



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

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

December 11, 2009

CERTIFIED MAIL

Ms. Lucinda Corna
Angelo Enterprises, LLC
1100 Gulf Road
Elyria, Ohio 44035

RE: Demonstration that no fill has occurred in Waters of the State

Dear Ms. Corna:

Thank you for submitting the November 23, 2009 letter to Dan Bogoevski of the Northeast District Office of Ohio EPA, which included as attachments the "Black River Flood Hazard Study", Bluestar Recycling letter, Allied Waste/BFI letter and the Environmental Site Assessment. Ohio EPA still has not received a wetland delineation report showing where wetlands occur on the property, especially in relation to the fill material that has been removed.

The Environmental Site Assessment is a Phase 1 site assessment and not a wetland delineation. Although the Environmental Site Assessment contains a statement that the National Wetland Inventory (NWI) does not indicate the presence of wetlands, the NWI does not provide site-scale information. It is not accepted by the United States Army Corps of Engineers or Ohio EPA as a substitute for a wetland delineation in 401/404 permit matters.

We understand that you are anxious to resolve this matter, and have hired **Flickinger Wetland Services Group, Inc.** (Flickinger) to delineate the entire property. Your expectation is that the delineation will be done before the end of the year. Given that it may take awhile for Flickinger to finalize their report, in the interest of continuing to demonstrate that you are working toward resolving this matter, please ask Flickinger to contact Joe Loucek when:

1. They have scheduled the date(s) for performing the delineation;
2. Once they have completed the fieldwork portion of the delineation; and
3. When they send you a copy of the delineation.

Please be aware that in order for the delineation to be "official", the U.S. Army Corps of Engineers (Corps) must verify the delineation, and send to you a "jurisdictional

Ms. Lucinda Corna
December 11, 2009
Page 2

determination" (JD). That may take the Corps awhile, and Joe will not be able to make a determination regarding whether or not filling within waters of the state has occurred until the Corps issues their JD. Regardless of the Corps' timeframe, there is an expectation on your part to demonstrate a continued trend toward compliance by notifying me as requested.

Within fifteen (15) days of you receiving the delineation report from Flickinger, or their submitting it on your behalf to the Corps, whichever happens first, please send Joe a copy.

On Friday December 11, 2009, we met with you to discuss these issues. You stated that your financing expires at the end of the year, and that the last opportunity you have to get a conditional use approval from the city planning commission to move forward with the engineering, design and permitting phase of your plan is at their meeting on Monday December 14, 2009. In terms of finding an amenable way for you to resolve the outstanding wetland issues and not have it be a hindrance to getting you getting a conditional use approval from the planning commission, we recommend the planning commission include following condition be incorporated into the conditional use approval:

"No construction, road construction, land grading or land clearing may occur on any part of the property until a 401 Water Quality Certification and 404 Permit is issued by Ohio EPA and the U.S. Army Corps of Engineers, respectively."

Storm Water Program Issues

We were able to resolve the outstanding storm water issues associated with the construction activities conducted on the site in 2009. A Notice of Intent (NOI) was submitted by Spring Valley Golf Course to obtain coverage under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC04727*AG. Ohio EPA authorized coverage under the NPDES permit on November 30, 2009. Further, you provided the Agency with photographs to demonstrate compliance with the permit. The photos showed that areas disturbed by construction have been re-vegetated. The temporary stockpile of clean hard fill has been soiled, seeded and strawed and silt fence has been installed. Please be sure to maintain these controls until the grass can establish in Spring 2010. To assure controls are maintained, the NPDES permit requires you to inspect storm water best management practices once every 7 days and within 24 hours of a 0.5-inch or greater rainfall. This inspection frequency can be reduced to once per month when there are frozen ground conditions. You must create inspection reports to document the results of these inspections (see Part III.G.2.h of the NPDES permit). Either the City of Elyria or Ohio EPA can ask you to submit these reports at any time.

Ms. Lucinda Corna
December 11, 2009
Page 3

The Elyria Health Department and Ohio EPA Division of Solid and Infectious Waste Management (DSIWM) have verified that municipal solid waste and construction and demolition debris have been removed from the site and have been disposed of properly. Thus, issues related to discharging leachate have been resolved.

Finally, please keep in mind that NPDES permit #3GC04727*AG only covers the construction activities conducted on the site this past year. Any future construction activities associated with your plan to develop residential areas within the golf course or any future golf course improvements that disturb 1 or more acre of land will require additional NPDES permit coverage. Additional coverage is obtained by developing a Storm Water Pollution Prevention Plan (SWP3) and submitting an NOI with appropriate permit fee and project boundary and location map at least 21 days prior to the start of construction activities. The SWP3 must be submitted to the City of Elyria for review and approval before construction can begin.

If you have any questions, please do not hesitate to call Joe Loucek for wetland issues at (330) 963-1258 or Dan Bogoevski for storm water issues at (330) 963-1145.

Sincerely,



Dan Bogoevski
Storm Water Coordinator



Joe Loucek
Wetlands Coordinator

DB/JL/mt

cc: Clarissa Gereby, Ohio EPA, DSIWM, NEDO
David Oakes, Director, City of Elyria Health Dept.
Tim Crockett, US Army Corps of Engineers, Buffalo District
Mokund Moghe, Engineer, City of Elyria
William Grace, Mayor, City of Elyria