The results of the TMDL should be evaluated closely and included in your decision process for targeting storm water themes and pollutants.
- The city presents to City Council, on an annual basis, all efforts with respect to the storm water program regarding minimizing impacts to the MS4 system.
- The city has developed a target audience, through the decision process, addressing schools, the development community, and households within the municipal limits.

Improvement Opportunities:

- The city should expand the current website with respect to storm water pollution. The storm water website should be available and easily accessible through the homepage. The comprehensive storm water website should include all information with respect to the implementation of the six minimum control measures, and include notifications with respect to upcoming development.
- The city should continue with surveys to ensure 50 percent of the population is being reached over the permit term.
- The city should address the decision process in the next annual report. The city must be able to develop a rational statement for the priority pollutants, outreach mechanisms, and measurable goals associated with the public education program.
- Please ensure, at a minimum, five different storm water themes are listed in the next annual report.

- The annual report shall identify each mechanism used, including the target audience, and an estimation of how many people were reached.
- The city of Newark should continue and expand on the educational curriculum within the city school system. An evaluation of the success of the educational outreach within the school system must be included in the next annual report. Please refer to the following link for assistance: <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=browse&Rbutton=detail&bmp=8&minmeasure=1>
- The city should develop an educational outreach strategy regarding pollution prevention for restaurants and commercial developments within the municipal limits. Please refer to the following links for assistance.

Commercial Outreach:

<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=browse&Rbutton=detail&bmp=6&minmeasure=1>

Restaurant Outreach:

http://eorwa.com/Restaurant_Grease_Control.pdf

Public Involvement/Participation (Minimum Control Measure #2)

Permit Requirements:

You shall comply with State and local public notice requirements and satisfy this minimum control measure's minimum performance standards when implementing a public involvement/participation program.

Decision process. You shall document your decision process for the development of a storm water public involvement/participation program. Your rationale statement shall address your overall public involvement/participation program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement shall include the following information, at a minimum:

- Have you involved the public in the development and submittal of your NOI and Storm Water Management Plan (SWMP) description?
- What is your plan to actively involve the public in the development and implementation of your program?
- Who are the target audiences for your public involvement program, including a description of the types of ethnic and economic groups engaged. You are encouraged to actively involve all potentially affected stakeholder

groups, including commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and educational organizations, among others.

- What are the types of public involvement activities included in your program. Where appropriate, consider the following types of public involvement activities: citizen representatives on a storm water management panel, public hearings, working with citizen volunteers willing to educate others about the program, volunteer monitoring or stream clean-up activities.
- Who (person or department) is responsible for the overall management and implementation of your storm water public involvement/participation program and, if different, who is responsible for each of the BMPs identified for this program.
- How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

Performance Standards: Your storm water public involvement/participation program shall include, at a minimum, five public involvement activities over the permit term. Your annual report shall identify each public involvement/participation activity conducted, including a brief description of activity and include an estimate of how many people participated.

Permit Violations:

- No direct violations were noted concurrent with my review of this minimum control measure.

Participation/Involvement Items implemented by the city of Newark:

- Newark is adhering to all planning and zoning requirements in addition to the public notice requirements in accordance with state regulations.
- The City solicits public comments via the web site and during the Question and Answer Session following the annual City Council storm water presentation.
- The city has developed a Storm Water Management Panel which includes an open public seat in order to solicit comments regarding development and re-development within the municipal limits.

- The city has initiated additional public participation programs such as a partnership with Litter Prevention, "Keep America Beautiful," Park Clean Up Days, and as a host to stream monitoring programs through Ohio EPA.
- The city has done an excellent job involving the public through the "Storm Water Utility Credit Program." The city offers storm water utility credits for the inclusion of storm water curricula in city schools. Various other credits are offered via the adoption of long term maintenance agreements for post-construction controls and the "Adopt a Drain" program.

Improvement Opportunities:

- The city should include in the comprehensive storm water web page: a posting of all proposed development and redevelopments in Newark, Ohio. The posting should have an attached Storm Water Pollution Prevention Plan (SWPPP) in order to solicit comment from the public and various watershed groups to address improvement opportunities.
- It is Ohio EPA's intent to involve the public to the maximum extent practical with respect to development and redevelopments within a city. In addition to the proposed website upgrade listed above, the city may also elect to a specific review of a Storm Water Management Plans concurrent with the zoning and/or public notice meetings.
- The city must ensure the decision process is addressed and include the rational statements in the upcoming annual reports to justify the mechanisms chosen for this minimum control measures. Measurable goals must be inclusive in this report.
- Please ensure the upcoming annual reports address the performance standards of this minimum control measures.

Illicit Discharge Detection and Elimination (Minimum Control Measure #3):

Performance Standards per Second Generation Permit: Your storm water illicit discharge detection and elimination program shall include or have included an initial dry-weather screening of all your storm water outfalls over the permit term. Your program shall establish priorities and specific goals for long-term system-wide surveillance of your 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. Your comprehensive storm sewer system map shall be updated annually as needed.

Annual Reporting: Your annual report shall document the following: (1) number of outfalls dry-weather 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.

The following should be completed as required in First Generation Permit:

- Ordinance or a regulatory mechanism is in place as a result of the First Generation Permit Condition.
- Outfall map should be completed based on first generation permit conditions (i.e., streams ditches and outfalls)
- Inventory or map depicting location of Home Sewage Treatment Systems (HSTS) discharging to MS4 (including contact information).
- Protocols for detection and prioritization for elimination should be established.
- The General Permit states illicit discharge protocols shall include dry weather screening.

Permit Violations:

- No direct violations were noted concurrent with my review of this minimum control measure with the exception of the mapping of all discharging HSTS Systems into the MS4.

Illicit Discharge items implemented by the city of Newark:

- All separate storm sewer system outfalls, which discharge directly into waters of the state, are properly mapped and identified on a GIS mapping system. Approximately 431 have been identified.
- The entire MS4 system has been mapped. Please submit to my attention the GIS layers which include all storm water outfalls, and the entire separate storm sewer system for the city of Newark.
- Newark has initiated the first round of dry weather screening associated with the MS4 outfalls discharging to waters of the state. The city is on schedule to ensure all outfalls are dry-weather screened by the end of this permit term.

- The city is documenting, with visual observations and sampling, dry weather flows associated with the MS4 outfalls. The city has modeled the program after Cuyahoga Illicit Discharge and Detection Protocols at Ohio EPA's recommendation.
- The city has developed legal authority to prohibit illegal discharges and dumping into the MS4 systems. The reference for the municipal ordinance is 1054.16 in the Municipal Code.
- The city has failed to map the HSTS discharging systems into the MS4. The city indicated this item would be completed by the end of the second permit term.

Improvement Opportunities:

- The city should update the list of home sewage treatment system to include all discharging systems which result in a direct discharge to the city owned MS4 and provide a corresponding map.
- The city must demonstrate a strong working relationship with the local health department in order to establish prioritization protocols to address failing HSTS's discharging into the MS4 system. The protocols would include; ensuring a proper functioning condition, re-routing the HSTS to a centralized sanitary system, proper permitting or possible elimination.
- The city should continue with the dry weather screening in order to identify and prioritize the illicit discharges for elimination. This would include sampling of all dry weather flows from the MS4 system. Ohio EPA would be willing to assist in the evaluation process and prioritization schedule to address appropriate elimination protocols in conformance with the MS4 permit conditions.
- The city should develop written protocols for all personnel investigating illicit discharges and responding to spills. These protocols should be made available to all key personnel and should be updated on an annual basis or as needed. All key personnel should be trained on an annual basis to determine any improvement opportunities with respect to illicit discharge investigation and spill recovery.
- The city should update the website to easily address a submission of a complaint with respect to an illicit discharge.

Construction Activities (Minimum Control Measure #4)

Performance Standards per Second Generation Permit: Your construction site storm water control program shall include pre-construction storm water pollution prevention plan review of all projects for construction activities that result in a land disturbance 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 you document your procedures for prioritizing inspections such as location to a waterway, amount of disturbed area, compliance of site, etc. If you initially had coverage under a previous version of this permit you shall revise your program to satisfy these performance standards, if needed, within two years of when your coverage under this general permit was granted.

Annual Reporting: Your annual report shall document the following: (1)number of applicable sites in your jurisdiction, (2)number of pre-construction storm water 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.

Following should be completed as required in First Generation Permit:

- Ordinance or legal mechanism in place for sediment and erosion controls
- Program shall include inspection, review and enforcement.
- Process in place to receive complaints.

Permit Violations:

- No direct permit violations were noted with respect to the first generation MS4 permit and the expectations of the second generation permit.

Construction items implemented by the city Newark:

- The city has developed legal authority with specific reference to compliance with 40 CFR 122.26 (b) (15) in Municipal Ordinance Chapter 1054.16, section 17.
- The city has implemented review protocols for all development and redevelopment projects within the municipal limits. All Storm Water Pollution Prevention Plans are reviewed prior to construction to ensure the minimum control measures and requirements in Ohio EPA's "General Storm Water Permit associated with Construction Activities" are addressed.

- The review procedures include a storm water review 'sign off' to ensure all requirements of the Municipal Ordinance are approved prior to construction.
- The city has implemented inspection protocols to ensure all active construction sites maintain compliance with the conditions set forth in Ohio EPA's Storm Water Permit in addition to the local ordinance. Inspections are conducted, at a minimum, on monthly recurrence interval. However, inspections are routinely conducted every 10 days.
- The city has developed legal authority through the ordinance to initiate enforcement procedures in the event of repeat offenders.
- The city has developed a tracking system "Assist" to track all construction storm water inspections to properly evaluate and address repeat offenders.

I had the opportunity to evaluate an active construction site. It appears that storm water management controls were properly installed and maintained in conformance with state and local regulations. At this time, I am currently requesting a copy of the SWPPP for the Newark Waste Water Treatment Plant Upgrade to determine if the review was appropriate.

Improvement opportunities to ensure compliance with the second Generation MS4 Permit:

- The city should document in writing enforcement protocols to establish consistency and as an educational tool to the regulated community. All key personnel must be trained with respect to the new enforcement protocols.
- The city should consider including language in the next ordinance to specifically address compliance with Ohio EPA's "General Storm Water Permit Associated with Construction Activities" and the corresponding successor.
- The city should consider the inclusion of language which would require setbacks, preservation regulations, and Low Impact Design criteria in the next ordinance.

Post Construction (Minimum Control Measures # 5)

Performance Standard per Second Generation Permit:

Your post-construction Storm Water Management Plan (SWMP) shall include pre construction storm water 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 the mandated controls are designed per the minimum requirements. These applicable sites shall be inspected to ensure that controls are installed per requirements. Your program shall also ensure that long-term operation and maintenance (O&M) plans are developed and agreements in place for all applicable sites. If you initially had coverage under a previous version of this permit you shall revise your program to satisfy these performance standards, if needed, within two years of when your coverage under this general permit was granted.

Annual Reporting: Your annual reports shall document the following: (1) number of applicable sites in your jurisdiction requiring post-construction controls, (2) number of pre-construction storm water 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.

Post Construction Items implemented by city of Newark:

- The city has developed legal authority to ensure the designs of all post construction water controls are adequately addressed in City Ordinance 1054.16, Section 18 with specific reference 40 CFR 122.34 (B) (5) (111).
- The city has developed the legal authority to ensure long term operations and maintenance of all post-construction Best Management Practices (BMP's).
- The city has mapped all locations of post-construction construction practices via a GIS mapping system.
- The city ensures maintenance of all post-construction BMP's by the utility credit reduction program. Utility credit reduction is offered by the city if the permittee enters into a maintenance agreement with the city which includes annual inspection and maintenance if necessary. The city field verifies all inspections and maintenance on an annual basis. The program is very successful as all entities covered under this permit term have entered into the utility reduction program.
- The city does incorporate a review of all post construction practices to ensure the minimal components of Ohio EPA's "General Storm Water Permit Associated with Construction Activities" are fully addressed.

Permit Violations:

- No direct violations were noted concurrent with my review of this minimum control measure.

Improvement Opportunities and updates to ensure compliance with the second Generation MS4 Permit:

- Please submit to my attention the standalone maintenance agreement in order to address improvement opportunities.
- The city should develop enforcement protocols to ensure long term maintenance of all public and privately owned post construction BMP's which discharge to the MS4 in the event the permittee does not wish to enter into the utility credit reduction program.
- The city must develop procedures to ensure a water quality review is inclusive on all municipal owned projects including all flood controls projects.

Pollution Prevention/Good Housekeeping for Municipal Operations (Minimum Control Measure #6)

Performance Standards per Second Generation Permit. Your pollution prevention/good housekeeping program shall include, at a minimum, annual employee training. Your operation and maintenance program shall include appropriate procedures, controls, maintenance schedules and recordkeeping to address Part III.B.6.d.iii of the MS4 Permit.

Annual Reporting. Your 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 your operation and maintenance program.

Permit Violations:

- The city of Newark is currently not handling the street sweepings and catch basin clean out material as a solid waste defined by the permit and Ohio EPA.
- The staging area for the material is appropriate as the storm water from the area discharges directly into a sanitary sewer.
- Corrective measures are expected within 10 days from receipt of this letter to ensure the disposal of all street sweepings and catch basin clean outs are taken to an approved sanitary landfill until such time a "Beneficial Re-use Policy is approved by Ohio EPA.

The following items should be addressed to ensure compliance with the Pollution Prevention/Good Housekeeping Section of the General Permit (Minimum Control Measure #6):

- The city has developed a Storm Water Pollution Prevention Plan specific to the municipal operations off Dayton Road. All key personnel are trained on an annual basis with respect to the implementation of a Storm Water Pollution Prevention Plan.

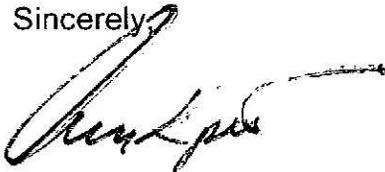
Improvement Opportunities:

- The city must ensure that all street sweepings and catch basin cleanings, which are contracted to a third party, are properly disposed at a sanitary landfill. Please demonstrate that corrective measures are taken to ensure proper disposal.

I had the opportunity to evaluate the storm water management measures at the Dayton Road maintenance facility. All materials posing a threat to storm water quality were properly addressed under roof or via the implementation of secondary containment with the exception of the brine storage tank. The city must consider secondary containment for the brine storage tank including the areas of loading and unloading. In addition, the same considerations are expected in the event the fueling island is brought back online. All equipment and vehicle washing was properly conducted under roof with a direct connection to a sanitary sewer. All drains inside the maintenance facility were also verified to discharge to a sanitary sewer.

In conclusion, Ohio EPA appreciates the efforts the city of Newark has demonstrated to implement the six minimum control measures as mandated in the MS4 Permit. If you have any questions or comments regarding this audit or the contents of this letter, please do not hesitate to contact me at (614) 728-3844 or via email harry.kallipolitis@epa.state.oh.us.

Sincerely,



Harry Kallipolitis
Storm Water Coordinator
Division of Surface Water
Central District Office

