



**Environmental  
Protection Agency**

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

**RECEIVED**  
OCT 13 2010  
OHIO E.P.A.  
N.W.D.C.

Re: Lucas County  
Hollywood Casino – Toledo  
Construction  
Storm Water

October 5, 2010

Mr. William McCowin  
Toledo Gaming Ventures, Inc.  
825 Berkshire Boulevard  
Wyomissing, Pennsylvania 19610

Mr. Chris Stueve  
Rudolph/Libbe, Inc.  
6494 Latcha Road  
Walbridge, Ohio 43465

Dear Mr. McCowin and Mr. Stueve:

On September 16, 2010, Brian McGlown and I inspected the Hollywood Casino project at 1968 Miami Street, Toledo, Ohio (photos taken). The purpose of our visit was to evaluate compliance of the site with the National Pollutant Discharge Elimination System (NPDES) permit for storm water discharges associated with construction activity, Facility ID No. 2GC02686. The inspection was conducted under the provisions of Ohio's water pollution control statutes, Ohio Revised Code (ORC) Chapter 6111. Mike Keane, Superintendent, and Chris Stueve, Project Manager, of Rudolph/Libbe were present to provide information on the project. Ms. Regina Collins, City of Toledo, Division of Environmental Services, was also present. Ben Smith and I revisited the site on September 29, 2010.

Ohio EPA has not received a Co-Permittee Notice of Intent (NOI) application for this project. This form is used by construction site operators, as defined in Part VII.O. of the Construction General Permit (CGP), to become co-permittees with the initial permittee of a construction site. Please note that Part II.A. of the CGP **requires all operators at a construction site to become co-permittees**. Mr. Keane indicated that Rudolph/Libbe is acting as general contractor and is responsible for the day-to-day operation of the site. This letter serves to notify Rudolph/Libbe of these permitting obligations. Please submit a Co-Permittee NOI to Ohio EPA's Central Office or an explanation of why Rudolph/Libbe is not an "operator". Copies of the Co-Permittee NOI and its instructions may be downloaded from our website at <http://epa.ohio.gov/dsw/storm/stormform.aspx>.

Mr. William McCowin  
Mr. Chris Stueve  
October 5, 2010  
Page Two

As a result of the inspections, I have the following comments:

1. At the time of the September 16<sup>th</sup> inspection, construction at the site was ongoing. Cut and fill activities appeared to be about 80% complete. Most of the earthwork was moving the soils near the existing pond (west of the I-75 Bridge) to the property on the east side of the I-75 Bridge. Sanitary sewers and waterlines were being installed.

The stone base for the structures (buildings and parking lots) was almost completely laid, with work continuing on the Northwest Parking Area. There was no ponding water onsite. I did not see discharges from the construction area or from the three existing outfalls. Due to vegetation and steep slopes, I could not view most of the riverbank from above. The existing storm sewers and storm water pond remained in place. Rudolph/Libbe anticipated that installation of new storm sewers would commence the following Tuesday when materials arrived.

At the time of the September 29<sup>th</sup> visit, earthwork was continuing on the eastern portion of the site. Steel pilings for the structures were being driven into the ground. Storm sewers were being installed.

2. A Storm Water Pollution Prevention Plan (SWP3) had been developed for the site and was available during the September 16<sup>th</sup> visit. A general overview of the onsite SWP3 indicated some deficiencies, such as drainage areas not being delineated on the site map and their contributing drainage area not provided. This information is a required component of the site's SWP3. *This is a violation of Part III.G. of the permit.* Mr. Keane stated an intention to direct runoff that might collect in the area of the northwest parking lot and the north central part of the site through the existing VortSentry Units. As I discussed with him, **VortSentry Units are not an acceptable sediment control during construction.** Specific prohibitions against doing this are stated in the SWP3. However, at the time of my visit the stone base was almost complete in the northwest parking area. If there is clear water ponded above the stone, I would accept diverting this water through the VortSentry Unit.

I spoke with Josh O'Neil, P.E., with DGL, on September 22, 2010. Some changes have been made to the SWP3 since its July 15, 2010, submittal to Ohio EPA. The existing pond will not be a retention pond for post-construction purposes, so excavation of the pond's bottom will not occur.

3. Inspection logs have been kept since August 30, 2010, and appeared to meet the frequency requirements. Rudolph/Libbe was using rainfall measurements from Metcalf Field, five miles southeast. Due to the spatial differences in precipitation amounts, I recommend an onsite rain gauge. The logs did not include all required information, such as observations for the outfalls, fuel storage, and a certification that the facility is in compliance with the SWP3 and the permit. The record and certification must be signed in accordance with Part V.G. of the permit. *This is a violation of Part III.G.2.i. of the permit.* Inspections must include: disturbed areas, material storage areas, all sediment and erosion control measures, discharge locations, and all vehicle access points.

The permit also requires that a log documenting grading and stabilization activities, as well as amendments to the SWP3, be maintained (see Part III.G.1.m. of the permit). Rudolph/Libbe kept a site activity log, a narrative which recorded activities. The logs referenced large sections (multiple acres) of the site. I discussed with Rudolph/Libbe that stabilization is required on any idle portion of the site, including a stockpile as small as a car, which may get overlooked when the activity notes are broad. To stay in compliance with the stabilization requirements, I recommended using a site map to more accurately delineate work areas and note the related dates.

4. Sediment controls appeared to be in place to address runoff from all disturbed areas. Inlet protection had been installed on the onsite catch basin as well as those along Miami Street. Silt fence had been installed around the perimeter. Berms were placed along the northern side of the construction area to divert flow towards the east and the existing pond. Rudolph/Libbe indicated that due to the nature of the ground material, there is very little to no runoff from the project.

Information on the pond's design was received on September 22, 2010. It did not appear to meet the permit requirements for a sediment settling basin: a dewatering zone sized at 67 cubic yards per total contributing drainage acre; a dewatering depth less than or equal to five feet; a minimum 48-hour drain time of the dewatering zone; a sediment storage zone sized at 1,000 cubic feet per disturbed acre; and the distance between inlets and the outlet having at least a 2:1 length:width ratio. *This is a violation of Part III.G.2.d.ii. of the permit.*

Based on subsequent emails with Mr. O'Neil and my conversation with Mike Keane on September 29<sup>th</sup>, a plug had been installed after my September 16<sup>th</sup> visit in the lower catch basin outlet structure. Storm water will not discharge from the pond until it reaches the second catch basin outlet structure (over 45,000 c.f. of volume). Any storm water in the pond at the 48-hour mark after the rain event will be pumped into the City of Toledo sanitary sewer. This appears to meet the permit requirements. While on site September 29<sup>th</sup>, I observed a few small areas of ponding water due to rain that had occurred in the previous 24 hours. Very little water was present in the pond. There was a small amount of liquid present in the bottom of the pond's outfall, possibly due to water seepage along and into the storm sewer. *There does not appear to be a discharge from the lower pond outlet.*

5. During the September 16<sup>th</sup> inspection, it appeared that more than half an acre was tributary to the silt fence located in the southwest corner of the site, west of the existing drive. *Permit Requires:* The maximum drainage area behind silt fence is:

<b>Drainage Area for 100 Lineal Feet of Silt Fence</b>	<b>Range of Slope</b>
0.5 acres	<2%
0.25 acres	≥2% but <20%
0.125 acres	≥20% but <50%

Mr. William McCowin  
Mr. Chris Stueve  
October 5, 2010  
Page Four

Where the above criteria is exceeded, a diversion which directs runoff to a sediment settling pond is indicated. Please see Part III.G.2.d.ii. of the permit. Since the existing silt fence appeared to be in good condition and a diversion would be in place when the new storm sewers were installed (scheduled to begin the following week), I recommended monitoring the fence line. If observations indicate failure of the fence, a temporary diversion will need to be immediately installed.

6. The existing paved entrance along with a (metal) rumble strip were used to prevent sediment tracking. No tracking was evident at the time of either visit.
7. As construction continues, please keep in mind the timeframes for stabilization. As I discussed with Rudolph/Libbe, the use of sediment controls does not eliminate the need to implement erosion controls, such as temporary seeding and mulching.

*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 days. 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 days on any portion of the site that has reached final grade or will be idle for longer than one 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. *Please see Part III.G.2.b.i. of the permit.*

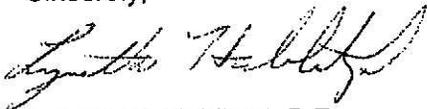
8. According to the contractors, ground water has not been encountered (they have excavated approximately 11 feet below grade) and trench dewatering has not occurred. Should it be necessary, plans are to pump the water into a frac tank and analyze it to determine the method of disposal needed. This is acceptable. Fuel tanks were not located near a surface water and had secondary containment.
9. The final design of the site has storm water discharging through the three existing outfalls. One outfall will use the existing pond as the post-construction storm water management practice. It is my understanding from my July 2010 conversations with Steve Way, with DGL, that approximately 75% of the site will be directed towards the pond, including the roof, parking deck and a parking lot. The two other outfalls will each be served by the existing VortSentry Units. Runoff from the loop road will be directed to the VortSentry Units. Mr. Way had stated that the final site design will only use 50 – 55% of the units' capacities. As we have previously discussed, using the existing post-construction storm water management controls is acceptable as long as they are appropriately sized.

Mr. William McCowin  
Mr. Chris Stueve  
October 5, 2010  
Page Five

As for long-term NPDES permitting of the site ... 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. The Agency has not made a final determination as to the need for a separate NPDES permit for this site. As you know, part of the site's remedy to address discharges of pollutants due to the previous land uses is the creation of impervious cover, such as the buildings and pavement. A separate NPDES permit application to address long-term discharges does not need to be submitted at this time.

Within seven (7) days of the date on this letter, please submit to this office **written notification** of the actions taken or proposed to prevent any future violations. Your response should include the dates, either actual or proposed, for the completion of the actions. If there are any questions, please contact me at (419)373-3009.

Sincerely,



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

/cs

pc: DSW, NWDO File

ec: Joshua J. O'Neil, P.E., CPESC, DGL Consulting Engineers  
Patekka Pope Bannister, City of Toledo, Division of Environmental Services  
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