



**Environmental
Protection Agency**

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

April 20, 2010

RE: CUYAHOGA COUNTY
CUYAHOGA RIVER WATERSHED
VILLAGE OF VALLEY VIEW AND
CITY OF INDEPENDENCE
CUYAHOGA VALLEY NATIONAL PARK
PRA-CUVA 18(1), 164(1)

Mr. Kevin Rose
Federal Highway Administration
21400 Ridgetop Circle
Sterling, VA 20166

Mr. Robert Bobel
J.D. Williamson Construction Co., Inc.
441 Geneva Ave.
P.O. Box 113
Tallmadge, OH 44278

Dear Mr. Rose and Mr. Bobel:

On April 12, 2010, I performed a compliance inspection of storm water best management practices (BMPs) at the above referenced site. While on-site, I spoke with Rob Vincent, superintendent with J.D. Williamson Construction Co, site general contractor. Our records indicate that the Federal Highway Administration (FHA) has obtained authorization to discharge storm water associated with construction activities under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC04313*AG. At the time of my inspection, JD Williamson had not submitted a Co-Permittee Notice of Intent (Co-Permittee NOI) as required by the NPDES permit, but did so in response to this inspection. Authorization to discharge as a co-permittee was granted to JD Williamson on April 19, 2010.

My inspection revealed the following deficiencies regarding NPDES permit compliance:

Administrative Issues

- **FHA Standard Specifications for the Construction of Roads and Bridges do not directly reference the requirement to obtain NPDES permit coverage and to develop and implement a Storm Water Pollution Prevention Plan (SWP3).** Although Section 107.01 indicates that the contractor must comply with all permits and agreements obtained by the Government for performing work included in the contract, it doesn't provide a list of what those permits are. Section 107.10 discusses environmental laws related to work in jurisdictional wetlands and streams, but there is no mention of NPDES storm water regulations. Section 157 discusses Soil Erosion Control but it does not indicate that an SWP3 must be developed and implemented in accordance with the NPDES permit. These standard specifications

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must be strengthened if FHA intends for them to ensure that the contractor obtains NPDES permit coverage and develops and implements an SWP3 as required by that permit.

- **The SWP3 does not provide sufficient detail to comply with the NPDES permit.** A copy of the SWP3 was obtained from the Cuyahoga Soil & Water Conservation District (SWCD). It is not a stand-alone document that contains the information listed in Part III.G.1 of the NPDES permit. Further, it does not select and size best management practices (BMPs) in accordance with Part III.G.2 of the NPDES permit. FHA has referenced less restrictive requirements contained in the federal NPDES permit issued by US EPA. Please be aware that within the State of Ohio, Ohio EPA has been delegated authority by US EPA to administer the NPDES permit program. FHA is required to comply with the terms and conditions of the NPDES permit issued by Ohio EPA. In an e-mail from Lisa Landers, Environmental Protection Specialist for FHA to Todd Houser of the Cuyahoga SWCD dated March 30, 2010 (see attached), FHA indicates that the contractor is responsible for creating the state-specific SWP3. It does not appear that the contractor has done this. The SWP3 is particularly weak on practices around the bridge abutments and fails to provide any guidance for dewatering activities and non-sediment pollutant controls. It also fails to provide detail drawings for sediment control construction and erosion control application rates. It also does not provide for any post-construction BMPs as required by Part III.G.2.e of the NPDES permit. Please submit an SWP3 that meets the requirements of the NPDES permit to Ohio EPA and Cuyahoga SWCD.

SWP3 Implementation Issues

- **There are no sediment and erosion controls along the bridge abutments.** The SWP3 indicates that these areas will be permanently stabilized with rock rip-rap. If at least the base course is applied at this time, cover will be established over bare soils. FHA may also consider temporary seeding, however, be aware that due to fluctuating river levels, care must be taken to prevent floatation and discharge of materials to the Cuyahoga River. In addition, FHA may want to consider constructing a temporary earthen berm along the excavation for the abutment on the west side of the river to keep river water out of the excavation. Please review these matters with the design engineer for this project and amend the SWP3 to provide appropriate sediment and erosion controls for these areas during the construction process.
- **Silt fence is not being maintained in a functional condition.** The NPDES permit requires all sediment and erosion controls to be maintained to function as intended throughout the construction process. As the attached photographs show, there are areas where silt fence has been buried with soil or knocked over and has not been repaired.

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- **Soil stockpiles and other disturbed areas that will remain idle for 21 days or longer have not been temporarily stabilized.** The NPDES permit requires temporary stabilization to be initiated in all such areas within 7 days of last disturbance, or within 2 days of last disturbance within 50 feet of a stream. Please seed and mulch disturbed areas that will not be reworked for 21 days or longer.
- **Please be sure to implement the dewatering techniques discussed in Part III.G.2.g.iv of the NPDES permit when dewatering excavations.** These techniques were discussed with Mr. Vincent on site.
- **We noted that the plug for the dike that surrounds the diesel fuel tank was in place, however, it has a hole in it.** Thus, the dike does not provide adequate containment. Please replace the plug to achieve a functional dike. The SWP3 should include a discussion of how to properly evaluate the water that accumulates within the dike and provide guidance for how it must be managed.

Please provide me with a letter of response indicating the actions you will take to address the deficiencies noted in this letter. Include any amendments made to the SWP3 as a result. Please submit this information **by May 7, 2010**. Failure to comply with the NPDES permit is a violation of Ohio Revised Code 6111.04 and 6111.07 and is 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: Lisa Landers, FHA Eastern Federal Lands Highway Division
Todd Houser, Cuyahoga SWCD
Don Ramm, Engineer, City of Independence
Paul Dey, Engineer, City of Valley View

CUYAHOGA VALLEY NATIONAL PARK PRA-CUVA 18(1), 164(1)
Cities of Valley View and Independence/Cuyahoga Co.
Operators: Federal Highway Administration and JD Williamson Construction

Photos Taken: April 12, 2010
By: Dan Bogoevski, DSW-NEDO



Fig 1. There are no storm water BMPs in place along the bridge abutments to minimize the discharge of sediment from runoff. The SWP3 calls for final stabilization with rock rip-rap, but placement of at least the base course at this time may be the most prudent way to control this area. In addition, silt fence or other perimeter sediment control can be implemented along the top of the abutment work area to control runoff that flows down the slope.



Fig 2 & 3. There are several locations where silt fence has been compromised because soil has been stockpiled too close to it. Ohio EPA recommends a minimum distance of 5 feet between the toe of the stockpile and the silt fence. Stockpiles or faces of stockpiles that remain idle (unworked) for 21 days or longer must be temporarily stabilized. Ohio EPA recommends temporary seeding and straw mulching.



Fig 4 & 5. Gas cans, buckets and other containers with chemicals or petroleum products used on the construction site should be stored in a trailer or within a containment dike to minimize the possible release of these products to the environment. Containment trays should be provided under spigots to catch any drips or spills that may occur.



Fig 6. Although the plug is in place in the containment dike around the diesel fuel tank, the plug has a hole in it.