



State of Ohio Environmental Protection Agency

Northeast District Office

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

April 7, 2009

RE: CUYAHOGA COUNTY  
ROCKY RIVER WATERSHED  
CITY OF BEREA  
SANDSTONE RIDGE SOUTH

**NOTICE OF VIOLATION**

Mr. Ferris Kleem  
Lopat Ltd.  
151 Lou Groza Blvd  
Berea, OH 44017

Dear Mr. Kleem:

On March 25, 2009, I inspected the above referenced site for storm water best management practices (BMPs) in response to a complaint received through the Ohio Environmental Council. The complainant alleges that his pond has received excessive amounts of sediment due to uncontrolled runoff from construction activities associated with Sandstone Ridge South subdivision. Our records indicate that this site is covered under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) for Construction Activities #3GC04039\*AG (Phase 3A) and #3GC04306\*AG (Phase 3B).

A review of the site shows that Lopat Ltd. is in violation of the NPDES permit. In particular, I noted the following violations of the NPDES permit:

- **Failure to implement the Storm Water Pollution Prevention Plan (SWP3) approved by the City of Berea. This is a violation of Part III.G.3 of the NPDES permit and Ohio Revised Code 6111.04 and 6111.07.** Lopat Ltd. must comply with the lawful requirements of the City of Berea regarding discharges of storm water from construction activities. All erosion and sediment control plans and storm water management plans approved by local officials are incorporated by reference and enforceable under the NPDES permit. Please implement the approved SWP3 no later than April 17, 2009, as directed by the City of Berea (see attached letter).
- **Failure to install the sediment pond within 7 days of first grubbing and prior to grading the area that will drain to it. This is a violation of Part III.G.2.d.i of the NPDES permit and ORC 6111.04 and 6111.07.** The skimmer devices included in the SWP3 have not been installed on the riser of the sediment basin. Further, the correct riser structure has not been installed. The approved plans call for a 14-foot high temporary riser with the skimmer device

attached 1.2 feet above the base (see Sheet C2.5 of the approved storm water management plan for Sandstone Ridge South). Please amend the riser and install the skimmer devices so that the future retention basin acts as a sediment basin as intended by the SWP3. The temporary riser and skimmers must remain in place until such time that a centralized sediment control is no longer required. **NOTE:** If the basin must be dewatered to install the correct riser and skimmers, you must make use of the dewatering controls indicated on Sheet C2.0 of the approved SWP3.

- **Failure to initiate temporary stabilization of disturbed areas within 7 days of last disturbance if they are to remain idle for 21 days or longer. This is a violation of Part III.G.2.b.i of the NPDES permit and ORC 6111.04 and 6111.07.** The soil stockpile, berm along the railroad tracks and disturbed areas that lie beyond the road and utility right-of-ways have been idle all winter long. No attempt to temporarily stabilize these areas was evident. Please seed and mulch these areas and any other areas disturbed by construction activity that will remain idle 21 days or longer.
- **Failure to control off-site tracking of sediment from Phase 3B. This is a violation of Part III.G.2.ii of the NPDES permit and ORC 6111.04 and 6111.07.** Rock construction entrances have not been provided or have not been maintained at the two entrances to Phase 3B. Rock construction entrances are required to minimize the tracking of sediment onto the roadways of Phase 3A and beyond. This violation was also noted on individual building lots. There was no rock construction entrance to access S/L 1093. Rock construction entrances are also required to access all individual building lots.
- **Failure to install storm drain inlet protection on curb, street and yard inlets. This is a violation of Part III.G.2.d.iv of the NPDES permit and ORC 6111.04 and 6111.07. Failure to maintain storm drain inlet protection where it has been installed. This is a violation of Part III.G.2.i of the NPDES permit and ORC 6111.04 and 6111.07.** The approved SWP3 indicates that inlet protection is to be provided on all curb, street and yard inlets. It was missing from a number of storm drain inlets. Where it was installed, it was not constructed per the specifications contained in the approved SWP3 and is not being maintained to function as intended. Storm drain inlet protection must be able to pond runoff in order to function as intended. The filter fabric has been pulled back, is torn or sagging, making it unable to pond runoff. Please install storm drain inlet protection where it is missing and replace or repair it as necessary to achieve functional storm drain inlet protection.

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- **Failure to install silt fence to control sheet flow runoff from denuded areas. This is a violation of Part III.G.2.d.iii of the NPDES permit and ORC 6111.04 and 6111.07.** Silt fence must be installed as indicated in the approved SWP3. In particular, no silt fence has been provided around the soil stockpile as indicated in the plan. Please install silt fence as shown in the approved SWP3 for Phase 3B.

Finally, I noted that the retention basin appears to be built within an unnamed tributary of the West Branch of the Rocky River. The tributary also appears to have been channelized and downcutting is evident. As indicated in Part III.G.2.f of the NPDES permit, construction activities within streams, rivers, lakes, wetlands or other surface waters may require Section 404 and 401 permits. This matter has been referred to Lauren McEleney of our Section 401 Program for review.

You are directed to provide me with a letter of response indicating the actions you will take to correct the violations noted above. Include a copy of any Section 404 or 401 permits that have been issued for Sandstone Ridge South with your response. **Please submit your response letter to me by April 21, 2009.** As previously stated, corrective action is to be completed no later than April 17, 2009. Violations of ORC 6111 are punishable by fines.

If you have any questions, please contact me at (330) 963-1145.

Sincerely,



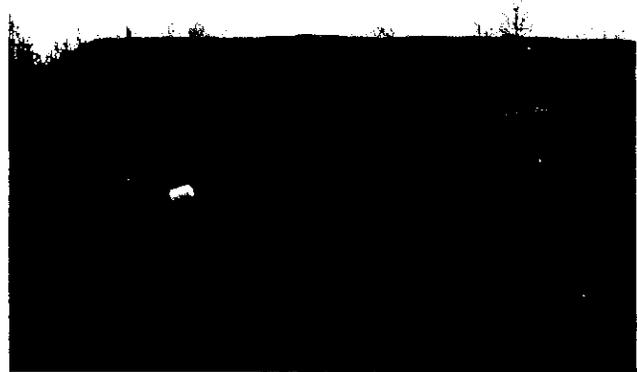
Dan Bogoevski  
District Engineer  
Division of Surface Water

DB/mt

cc: George Elmaraghy, Chief, Ohio EPA, Division of Surface Water, DSW-CO  
Lauren McEleney, Ohio EPA, Section 401 Program, DSW, CO  
Richard Ruby, US Army Corps of Engineers, Buffalo District  
Tony Armagno, Engineer, City of Berea  
Cyril Kleem, Mayor, City of Berea  
Trent Dougherty, Director of Legal Affairs, Ohio Environmental Council

**SANDSTONE RIDGE SOUTH PH 3A & 3B**  
City of Berea Cuyahoga County  
Operator: Lopat LLC

**Photos Taken:** March 25, 2009  
**By:** Dan Bogoevski, DSW-NEDO



**Fig 1 (LEFT).** The temporary riser in the retention basin is the riser depicted in the SWP3. It is supposed to be 14 feet high. Further, there are no skimmer devices installed on it. This is required to modify the retention basin and turn it into a sediment basin while the site is under development.

**Fig 2 (RIGHT).** The soil stockpile has not been stabilized. As evidenced by the erosion rills, it has been bare and idle for longer than 21 days. Further, there is no silt fence around the base of the stockpile as shown on the SWP3.



**Fig 3 & 4.** The unnamed tributary to the West Branch of the Rocky River that receives runoff from the retention basin appears to have been channelized. Downcutting of the stream channel is severe.



Fig 5 (LEFT). There is no rock construction entrance on the north access point to Phase 3B, resulting in off-site tracking.

Fig 6 (RIGHT). There is no rock construction entrance to access S/L 1093, resulting in off-site tracking.

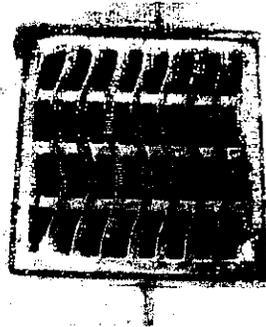
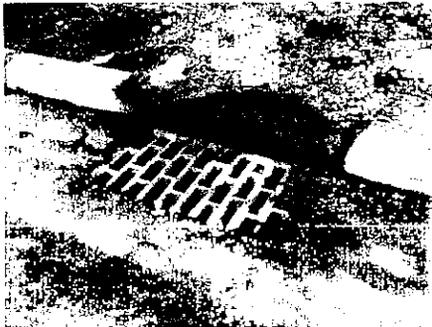


Fig 7-9. Storm drain inlet protection is not being maintained, has not been installed or is the wrong type for the kind of inlet you are protecting. Inlet protection must be capable of ponding runoff in order to be effective. It cannot pond runoff if it is not installed, is torn or does not protect the curb window.



**Fig 10 & 11.** Disturbed areas outside the road and utility right-of-ways and the privacy mound along the railroad tracks have not been stabilized. These areas will remain idle 21 days or longer and are required to be temporarily stabilized between construction operations. Note that runoff from the privacy mound enters the drainage channel along the tracks. Silt fence should be installed at the base of the mound to prevent the migration of sediment into the drainage channel.