

**Environmental
Protection Agency**

Gov. John Kasich, Governor
Sen. Rob Portman, Lt. Governor
Chris White, Director

December 20, 2010

**RE: LORAIN COUNTY
EATON TWP.
BARRINGTON PARK SUBDIVISION PH 4
CONSTRUCTION STORM WATER**

Robert Yost
North Grafton Realty LLC
260 S. Logan St.
Elyria, OH 44035

Brian Hetsler
Hetsler Excavating Inc.
18115 Indian Hollow Road
Grafton, OH 44044

Dear Mr. Yost and Mr. Hetsler:

On November 10, 2010, and again on December 6, 2010, I inspected the above referenced site for compliance with the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC05024*AG. I was accompanied both times by Nancy Funni of the Lorain Soil & Water Conservation District (SWCD) and Wayne Mileti of the Lorain County Engineer's Office. Both times we met with Hetsler Excavating, excavating contractor for North Grafton Realty LLC.

Storm Water Pollution Prevention Plan

Although local regulations break storm water management from new developments into two separate plans, be aware that the NPDES permit requires one, comprehensive, stand-alone Storm Water Pollution Prevention Plan (SWP3) that is essentially a combination of these two plans. The SWP3 is required to address not only the sediment and erosion controls to be implemented during the construction of the development, but the permanent, post-construction water quality practices as well. **Ohio EPA is requesting a complete copy of the SWP3 be submitted for review.** Be sure that the submitted plan reflects the latest amendments that have been made as a result of comments made by Lorain SWCD, the Lorain County Engineer, Ohio EPA, or due to unexpected circumstances encountered after the start of construction or change in development plans. The NPDES permit requires you to keep the plan up-to-date so that it reflects current development plans, site conditions and plan implementation. Per the requirements of Part III.C.2.b of the NPDES permit, the plan is to be submitted to Ohio EPA within 10 days of written request. However, due to the holidays, Ohio EPA will extend the deadline **to January 7, 2011.**

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Construction Site Runoff Controls

My inspection on November 10, 2010, revealed that the sediment and erosion controls depicted on the Erosion and Sediment Control Plan (ESC plan) submitted to Lorain SWCD were not installed. My inspection also revealed that the contractor did not have a copy of the ESC plan submitted to Lorain SWCD and thus, was not working off the expected plan. In the weeks that followed, Lorain SWCD contacted you and worked with Hetsler Excavating and Jeff Keefe of KS Associates, project engineers, to determine the appropriate steps to compliance with local sediment and erosion control requirements. Local requirements for sediment and erosion control mirror those of the NPDES permit.

My inspection on December 6, 2010, revealed that the sediment traps and perimeter diversions shown on the ESC plan submitted to Lorain SWCD had been installed, but after discussion with Mr. Keefe via telephone, it appears that they were not set at the elevations shown on the ESC plan. Using the elevations shown on the plan is critical to ensuring dewatering between storm events and correct function of the sediment traps. As with all sediment ponds, sediment traps are required to dewater a volume of 67 cubic yards per acre of total contributing drainage area and provide an additional storage volume below the dewatering structure of 1,000 cubic feet per acre of disturbed area. A review of the ESC plan indicates that they have been designed to meet these requirements, however, as constructed, the sediment traps do not provide any dewatering volume. After our discussion with Mr. Keefe, we notified Hetsler Excavating of the situation and instructed him to make changes as needed to comply with the ESC plan and ensure the sediment traps function as intended.

Please provide verification that the sediment traps and diversions are now installed per the ESC plan. Further, please be sure that the ESC plan has been updated to reflect the addition of the rear yard drain and associated storm sewer system to which the sediment trap in the NW corner of the site will discharge.

Finally, please note that all storm drains will require inlet protection. The storm sewer system does not flow through either sediment trap, thus the traps cannot be relied upon to control sediment in runoff conveyed in the storm sewer system. Storm drain inlet protection must be installed on curb and yard inlets as soon as it is possible for runoff to enter the catch basin.

Post-Construction Water Quality Control

During my discussions with Mr. Keefe on December 6, 2010, he indicated that the two-celled storm water detention basin is to provide the post-construction water quality control required by the NPDES permit for Phases 1, 2, 4 and the future Phase 3. This two-celled system was designed during the initial phases of the Barrington Park

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Subdivision. It should be noted that Phase 1 and a good portion of Phase 2 are built-out, yet the two-celled pond system is not completed.

Please provide an indication of when the pond system will be completed and when the post-construction water quality outlet will be put in place. Because the pond is not being used as a temporary sediment basin for construction and because it provides post-construction services to existing phases, the pond and post-construction water quality outlet should already be in place.

I also noted that the second of the two cells of the pond system is not designed to maximize the length of the flow path between inlet and outlet. The inlet that conveys runoff from the first cell to the second cell is very near the outlet of the second cell. I suggested that Mr. Keefe provide a baffle or reconfigure the second cell to provide a minimum 2:1 length-to-width ratio between inlet and outlet. Please indicate the changes that will be made to the second cell of the pond system to increase length-to-width ratio to a minimum 2:1. **Note: *Rainwater and Land Development, Ohio's Standards for Stormwater Management, Land Development and Urban Stream Protection***, recommends a minimum 3:1 length-to-width ratio. Every attempt should be made to meet this recommendation, however, Ohio EPA understands that there may be limitations in meeting this minimum now that the pond system is partially-constructed.

The post-construction water quality control plan is a vital part of the SWP3. Please be sure the plan indicates the boundaries and sizes of the post-construction drainage areas to the pond system, a detail drawing of the pond system outlet structure, an indication of the elevation at which the storage of the Water Quality Volume (WQv) is achieved and associated calculations. The post-construction portion of the SWP3 must also include a long-term maintenance plan as described in Part III.G.2.e of the NPDES permit. This should be included in the submittal of the SWP3. Be aware that the long-term maintenance plan is required to be a stand-alone subsection of the SWP3, as a copy of it must be provided to local officials and the party that will be responsible for conducting long-term maintenance tasks.

Administrative Compliance Issues

It appears that Hetsler Excavating is in charge of day-to-day operations required for SWP3 compliance at the construction site. As such, Hetsler Excavating is required to obtain NPDES permit coverage. A review of our records does not indicate that Hetsler has done so. Failure to obtain NPDES permit coverage is a violation of Ohio Administrative Code 3745-38-06 and Ohio Revised Code 6111.04. Hetsler Excavating must submit a Co-Permittee Notice of Intent (Co-Permittee NOI) to correct this violation. Please submit the Co-Permittee NOI by December 29, 2010. A copy of the form and instructions is available on our website at www.epa.ohio.gov/dsw/storm/stormform.aspx.

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In addition to the Co-Permittee, there may be other contractors and subcontractors that work on this site and their work may affect compliance with the SWP3. The NPDES permit requires North Grafton Realty LLC to maintain a signed document from each such contractor and subcontractor. I have enclosed a sample certification statement that can be used to satisfy this requirement of the NPDES permit as an example of what is expected. Please ensure that you are obtaining the certifications from all applicable parties and keeping them on file with the SWP3. The SWP3 is to be kept on-site whenever work is occurring and must be made available to Ohio EPA, Lorain SWCD or the Lorain County Engineer upon request.

Also, please remember North Grafton Realty LLC is required to conduct their own compliance inspections to ensure implementation and adequacy of the SWP3. Inspections are required once every 7 days and within 24 hours of a 0.5-inch or greater rainfall. You are required to maintain a written record of each inspection with the SWP3. Please be sure that these inspections are being conducted by a qualified inspector knowledgeable in sediment and erosion control and the NPDES permit requirements. A list of Certified Erosion, Sediment and Storm Water Inspectors (CESSWI) and Certified Professionals in Erosion and Sediment Control (CPESC) is available at the respective website for these professional organizations.

Please provide me with a letter of response indicating the actions you have taken to address my concerns. This letter should accompany the SWP3 to be submitted **by January 7, 2011**. As a reminder, failure to comply with the NPDES permit is a violation of Ohio Revised Code 6111.04 and 6111.07. Violations of ORC 6111 are 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:cl
Enclosure

cc: Jeff Keefe, KS Associates
Wayne Milet, Lorain County Engineer's Office

Nancy Funni, Lorain SWCD
Trustees, Eaton Twp.