Ohio | Environmental Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

RECEIVED
JUN 23 2011
BOVIS
LEND LEASE

CERTIFIED MAIL #91 7108 2133 3932 1838 5087 Mr. Herd
91 7108 2133 3932 1838 5094 Mr. Mohler
91 7108 2133 3932 1838 5100 Mr. Schwartzmiller

June 20, 2011

Jim Herd
Fairfield Union Local School District
6401 Cincinnati-Zanesville Road
Lancaster, OH 43130

Kevin Mohler
Bovis Lend Lease
111 West Rich Street, Suite 280
Columbus, OH 43215

Jim Schwartzmiller
Claggett & Sons, Inc.
3396 Sharon Valley Road NE
Newark, OH 43055

Re: Enforcement Warning Notice for Violations of National Pollutant Discharge Elimination System (NPDES) permit numbers 4GC02437 and 4GC03053

Dear Sirs:

This correspondence serves as an **Enforcement Warning Notice** for multiple, long-term, unaddressed violations of NPDES permits 4GC02437 and 4GC03053 for construction activities associated with the Fairfield Union High School, Fairfield Union Middle School, and the US Route 22 widening project. These violations and the required remedies have been detailed in letters dated: April 26, 2011, May 19, 2011 and June 20, 2011. As of June 15, 2011, little to no action has been taken by the responsible parties to address these violations adequately.

Please be aware that each violation of a permit term or condition is also a violation of Ohio Revised Code (ORC) 6111.04 and 6111.07 which state:

> *6111.04 (C) No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the director to do so.*
>
> *6111.07 Prohibited acts - prosecutions and injunction by attorney general. No person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.*

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50 West Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216-1049

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614 | 728 3898 (fax)
www.epa.ohio.gov

Further, the Ohio EPA has the authority to seek civil penalties as provided in ORC 6111.09 which states:

> *6111.09 (A) Any person who violates section 6111.07 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars per day of violation…*

The most recent violations documented in a Notice of Violation letter to Mr. Herd dated June 20, 2011, and the associated required remedies are summarized below:

- Barren area at site of old treatment plant must be stabilized by (mulch, grass, etc…)
- Barren area in rear of middle school must be stabilized by (mulch, grass, etc...)
- Barren area at west end of middle school must be stabilized by (mulch, grass, etc…)
- Barren area along ditch adjacent to road between middle school and high school must be stabilized by (mulch, grass, etc...)
- Stabilization of barren areas must be implemented for all areas of final grade within seven (7) days.
- There shall be no discharge of sediment to waters of the state.
- Bovis Lend Lease must submit a co-permittee notice of intent construction storm water permit application no later than June 30, 2011.
- The sediment impoundments appear to have exceeded their 50 percent capacity will require cleaning. Also, the western sediment basin and outfall structure had excessive debris. Please remove the debris from the impoundment and outfall structure.

If significant progress towards addressing these violations has not been made by June 30, 2011, Ohio EPA will initiate legal action to enforce the permit requirements and to protect the environment. Administrative or judicial orders with monetary penalties will be sought. Each addressee of this letter is a potentially responsible party for the environmental and/or permit violations that have and are occurring on site.

If you have any questions, please contact Greg Sanders at greg.sanders@epa.ohio.gov or at (614) 728-3851.

Sincerely,

Erin Sherer

Erin Sherer
Supervisor
Compliance and Enforcement
Division of Surface Water
Central District Office

ec: Greg Sanders, Ohio EPA, CDO-DSW

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