



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

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

April 7, 2010

RE: Cuyahoga County
Cuyahoga River Basin
Village of Highland Hills
Cuyahoga Community College
Health Careers & Technology Building

NOTICE OF VIOLATION

Mr. Doug Myers
Cuyahoga Community College
4250 Richmond Rd.
Highland Hills, OH 44122

Mr. Robert Fitzgerald
Ozanne
1635 E. 25th St.
Cleveland, OH 44114-4214

Dear Mr. Myers and Mr. Fitzgerald:

On March 26, 2010, this office received notice from the Village of Highland Hills that the above referenced site is not in compliance with Chapter 1357 of the municipal code. In the Village of Highland Hills letter dated March 25, 2010, and inspection reports dated March 12, 2010 and December 18, 2009, they detail a list of items which must be completed to bring the site into compliance with Chapter 1357. Yet, it appears that Cuyahoga Community College has not taken action required to correct these deficiencies.

Our records indicate that Cuyahoga Community College has obtained authorization to discharge storm water runoff from this site under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC04670*AG. Part III.G.3 of the NPDES permit requires all permittees to comply with local construction site runoff control codes and that requirements of local construction site runoff control programs are incorporated by reference and enforceable under the NPDES permit. Thus, failure to comply with Chapter 1357 of the Village of Highland Hills municipal code constitutes a violation of Part III.G.3 of the NPDES permit.

Further, the correspondence from the Village indicates that Ozanne is managing the day-to-day operations at the site. Please be aware that Ozanne has not obtained authorization to discharge under the NPDES permit. Part II.B of the NPDES permit requires all operators of the construction activity to obtain NPDES permit coverage. The term "operator" is defined as any party which meets either of the following criteria:

- The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with an SWP3 for the site or other permit conditions, e.g., they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions.

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Thus, it appears that Ozanne meets the second part of this definition and requires NPDES permit coverage. If so, Ozanne must submit a Co-Permittee Notice of Intent (Co-Permittee NOI) to obtain NPDES permit coverage. The form and instructions can be downloaded from the Ohio EPA Web site at www.epa.ohio.gov/dsw/storm/stormform.aspx. Please be sure that Ozanne submits the required form to obtain NPDES permit coverage.

In addition, there may be contractors and subcontractors that do not meet the definition of operator, but whose activities can affect implementation of the Storm Water Pollution Prevention Plan (SWP3). The NPDES permit requires Cuyahoga Community College to inform them of the terms and conditions of the SWP3 and maintain a written document containing their signatures acknowledging they have reviewed and understand their responsibilities under the SWP3. This document should be kept with the SWP3 in the construction trailer. Signatures must be obtained prior to a contractor or subcontractor commencing work at the site. Please provide me with a copy of the written document with contractor and subcontractor signatures required under Part III.E of the NPDES permit.

This letter will serve as notice that Cuyahoga Community College and Ozanne are in violation of Ohio Revised Code 6111.04 and 6111.07 for failure to comply with the NPDES permit. The site will remain in violation until the items listed in the Village of Highland Hills letters and inspection reports are corrected and all operators have obtained NPDES permit coverage. Violations of ORC 6111 are punishable by fines up to \$10,000 per day of violation.

Please notify this office and the Village of Highland Hills, in writing, once corrections have been made. Include the requested contractor and subcontractor certification with your response. This response should be received **no later than April 21, 2010**.

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

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

DB/mt

cc: Susan Hamilton, Engineer, Village of Highland Hills
Thomas O'Donnell, Department of Law, Village of Highland Hills
Robert Nash, Mayor, Village of Highland Hills
Fred Kruse, Ozanne