



**Environmental  
Protection Agency**

Richard Cordusio, Governor  
Frank LaRose, Lt. Governor  
John P. Donahoe, Director

July 23, 2010

RE: Lorain County  
Black River Watershed  
Eaton Twp  
LORCO Wastewater Collection System  
and Pump Station (Contracts 1-5)

**NOTICE OF VIOLATION**

Mr. John Kniepper  
Avon Lake Municipal Utilities  
201 Miller Rd.  
Avon Lake, OH 44012

Mr. Dave Gahris  
Mr. Robert Lloyd  
Underground Utilities Inc  
416 W. Monroe St  
P.O. Box 428  
Monroeville, OH 44847

Mr. Scott Schneider  
Fabrizzi Trucking & Paving Co Inc  
389 Columbia Rd  
Valley City, OH 44280

Mr. Nathan Sautter  
Elite Excavating Co of Ohio Inc  
4500 Snodgrass Rd  
Mansfield, OH 44903

Mr. Dave Sugar  
Dave Sugar Excavating LLC  
P.O. Box 459  
New Middletown, OH 44442

Mr. Pete Majstorovic  
DiGoia-Suburban Excavating LLC  
11293 Royalton Rd  
North Royalton, OH 44133

Mr. Thomas Agresta Jr.  
Mr. Excavator  
8616 Euclid Chardon Rd  
Kirtland, OH 44094

Dear Mr. Kniepper, Mr. Gahris, Mr. Lloyd, Mr. Schneider, Mr. Sautter, Mr. Sugar, Mr. Majstorovic and Mr. Agresta:

On June 29, 2010, I performed a compliance inspection of storm water best management practices (BMPs) at the above referenced construction sites. Ohio EPA records indicate that storm water runoff from these construction sites is regulated by the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC03285\*AG (Contracts 1, 2 & 3) and #3GC04682\*AG (Contract 4 & 5). As of the date of inspection, the following contracts were active:

<b>Contract</b>	<b>Co-Permittee</b>
1A	DiGoia Suburban Excavating LLC
1B	Underground Utilities Inc.
2A	Fabrizzi Trucking & Paving Co. Inc.
2B	Underground Utilities Inc.
3A	Elite Excavating Co. of Ohio Inc.
3B	Elite Excavating Co. of Ohio Inc.
4	Mr. Excavator
5C	Dave Sugar Excavating LLC

**My inspection revealed the following:**

Since my last inspection, corrective action has been taken against several contracts.

**Contract 1A**

- DiGoia Suburban Excavating LLC has been shut down and inactive for 1 month. Crews have been pulled off-site to work on another project.
- DiGoia plans on boring under State Route 83 (SR 83), south of the Tri-Plex pump station sometime in the near future. As of now, everything has been temporarily stabilized.

**Contract 1B**

- Underground Utilities Inc. was installing the Hawke Road force main and doing driveway restorations.
- The entire length from the railroad to Osborne Road has been temporarily stabilized.
- The segment from Osborne Road to Brokaw Road has not been stabilized, however it is within the 21 day window allowed by the permit.
- Maintenance work has still not been completed.

**Contract 2A**

- Fabrizio Trucking and Paving Co. has been shut down due to a wetland issue.
- Everything was stabilized before the company was shut down.

**Contract 2B**

- Underground Utilities was working on the laterals on State Route 82 (SR 82). Otherwise their work areas have been completely stabilized.

- Maintenance work has still not been completed. The stream crossing on SR 82 needs to be checked.

**Contract 3A**

- Elite Excavating Company of Ohio had been shut down until their deficiencies were corrected however, they are active now.
- Elite is installing the mainline along Indian Hollow Road. Temporary stabilization is being done as the project moves along.

**Contract 3B**

- Elite had been shut down until their deficiencies were corrected however, they are active now.
- The mainline along State Route 301 (SR 301) is currently being installed. Temporary stabilization is occurring as work is completed.

**Contract 4**

- Mr. Excavator has been shut-down for non-compliance.
- The sediment bag has been installed.
- The soil mound has not been temporarily stabilized.

**Contract 5A**

- Underground Utilities is not active due to wetland issues.
- A boring was done north of Detroit Road and has been stabilized.

**Contract 5B**

- Fabrizzi has not performed any work.

**Contract 5C**

- Dave Sugar Excavating was working along SR 82.
- A good amount of silt fence has been installed and temporary stabilization has been done.
- The rock construction entrance has not been installed to specifications.
- They have been shut down other than to perform corrective action.

**Spoils areas:**

As a general note, Avon Lake Municipal Utilities (ALMU) is still not receiving the required information about off-site spoil areas from the co-permittees. This is a violation of **Part III.G.1.n.i and vi.** of the NPDES permit and **Ohio Revised Code (ORC) 6111.04 and 6111.07.** Issues brought to my attention during my last inspection that involve multiple contracts are discussed below by each contractor.

**Elite Excavating Company of Ohio, Inc.**

- It was noted that Elite is disposing of spoils at 3 different disposal sites.

1. Spoils from the Indian Hollow Pump Station are being disposed of on a property north of Slife Road. ALMU will provide the information to Lorain County Soil and Water Conservation District (SWCD).
2. A second site is also being operated at SR 57 and Robson Road. It has been revealed that this site is receiving spoils from multiple projects. Since this is the case the dump site is viewed as a separate project and the owner of the site will be held liable should the site be greater than one acre. Since my inspection, information shows the site to be less than one acre of land.
3. A third site was observed south of Banks Road. No plans or drawings have been received by ALMU. It was noted that this site has been in use since March/April of 2010.

**Underground Utilities Inc, DiGoia Suburban Excavating LLC, Dave Sugar Excavating LLC**

- Each of the contractors is using Columbia Station Park for the disposal of spoils. ALMU has plans on file for this disposal site.

**Fabrizzi Trucking and Paving Company Inc.**

- Fabrizio is using the Reed Salvage Yard as a spoils disposal site. No plans have been submitted to ALMU.

**Mr. Excavator**

- Mr. Excavator is operating a spoils disposal site on Hawke Road. No plans have been submitted to ALMU however, this site has not been used since February 2010.

**Inspection Reports:**

Since my last inspection on April 22, 2010, the co-permittees have done a much better job documenting weekly and rainfall event inspections. An outline is below. Failure to perform and document these inspections constitutes a violation of **Part III.G.2.i.** of the NPDES permit and **ORC 6111.04 and 6111.07.**

**Elite Excavating Company of Ohio, Inc.**

- Weekly and rainfall event inspections are being completed.

**Underground Utilities Inc.**

- Weekly and rainfall event inspections are being completed.

**DiGoia Suburban Excavating LLC**

- Weekly and rainfall event inspections are being completed. Reports are being submitted to Becky Haines, ALMU. Reports note that a soil mound on Cooley Road east of Island Road has not been stabilized. Observation of this issue in the field shows it to be only a minor issue.

**Dave Sugar Excavating, LLC.**

- Weekly and rainfall event inspections are being completed.

**Fabrizzi Trucking and Paving Company, Inc.**

- Weekly and rainfall event inspections are being completed.

**Mr. Excavator**

- Weekly and rainfall event inspection reports are not being given to Becky Haines. Mr. Excavator says that the reports are in the trailer onsite and are submitted with their pay requests. It was noted that a pay request has not been submitted for 2 months.

**ALMU**

- Each inspector is completing weekly and rainfall event inspections.
- Tom Boettler, Chief Inspector, does compliance inspections every 2 weeks.
- Jack Gaydar, picks "hotspots" to review. Last week's hotspots were contracts 4 and 5C.

**BMP Implementation**

Since my previous inspection, the implementation of storm water sediment and erosion controls has become much better. Still, issues remain with each contractor. The contractors should continue to implement and maintain storm water sediment and erosion controls in accordance with each site's SWP3. Failure to do so constitutes a violation of the NPDES permit and ORC 6111.04 and 6111.07. My observations are summarized below by contract.

**Contract 1A**

- Temporary stabilization has been applied, however it requires maintenance along SR 83, particularly south of the Tri-Plex pump station.
- A rock construction entrance has been installed and inlet protection has been improved at the pump station along Cooley Road.
- The concrete washout pit is still in place at Cooley Road and SR 83. There will be additional concrete work at the pump station.

**Contract 1B**

- The area along N. Reed Road north of Cooley Road has been stabilized. A good vegetative cover is present. Inlet protection can be removed in areas where the vegetative cover has achieved a growth density of 70% or greater.
- There were 2 issues with the soil screening operation. Both need corrected immediately.
  1. There is no rock construction entrance.
  2. There is no silt fence in place.
- Disturbance was never stabilized along the east side of Reed Road, north of Dye Road (Carpenter Farms). It was claimed that this area is part of the farm field, however, it is not planted with crops. This area will need to be stabilized.
- Temporary stabilization has been completed along Brokaw Road.

1. The project is still active along Hawke Road. The disturbed area was still within the 21 day window allowed by the permit. Driveways were being installed and re-grading was being done. The project was active as of 6-23-2010.
2. Inlet protection along Henwill Road where vegetative cover has achieved a growth density of 70% or greater can be removed.
- There were several issues with the active area along Hawke Road.
  1. Inlet protection has not been built per specifications. Silt fence has been wrapped around the inlets, not the required protection.
  2. Silt fence along the stream had not been installed properly. The silt fence was not trenched in and was not taught. Also, silt fence along the north side of the stream had been installed backwards.
  3. The slope of the ditch along Hawke Road is approximately 1:1. This slope is too steep to be stabilized. Re-grade the slope.

#### **Contract 2B**

- Several issues were observed with the first stream crossing west of Hawke Road on SR 82.
  1. The silt fence needs to be brought up around the storm sewer outlet pipe.
  2. Rip-rap is needed below the storm sewer outlet pipe to prevent erosion.
  3. The storm sewer outlet pipe needs to be cut back in order to prevent the rip rap noted above to not fill in the stream.
  4. The silt fence along the east side has been installed backwards. The stakes are on the upstream side.
- Good stabilization was observed along Coneley Road. Some ditch lines may need erosion control matting and/or rock check dams to help stabilize these areas. Check to see the areas where the straw has washed away.
- Along SR 82, west of Bootleggers, inlet protection needs installed correctly. The protection at the yard drain west of the stream crossing is not entrenched and there is a gap in the silt fence.
- For the areas along SR 83, south of SR 82, stabilize them if they will be idle for a period of 21 days or longer.
- Silt fence at the North pump station, south of SR 82 on SR 83, needs to be installed correctly. Currently it is not entrenched, only dirt has been placed over the skirt of the silt fence in the most critical locations.
- Two issues were noted at the Capel Road pump station.
  1. Silt fence has not been installed to protect the ditch.
  2. There has been no temporary stabilization of the soil pile. The soil pile appeared to have been idle for a period greater than 21 days.
- Three issues were observed at the South pump station.
  1. Silt fence needs to be placed along the SR 83 ditch. Silt fence cannot be placed across the ditch; the fence cannot handle a concentrated flow such as that of a ditch.
  2. No maintenance of temporary stabilization has occurred.
  3. No rock construction entrance has been constructed.

- Two issues were noted at the Giles Road pump station.
  1. Rip-rap needs to be placed under the pipe on the north side of the stream crossing.
  2. Ditch bank erosion due to the swale from the soybean field needs repaired.

#### **Contract 2A**

- This contract has been inactive. The existing temporary stabilization is good for now.

#### **Contract 3A**

- The stream crossings south of the soil stockpile were temporarily stabilized. Vegetation was establishing nicely.
- There was some subsidence in the sewer trench where it goes down a steep slope toward the Black River directional bore. Additional stabilization measures will be required.
- Observations of the off-site spoil area at SR 57 and Robson Road documented the following:
  1. The site consists of greater than a one acre area of land but it is only accepting soil from LORCO.
  2. A sheet needs to be added to the SWP3 indicating the site. Ask ALMU for the sheet.
  3. Additional silt fence is required along Robson Road east of the southern rock construction entrance. There are 2 rock construction entrances but the northern one is partially used by a landscaping company.
  4. Silt fence along the stream is not entrenched. Storm water runoff is able to flow under the silt fence.
  5. This site requires plan review by Lorain SWCD. This spoils site will be shut down and not likely to be reactivated sooner than 21 days. Temporary stabilization will be required.
- Construction activities were currently taking place at the Indian Hollow pump station. The following was observed:
  1. The rock construction entrance was being built up for a stone roadway.
  2. A water bar will need to be placed across the access road to the farm field to divert the flow of storm water runoff to the silt fence.
  3. Silt fence is now installed between the drive and the farm field. Installation appeared good in most places. The east end near the pump station will require some maintenance. The east end will also need to be extended.
  4. Soil is being added to the stockpile however, only small portions of soil are being added at a time. Temporarily seed areas of the stockpile that will remain inactive.
- Good temporary stabilization was observed along Indian Hollow Road south of Slife Road.

- Well-point dewatering was discussed. Groundwater must be kept clean. If sediment-laden groundwater is observed, add a dewatering bag at the end of the hose or connect a sump pump with a geotextile wrap.
- The following was documented at the Indian Hollow Road off-site spoil area:
  1. Wetlands may have been filled-in along the Black River.
  2. No sediment controls are present. Storm water runoff discharges directly into the Black River.
  3. Lorain SWCD has measured the area. The area is less than one acre however, the fill heights are very high. ALMU and Lorain SWCD are trying to have the property owner at the very least, erect silt fence on the property.
  4. Elite has a standard agreement with the property owner. This places the burden for environmental compliance on the property owner noted below:
    - Richard Ethel Pownau  
13893 Indian Hollow Road  
Grafton, OH 44044  
(440) 926-3380

#### **Contract 3B**

- Good temporary stabilization was observed along Slife Road.
- A rock construction entrance was observed at the Slife Road pump station. Additional silt fence had also been installed around the pump station. Temporary stabilization around the pump station was satisfactory.
- Temporary stabilization was also observed to be satisfactory along SR 301 south of Slife Road.
- Two issues were observed at the staging area at Durkee Road and Capel Road:
  1. A dumpster will be required as much trash was observed on the ground.
  2. Silt fence will need to be installed on the north side of the staging area. This area appears to drain to a possible wetland.

#### **Contract 4**

- At the 4-Plex pump station:
  1. Orange, iron-like color foam was observed flowing from the manhole at the entrance drive to the roadside ditch.
  2. The soil stockpile was reseeded (hydroseed) the day of the inspection.
  3. Dewatering practices were much better. A pipe slope drain was installed under the silt fence to a dewatering bag at the bottom of the slope.

#### **Contract 5C**

- Silt fence needs to be entrenched. The existing silt fence is not entrenched anywhere. Maintenance of silt fence will also be required in various areas. Some segments of silt fence appear to have stakes spaced greater than 10 feet apart. These segments may need to be reinstalled per the detail drawings on the SWP3.

- Mulch coverage on the soil pile needs to be increased (2 tons/acre is the application rate).

**A Universal Note for ALL Pump Stations (excluding DiGoia's Tri-Plex pump station)**

- Stabilization continues to be a major issue. Temporarily stabilize all areas that will remain idle for 21 days or longer. If possible, bring the areas up to final grade and permanently stabilize within 7 days.

You are directed to correct the violations noted during this inspection and enforce provisions of the SWP3 and NPDES permit so as to prevent future violations from occurring. Please provide me with a letter of response indicating the actions you have taken to address these concerns. A response letter is expected from all permittees. Include any revisions to the SWP3 that are made as a result of this notice of violation. Your responses should be received **no later than August 6, 2010**. Please be aware that violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation.

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

Sincerely,



Dan Bogoevski  
District Engineer  
Division of Surface Water

DB/mt

cc: Drew Bergman, Ohio EPA, Director's Office, CO  
Dan Halterman, Ohio EPA, DEFA, CO  
Karl Zuber, Mayor, City of Avon Lake  
Rob Berner, Executive Director, Lorain County Rural Wastewater District  
Nancy Funni, Lorain SWCD  
Trustees, Eaton Twp  
Lauren McEleney, Ohio EPA, DSW, CO