Environmental Protection Agency

, Governor
, Lt. Governor
, Director

April 23, 2010

RE: CUYAHOGA COUNTY
CUYAHOGA RIVER WATERSHED
CITY OF MAPLE HEIGHTS
WEST JR HIGH & DUNHAM
ELEMENTARY SCHOOLS

NOTICE OF VIOLATION

Mr. Christopher Krause
Maple Heights City School District
14605 Granger Rd.
Maple Heights, OH 44137

Mr. Robert Speight
Heery International Inc.
Terminal Tower Suite 2175
50 Public Square
Cleveland, OH 44113

Mr. Chris Jensen
Platform Contracting
7503 Tyler Blvd.
Mentor, OH 44060

Dear Mr. Krause, Mr. Speight and Mr. Jensen:

On April 19, 2010, I performed a compliance inspection of storm water best management practices (BMPs) at the above referenced site. This inspection was conducted because Ohio EPA received a complaint about the lack of sediment controls on the site after the citizen noticed sediment in a tributary of the Cuyahoga River. I was accompanied on my inspection by Chris Hartman of Chagrin Valley Engineering, engineers for the City of Maple Heights. We met with Chris Jensen, superintendent with Platform Contracting, site general contractors, and Bob Speight of Heery, construction managers. Our records indicate that storm water discharges from this site have been authorized under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC04254*AG.

My inspection revealed the following violations of the NPDES permit:

- **Failure to install perimeter sediment controls and sediment settling ponds within 7 days of first grubbing and prior to grading.** This is a violation of Part III.G.2.d.i of the NPDES permit and Ohio Revised Code (ORC) 6111.04 and 6111.07. The Storm Water Pollution Prevention Plan (SWP3) calls for three sediment basins (SB1, SB2 and SB3) and one sediment trap (ST1). None of

these practices have been installed per plan, yet the majority of the site has been cleared and graded. These practices have not been installed for one primary reason: the contractor has not followed the prescribed construction sequence contained in the SWP3. An existing home is still located in the area where SB2 is to be located. A soil stockpile was located where SB3 is supposed to be. A haul road has been constructed where ST1 is to be located. SB1 is being used essentially as a borrow area and being built gradually instead of being installed in the required timeframes. Outlet structures required to connect SB 1 and SB 2 to the municipal separate storm sewer system have not yet been approved or obtained, yet they are critical to establishing functional sediment control. This demonstrates a clear disregard for the SWP3 and the sequence of construction required to implement it as designed.

- **Failure to amend the SWP3 whenever there is a change in design, construction, operation or maintenance, which has a significant effect on the potential for discharge of pollutants to surface waters of the State.** This is a violation of Part III.D of the NPDES permit and ORC 6111.04 and 6111.07. Although the contractor has been working with Chagrin Valley Engineering to implement interim sediment and erosion controls until the BMPs depicted in the SWP3 can be established, the SWP3 has not been amended to show these interim practices. No engineering has been performed to ensure that these interim controls meet NPDES permit requirements. Please be aware that any interim practice that is implemented must be designed per the requirements of the NPDES permit. You cannot amend the SWP3 in such a way that the practices installed do not comply with the NPDES permit. If it is not your intent to implement the original SWP3 approved by the City of Maple Heights, then you must contact the project engineer to amend the SWP3 and provide controls in compliance with the NPDES permit.

- **Failure to install sediment controls in a functional manner and in accordance to the details contained in the approved SWP3.** This is a violation of Part III.G.2.d and Part III.G.3 of the NPDES permit and ORC 6111.04 and 6111.07. All sediment controls must be capable of ponding runoff in order to be considered functional. Storm drain inlet protection and silt fence installed on this site has not been constructed per the detail drawings contained in the SWP3 and are not capable of ponding runoff as intended. Further, applicable requirements for sediment and erosion control and storm water management approved by local officials are, upon submittal of the Notice of Intent, incorporated by reference and enforceable under the NPDES permit. The SWP3 approved by the City of Maple Heights contains detail drawings for the construction of silt fence and storm drain inlet protection. These practices have not been constructed per those specifications. Please rebuild silt fence and storm drain inlet protection per the specifications contained in the SWP3.

- **Failure to initiate temporary stabilization within 7 days of last disturbance on any area of the site disturbed by construction but where no further earth disturbance will occur within 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 outside face of the soil stockpiles placed along the eastern perimeter of the site are likely to remain in place and undisturbed for 21 days or longer. As such the NPDES permit requires them to be temporarily stabilized within 7 days of when the soil was stockpiled there. Please seed and mulch the outside face of these stockpiles and any other area of the site that will remain unworked for 21 days or longer.

- **Implementation of storm drain inlet protection where the NPDES permit requires the use of a sediment settling pond.** This is a violation of Part III.G.2.d.iv of the NPDES permit and ORC 6111.04 and 6111.07. A drainage area greater than 1 acre in size is being directed to an existing storm drain inlet (see photos). Please be aware that the NPDES permit limits the size of the drainage area that can be directed to storm drain inlet protection to 1 acre. All inlets receiving runoff from drainage areas that exceed one acre must empty into a sediment settling pond. The drain is not connected to a sediment settling pond. Further, the inlet protection has not been constructed in accordance with the specifications contained in the approved SWP3. Ultimately, to comply with the approved SWP3, the existing drain is to be removed and runoff is to be directed to SB1.

You are directed to provide me with a letter of response indicating the actions you will take to correct the violations noted during this inspection. Your response must include any revisions made to the SWP3 and a schedule for implementing BMPs in the revised SWP3 in accordance with the requirements of the NPDES permit. The Maple Heights School District will remain in violation of ORC 6111 until the items addressed in this letter are corrected. Violations of ORC 6111 are punishable by fines of up to $10,000 per day of violation.

Finally, please note that all operators are required to obtain coverage under the NPDES permit. An operator is any party that meets either of the following two criteria:

(1) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

(2) The party has day-to-day operational control of those activities required to comply with the SWP3 or other permit condition.

It appears that both Heery and Platform meet the definition of operator and must obtain NPDES permit coverage. The Co-Permittee NOI form and instructions can be found on

our Web site at www.epa.ohio.gov/dsw/storm/stormform.aspx. Ohio EPA records do not indicate that either Heery International or Platform Contracting has submitted a Co-Permittee NOI to obtain NPDES permit coverage. **Failure to obtain NPDES permit coverage is a violation of Ohio Administrative Code (OAC) 3745-38-06 and ORC 6111.04.** These operators will remain in violation until a Co-Permittee NOI has been submitted to Ohio EPA.

Finally, please note that other contractors and subcontractors may also be required to sign a document acknowledging receipt and understanding of the SWP3. Part III.E of the NPDES permit requires the Maple Heights School District to inform all contractors and subcontractors not defined as operators, but who will be involved in the implementation of the SWP3 of the terms and conditions of the NPDES permit. The school district must maintain a written document containing the signatures of all contractors and subcontractors involved in the implementation of the SWP3 as proof acknowledging that they reviewed and understand the conditions and responsibilities of the SWP3. Signatures must be obtained prior to the contractor commencing work at the site. Please include a copy of this document with your response to this Notice of Violation.

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

Sincerely,

Dan Bogoevski

Dan Bogoevski
District Engineer
Division of Surface Water

DB/mt

cc: Chris Hartman, Chagrin Valley Engineering
Ed Hren, Engineer, City of Maple Heights
Mayor, City of Maple Heights

WEST JR HIGH & DUNHAM ELEMENTARY SCHOOLS
City of Maple Heights Cuyahoga County
Operator: Maple Heights School District

Photos Taken: April 19, 2010
By: Dan Bogoevski, DSW-NEDO

Fig 1 & 2. SB2 has not been installed because it is located where the house in these photos sits. Demolition of the house to make room for the sediment basin has been delayed due to asbestos issues. In the interim, two smaller sediment ponding areas have been implemented, however the SWP3 has not been amended to account for these structures.

Fig 3. A haul road has been constructed where ST1 is to be located. As a result, a smaller and differently configured sediment trap has been implemented. The trap must be enlarged to its required size and baffles may be required to achieve a 2:1 length-to-width ratio between inlets and outlet. In addition, the outlet structure is not built to required specification.

Fig 4 (LEFT). SB1 has not been constructed yet the area it is designed to control has been cleared, grubbed and graded. The contractor indicated an intent to operate this area as a sump pit to obtain a level of sediment control, but there is no dewatering sump established and a rock spillway has been installed to allow this area to drain off site. The sump pit should only be viewed as a short-term solution. Installation of SB1 is a priority on this site.

Fig 5 (RIGHT). SB3 has not been installed yet the area it is designed to control has been cleared, grubbed and graded. The soil stockpile has been placed where SB3 is to be located. The contractor is attempting to pond runoff in a low area preceding SB3, but this does not provide an acceptable substitute to SB3.

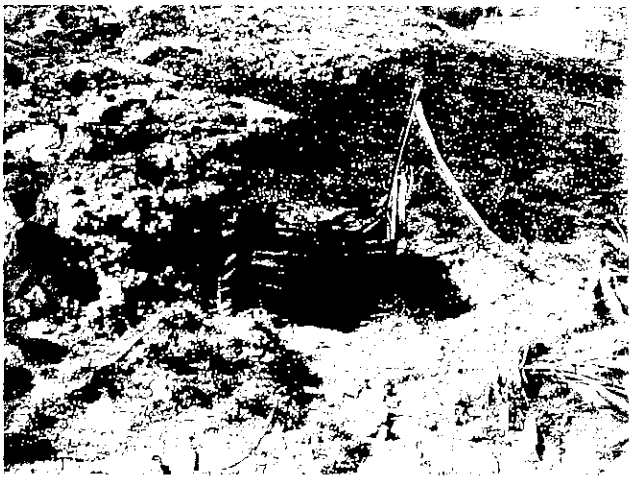

Fig 6 & 7. Storm drain inlet protection has not been installed per specifications contained in the SWP3. In addition, an existing inlet has simply been covered with stone. This is not acceptable storm drain inlet protection. The maximum drainage area that can be conveyed to a single storm drain inlet is 1 acre. Larger drainage areas must pass through a sediment settling pond. The SWP3 intends for this runoff to pass through SB1.