



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
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

March 25, 2010

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

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

Dear Mr. Kniepper:

On February 11, 2010, I met with you and members of your staff to discuss storm water runoff concerns related to construction activities from to the above referenced project. I was accompanied by Nancy Funni of the Lorain Soil & Water Conservation District (SWCD). As you know, both Nancy and I have received complaints, primarily from Eaton Twp., about the lack of erosion and sediment controls and improper management of off-site spoil areas. The purpose of our meeting was to make you aware of these complaints and to discuss expectations for proper implementation of sediment and erosion control on this project. Our records indicate that Avon Lake Municipal Utilities has obtained coverage under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC03285 (Contracts 1, 2 and 3) and #3GC04682*AG (Contracts 4 and 5). As of the date of our meeting, construction activities were largely confined to Contracts 1A, 1B, 2A, 2B, 3A and 3C.

We discussed the following issues:

Obtaining Permit Coverage for Co-Permittees

All site operators are required to obtain coverage under the NPDES permit. Operators are defined as 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 modify those plans and specifications, or
- (2) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with the Storm Water Pollution Prevention Plan (SWP3) or other permit condition.

Although a number of co-permittees have obtained NPDES permit coverage as required, it appears that at least one operator has not. At our meeting, you indicated that Mr. Excavator was the successful bidder for Contract 4. Our records do not indicate that Mr. Excavator has filed a Co-Permittee Notice of Intent (Co-Permittee NOI). The NPDES permit requires this form to be submitted to Ohio EPA before the operator seeking permit coverage can begin working on the project. Please review all active contracts associated with this project and be sure that all contractors with day-to-day operational control of activities required to comply with the SWP3 have submitted a Co-Permittee NOI to Ohio EPA before they begin working on the project.

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Ohio EPA recommends that the City check the NPDES permit database at www.epa.ohio.gov/dsw/permits/gplist.aspx to assure that an operator has submitted the Co-Permittee NOI before authorizing them to begin working on the project. For your reference, as of the date of this letter, our records indicate the following contractors have submitted Co-Permittee NOIs:

NPDES Permit #3GC03285*AG (Contracts 1, 2 and 3)

- Dave Sugar Excavating LLC
- DiGioia-Suburban Excavating LLC
- Elite Excavating Co of Ohio Inc
- Fabrizzi Trucking & Paving Co Inc
- Underground Utilities Inc

NPDES Permit #3GC04682*AG (Contracts 4 & 5)

- Fabrizzi Trucking & Paving Co Inc
- Underground Utilities Inc

Requirements for Off-Site Spoil Areas

This project will generate a significant amount of spoils, i.e., extra soil that is not needed on the project and must be transported to other properties. Please note that the NPDES permit requires Avon Lake Municipal Utilities to track where this soil is taken and to assure that sediment and erosion controls are implemented at these sites. At a minimum, a map must be added to the SWP3 for each off-site spoil area showing: (a) its location, (b) the limits where spoils will be placed on the property and (c) the location of all erosion and sediment control practices. Although we understand that the arrangements for off-site spoils are typically a matter between contractors and private landowners, Ohio EPA expects that Avon Lake Municipal Utilities will ensure the requirements of the NPDES permit are met. In your oversight of contractors, please be sure that they are providing you with a sheet to add to the SWP3 with the required information before you authorize spoils from your project to be transported to an off-site area.

Site Inspection

After our meeting, Nancy and I spot-checked several active work areas of the project. We reviewed project areas where Elite Excavating, Fabrizzi Trucking & Paving and DiGioia-Suburban were installing sanitary sewers as well as the off-site spoil pile at Reed Salvage. We were accompanied by Tom Boettler, Inspector for Avon Lake Municipal Utilities. Performing an inspection on a site like this is challenging, particularly since there are so many operators and so many moving parts. It is not the intent of this letter to provide you with a detailed inspection report, as we did not have sufficient time to review work sites of each contractor. I intend to set aside a date in the near future to do this. However, I did note the following non-compliance issues at several of the site locations:

- **Contractors are not implementing the stabilization requirements of the SWP3.** The SWP3 limits the use of silt fence and other sediment controls because it is expected that erosion control, i.e., stabilization measures, will be implemented as the project progresses. As such, once the sanitary sewer is placed and backfilled, this soil must be stabilized immediately or as soon as practical thereafter, but in no circumstance more

than 7 days after the backfill is placed. This requirement drops to 2 days for areas within 50 feet of a stream, wetland or other surface water. No stabilization measures were noted on any portion of the project where sewer lines had been installed. Several contractors indicated that winter weather conditions prevented them from following this provision of the SWP3. This is not an acceptable excuse. The SWP3 provides guidance for stabilization during any time of the year and contractors need to plan accordingly. Acceptable winter stabilization methods include temporary stabilization with straw mulch until such time that permanent vegetation can be established or dormant seeding. Now that we are back in the growing season, standard temporary and permanent stabilization measures can be implemented (see specifications in *Rainwater and Land Development* (Ohio Department of Natural Resources, 2006)) and in the details section of the SWP3. The *Rainwater* manual can be found online at: <http://www.dnr.state.oh.us/soilandwater/water/rainwater/default/tabid/9186/Default.aspx>

- **Inspections required by the NPDES permit are not being conducted and inspection reports are not being completed.** With the exception of Fabrizio Trucking and Paving Co Inc, the other contractors are not inspecting sediment and erosion controls once every 7 days and within 24 hours of a 0.5-inch or greater rainfall event, and/or are not generating inspection records to document the findings of these inspections. Please be aware that these are requirements of the NPDES permit and are stipulated in the SWP3. Performing these inspections is necessary to assure that sediment and erosion controls have been installed properly and that they continue to function until an area reaches final stabilization. It is critically important that these inspections be performed by an individual with training and experience in sediment and erosion control. Fabrizio Trucking and Paving Co Inc was the only contractor able to demonstrate that their inspector is qualified to conduct these inspections.
- **Contractors are not controlling off-site tracking as well as expected.** The NPDES permit requires the use of practices such as good housekeeping and rock construction entrances to minimize off-site tracking. In several instances, I noted construction crews accessing work areas where there is no rock construction entrance installed. Also, several contractors indicated that they had brooms available for their bobcats or front-end loaders to sweep streets, but streets such as Durkee Rd were muddy. Contractors need to perform street sweeping as needed to minimize off-site tracking. Further, contractors should consider using a street sweeper with the ability to also vacuum to pick up soil rather than just a simple broom that typically only transfers the soil from the road to the air and adjacent properties.
- **Contractors need to train their crews on proper techniques for dewatering trenches and other excavations.** The NPDES permit requires the use of sediment settling ponds or other equally effective sediment control devices to prevent turbid discharges from dewatering activities. Acceptable alternatives to sediment settling ponds include: (a) dewatering in place by pumping off the top, after allowing enough time to pass so that sediment has settled within the excavation (generally, at least 24 hours), or (b) using a sump pit, filter bag or comparable practice. See Specification 5.7 *Dewatering Measures* in the *Rainwater* manual. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge.

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However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

Finally, be aware that Ohio EPA received a complaint regarding poor drainage in areas where construction is occurring. Although the complainant was not fully aware of the cause of the problem, drainage may have been impeded by storm drain inlet protection and other construction site sediment controls. Please note that if erosion control is applied as the project progresses, i.e., applying seed and mulch or seed and matting immediately after backfill and soil is placed over the pipe, the need for sediment controls is minimized. This construction technique, along with contractor training, may go a long way toward addressing complaints.

Please provide me with a letter of response, indicating the actions you have taken to address the concerns noted in this letter. Your response should be received **by April 12, 2010**. Be aware that 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: Karl Zuber, Mayor, City of Avon Lake
Rob Berner, Executive Director, Lorain County Rural Wastewater District
Dave Sugar Excavating LLC
DiGioia-Suburban Excavating LLC
Elite Excavating Co of Ohio Inc
Fabrizzi Trucking & Paving Co Inc
Underground Utilities Inc
Nancy Funni, Lorain SWCD
Trustees, Eaton Twp
Lauren McEleney, Ohio EPA, DSW, CO

LORCO SEWER – CONTRACTS 1-5
Eaton Twp Lorain County
Operator: Avon Lake Municipal Utilities and Co-Permittees

Photos Taken: February 11, 2010
By: Dan Bogoevski, DSW-NEDO



Fig 1. Tracking of mud onto Durkee Road by construction vehicles.



Fig 2 (LEFT). Oil sheen on SR 82 at a Fabrizio workszone. This is just one of several I observed. Be sure that construction vehicles are maintained to avoid releases of fluids to the environment.



Fig 3 (RIGHT). Construction vehicles may remain on the road or access the site via rock construction entrances. At this DiGioia-Surburban workzone, no construction entrance was installed, resulting in off-site tracking.

LORCO SEWER – CONTRACTS 1-5
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