Ohio | Environmental Protection Agency

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

Re: Mercer and Auglaize Counties
Storm Water
Construction

July 27, 2010

CERTIFIED MAIL

Mr. Steve Klosterman
Klosterman Development Company
4696 US RT 127
Celina, OH 45822

Dear Mr. Klosterman:

On June 28, 2010, I conducted inspections of your construction sites in Mercer and Auglaize Counties in order to evaluate these sites for compliance with the National Pollutant Discharge Elimination System (NPDES) Permit for storm water associated with construction activity, also known as CGP. Inspections are conducted under the provisions of Ohio's water pollution control statutes, Ohio Revised Code (ORC) Chapter 6111.

The sites inspected are: SR 219 & 127 (Facility ID no. 2GC03021*AG), the area east of Klosterman Cove (no permit found for this site), Klosterman Cove (Facility ID no. 2GC01153*AG and 2GC01107*AG), Hillside Court (Facility ID Number OHR110806), and Blue Heron Bay (Facility ID no. 2GC02368*AG). All of these sites have final drainage to Grand Lake St. Mary.

My inspections show that the terms and conditions of the CGP continue to be ignored. The following are observations and violations for each of the sites. These are basically the same observations and violations that have been noted previously and have yet to be addressed.

In addition, I have requested the Storm Water Pollution Prevention Plan (SWP3) for each of your permitted sites numerous times, the last request made in a letter addressed to you and dated April 12, 2010. As of this date, you have not honored any of my requests that you submit these SWP3s.

You did fax a response to me on March 11, 2010 addressing my February 25 inspection letter. Your responses are shown below in italics above my comments for each site.

**<u>SR 219 & 127 – Mercer County</u>**

*Working is ongoing. There are some patchy areas. I will over seed this spring.*

On my June 28th inspection, I again observed extensive weed growth and many bare patches over the entire site. **This is a violation of CGP Part III.G.2.b.i.**

**Northwest District Office**
347 North Dunbridge Road
Bowling Green, OH 43402-9398

419 | 352 8461
419 | 352 8468 (fax)
www.epa.ohio.gov

The CGP requires that portions of the construction site which will be inactive for more than 21 days must have temporary stabilization initiated within the first seven days. Permanent stabilization is required within seven days on any portion of the site that has reached final grade or will be idle for longer than one year. If seasonal conditions prohibit the establishment of vegetative cover, other means, such as mulching and matting, must still be used and maintained until more permanent methods can be implemented.

**Area east of Klosterman Cove – Auglaize County**

*We just cleared some weeds. From the stone that is behind the concrete seawall. It was less than 1 acre. The pile of dirt was put there years ago when we did phases 2 & 3.*

As of the date of this letter, I still do not have a record of CGP coverage being granted for this project. The CGP Part I.B. **Eligibility** states "For the purposes of this permit, construction activities include any clearing, grading excavating, grubbing and/or fill activities that disturb the threshold acreage which includes the entire area disturbed in the larger common plan of development or sale. The land being adjacent to your existing construction sites, and the placement of dirt from the existing construction sites constitutes this site as part of a common greater plan. Without a SWP3, I cannot tell if this site was to be included in another permitted area. **Failure to obtain a NPDES permit in a timely manner is a violation of Ohio Revised Code Chapter 6111.**

On June 28, 2010 I observed that there were no sediment or erosion controls in place. **This is a violation of the CGP Part III.G.2.d.**

**Klosterman Cove – Auglaize County**

*You say undeveloped lots. I don't know what you mean by that. There is Klosterman Kove Phase III which I still own 14 lots. There is concrete seawall with stone behind it. There is no chance of wash. We seeded those lots before, about 2 years ago. I will reseed it this spring.*

Again, without a SWP3, I cannot tell the limits of each development. In this area, there are numerous undeveloped lots. That is, it is not apparent that construction has been finished on each of the lots. I observed extensive weed growth and many bare patches on undeveloped lots within these developments as well as severe erosion patterns. **This is a violation of the CGP Part III.G.2.b.i.**

The CGP requires that portions of the construction site which will be inactive for more than 21 days must have temporary stabilization initiated within the first seven days. Permanent stabilization is required within seven days on any portion of the site that has reached final grade or will be idle for longer than one year. If seasonal conditions prohibit the establishment of vegetative cover, other means, such as mulching and matting, must still be used and maintained until more permanent methods can be implemented.

Along the canals of the undeveloped sites, sediment washes into the canals during rain events. This is evident by the erosion patterns in the soil and the observation of sediment on the concrete seawall **This is a violation of the CGP Part III.G.2.d.**

There is no inlet protection for catch basins. This **is a violation of the CGP Part III.G.2.d.iv**

**Hillside Court – Mercer County**

*I haven't owned any property there for years.*

You still hold a CGP for this development, there are undeveloped lots in this development, and no individual lot Notice of Intents (NOIs) have been submitted for any lots in this development.

No sediment and erosion controls were in place including inlet protection. **This is a violation of the CGP Part IIII.G.2.b.and d.**

In some areas of the development, silt fence had been installed but has collapsed and has not been maintained. **This is a violation of the CGP Part IIII.G.2.d.v.**

There were areas that were at final grade or had been inactive for more than 45 days that did not have temporary or final seeding. Inactive areas within 50 feet of a waterway are to have soil stabilization practices begun within two days.

**Blue Heron Bay – Auglaize County**

*This is a proposed sub. at the Klosterman Kove site. No work has begun yet.*

And again, without a SWP3, I do not know the exact limits of this site. **Part III.B. states that a SWP3 shall be completed prior to the timely submittal of an NOI and updated in accordance with Part III.D. Part III.C.2.b states that the permittee must provide a copy of the SWP3 within 10 days upon written request.**

Klosterman Development Company holds a construction general permit or (CGP), Facility ID no. 2GC02368*AG for the site on the northeast corner of the Schneider Rd and Koehn Rd intersection. Clearing of the site has already occurred. There were no sediment or erosion controls in place nor was there a construction entrance observed. **This is a violation of the CGP Part III.G.2.**

Piles of dirt and bare areas within this development are present. **This is a violation of the CGP Part III.G.2.b.i .**

The CGP requires that portions of the construction site which will be inactive for more than 21 days must have temporary stabilization initiated within the first seven days. Permanent stabilization is required within seven days on any portion of the site that has reached final grade or will be idle for longer than one year.

If seasonal conditions prohibit the establishment of vegetative cover, other means, such as mulching and matting, must still be used and maintained until more permanent methods can be implemented.

Please be aware that this construction site will be required to install post construction controls to address stormwater runoff quality and quantity.

The continued disregard of the conditions of the CGP, along with failure to correct the violations of your permits, and the lack of submittal of SWP3s upon request, leaves me with no option other than to recommend enforcement action against you.

Sincerely,

Patricia A. Tebbe, P.E.
Division of Surface Water

/lb

pc: DSW-NWDO file
Auglaize County Engineer
Auglaize County SWCD
Mercer County Engineer
Mercer County SWCD
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DSW-PT-LB

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Mr. Steve Klosterman
Klosterman Dev Company
4696 US Rt 127
Celina Oh 45822

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Street, Apt. No.; or PO Box No.: Klosterman Dev Co 4696 US Rt 127
City, State, ZIP+4: Celina Oh 45822

PS Form 3800, June 2002 See Reverse for Instructions