



**Environmental  
Protection Agency**

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

Re: Erie County  
Former ConAgra Facility/City of  
Huron  
Construction/MS4  
Storm Water

December 30, 2010

Mr. Andrew White, City Manager  
City of Huron  
417 Main Street  
Huron, Ohio 44830

Dear Mr. White:

On December 2, 2010, I inspected the Former ConAgra Facility. The visit was in response to a citizen report about a lack of sediment controls along the Huron River. The site currently has coverage under the National Pollutant Discharge Elimination System (NPDES) permit for storm water discharges associated with construction activity (Construction General Permit, or CGP). The inspection also served to evaluate the City's progress in implementing the Pollution Prevention for Municipal Operations Minimum Control Measure of the NPDES permit for storm water discharges from the Municipal Separate Storm Sewer System (Small MS4 General Permit), Facility ID No. 2GQ00027.

The City of Huron obtained permit coverage under the CGP for two areas of this site. Initial coverage was granted for four (4) acres on the southern portion of the site to develop a new boat ramp (Facility ID No. 2GC02173). Based on our December 20, 2010, phone conversation and my observations, I understand this project has been completed. A Notice of Termination must be filed to relieve you of the obligation to comply with this general permit. An NOT may be filed if one or more of the following conditions have been met:

- Final stabilization has been established on all areas of the site for which the permittee is responsible. Final stabilization means that all soil disturbing activities at the site are complete and a uniform perennial vegetative cover of at least 70% density has been established over the entire site. All temporary erosion and sediment control measures have been removed, properly disposed of, and all trapped sediment has been permanently stabilized; or
- Another operator(s) has assumed control over all areas of the site that have not been fully stabilized.

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While the site had been seeded and straw mulch applied, there remained a few areas where the grass cover had not yet reached a 70% density. Once this criteria has been met or if ODNR has assumed control of the entire site, you will be eligible to file the NOT form. The NOT form and instructions can be found on our website: <http://www.epa.ohio.gov/dsw/storm/stormform.aspx>. NOTs must be filed with Ohio EPA's Central Office within 45 days of when the above criteria are met.

The second area with CGP coverage is the northern 11 acres of the site, Facility ID No. 2GC02675. At the time of my visit, Ed Burdue, of Ed Burdue & Co., was present to provide information on the project. The building on the west side had been demolished. Demolition work was occurring on the east side of the site. On the west side of the site, the vegetation on the bank of the Huron River had been cleared, but not grubbed. Barnes Nursery had completed this clearing activity the previous week (the week of November 22). As a result of this visit, I have the following comments:

1. A copy of the Storm Water Pollution Prevention Plans and the inspections logs were not available onsite. *This is a violation of Part III.C.2. of the permit.* These documents must be available onsite during normal working hours. Mr. Burdue reported that the plans were located at the City's offices and that Hull & Associates was responsible for conducting inspections. When construction trailers are not onsite, SWP3s may be kept in a contractor's vehicle or in a temporary mailbox. Please submit a complete copy of the SWP3 to this office within 10 days of the date on this letter. The SWP3 must include the inspection reports, the grading and stabilization logs, and the current site map with the locations of controls and delineated drainage areas for each control.
2. Structural sediment controls were not in place to address all runoff from the site. A catch basin, located between the silos and the remaining building and which drained to the east, did not have inlet protection. Silt fence had been installed on the east and north sides of the site but was absent from the west side along the Huron River. *Permit Requires:* Sheet flow from denuded areas shall be intercepted by sediment barriers. Flows which exceed the design capacity of sediment barriers shall pass through a sediment settling pond. Controls practices shall prevent sediment laden water from entering storm drain systems and shall protect adjacent streams. *These are violations of Parts III.G.2.d.iii., iv., and v. of the permit.* Mr. Burdue indicated that he would install inlet protection on the catch basin, but his contract does not cover all areas of the site or aspects of this project. Please insure that all required sediment controls have been installed.

3. The SWP3 was not available to confirm drainage areas for each sediment control. However, due to the size of the site, it appears that one or more sediment settling ponds are required. *Permit Requires:* The maximum drainage area behind silt fence is:

Drainage Area for 100 Lineal Ft. of Silt Fence	Range of Slope
0.5 acres	<2%
0.25 acres	≥2% but <20%
0.125 acres	≥20% but <50%

When the above criteria are exceeded, diversions which direct runoff to one or more sediment settling ponds are required. *Please see Part III.G.2.d.ii. of the permit.* Please evaluate your site. If the drainage areas in the table will be exceeded, sediment settling ponds must be installed.

4. The joints of the silt fence had been installed incorrectly and the stakes had pulled part in one location on the north side. *Permit Requires:* All erosion and sediment control practices used to meet the conditions of this permit should meet the standards and specifications of the current edition of Ohio's *Rainwater and Land Development Manual* (ODNR) or other standards acceptable to Ohio EPA. *This is a violation of Part III.G.2. of the permit. Permit Requires:* All control practices shall be maintained and repaired as needed to assure continued performance of their intended function. *This is a violation of Part III.G.2.h. of the permit.* Silt fence must be properly installed.
5. Silt fence was down in the northwest part of the site. Mr. Burdue indicated this probably occurred while Barnes was clearing the banks the previous week. *Permit Requires:* All control practices shall be maintained and repaired as needed to assure continued performance of their intended function. *This is a violation of Part III.G.2.h. of the permit. Permit Requires:* Control practices must be repaired within 3 days of inspection. *This is a violation of Part III.G.2.i.i. of the permit.* Silt fence must be repaired.

6. Since Barnes Nursery demobilized from the site the previous week, more than two days had passed and temporary stabilization had not been applied to bare ground within 50 ft of the Huron River. *Permit Requires:* Portions of the construction site which will be inactive for more than 21 days must have temporary stabilization initiated within the first seven. Temporary stabilization is required prior to the onset of winter weather for ground that will be idle over winter. Permanent stabilization is required within seven (7) days on any portion of the site that has reached final grade or will be idle for longer than one (1) year. Soil stabilization practices shall be initiated within two (2) days on inactive, barren areas within 50 feet of a stream. Permanent seeding and mulching is required before construction activity is completed throughout the entire site. 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. *Failure to do so is a violation of Part III.G.2.b.i. of the permit.* At a minimum, temporary stabilization must be applied to all bare idle areas. Depending on the conditions of the riverbank, options may include: rip-rap, erosion control matting, or soil stabilizers (polymers).
7. Mr. Burdue indicated that this is a brownfield site and contaminated soils are to be excavated and removed from the property. While brownfield sites are eligible for coverage under the Construction General Permit, the CGP does not authorize the discharge of contaminated storm water or contaminated groundwater. Soils that meet VAP standards may still result in discharges of storm water runoff that exceed Ohio's Water Quality Standards. Discharges of storm water covered by the CGP must comply with Ohio's Water Quality Standards, which can be found in OAC 3745-1 (see [http://epa.ohio.gov/dsw/rules/3745\\_1.aspx](http://epa.ohio.gov/dsw/rules/3745_1.aspx)). In order to be eligible for CGP coverage, the Storm Water Pollution Prevention Plan (SWP3) must include special Best Management Practices (BMPs) to insure contaminated water is not discharged: i.e. covering contaminated soil with tarps, pumping contaminated runoff or groundwater to tanks and shipping offsite to a proper disposal facility, or pumping to a sanitary sewer (with the sewer authority's permission). The SWP3 must identify the areas of concern and provide the appropriate Best Management Practices (BMPs) to prevent a discharge of contaminated water. If the operator can't meet the eligibility criteria in the CGP, an individual NPDES permit would have to be obtained. Please describe what BMPs will be implemented at this site.
8. Please keep in mind that the CGP covers those storm water discharges that occur during construction. The CGP mentions (Part III.G.2.e.) that discharges of pollutants once construction is completed may need authorization under a separate NPDES permit.

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9. Under the City's Small MS4 General Permit, the City must develop and implement a Storm Water Management Program (SWMP) to control the discharge of pollutants to waters of the state from municipal operations, including construction. The City's SWMP appears to be deficient as it did not describe how contractual staff performing operation and maintenance activities for the City are required to consider storm water quality and implement appropriate BMPs. Also, considering the compliance issues on this site, there appear to be deficiencies in implementing the SWMP. *These are violations of Part III.B.4 of the permit.* I have the following recommendations:
- a. Please be sure to have bid requests/contract language/agreements which specify that storm water BMPs must be implemented by the third party when hiring third party service providers whose activities can create storm water pollution. The contractor should be held accountable to comply with the storm water requirements of the City.
  - b. When contracted planners and engineers are used for the design of MS4-owned projects, please be sure that the contract language specifies that storm water BMPs be incorporated into the design.
  - c. When contracted inspectors are utilized, agreements should specify minimum inspection, maintenance and reporting requirements.
  - d. Periodic inspection of third party operations/services is also suggested, to insure they are consistent with the contract and with the City's standards

Within 10 days of the date on this letter, please submit to this office a **written response** to the above comments. Your reply should describe the actions taken or proposed to prevent any future violations, including dates for the completion of the actions. If there are any questions, please contact me at (419) 373-3009.

Sincerely,



Lynette Hablitzel, P.E.  
Division of Surface Water  
Storm Water Program

/llr

ec: Jason Fyffe, CO-DSW  
pc: ~~DSW;NWDO;File~~  
Ed Burdue, Ed Burdue & Co.  
Tim White, District Director, Erie Soil & Water Conservation District