



**Environmental
Protection Agency**

John R. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Nally, Director

March 15, 2012

RE: Holmes County
Miller-Hope Condominium Development
NPDES Permit No. OHC000003
Ohio EPA Permit No. 3GC05169*AG
Construction Storm Water Inspection

Roy Miller
Miller-Hope Development Co., LLC
5156 S Kohler Road
Apple Creek, OH 44606

Notice of Violation

Dear Mr. Miller:

On February 27, 2012, Ohio EPA conducted a storm water inspection at Miller-Hope Condominium Development aka the Cove, located at 4870 Township Road 403, Walnut Creek Township, Holmes County (site). Ohio EPA records indicate that the site is covered by General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Industrial Activity (General Storm Water Permit), permit No. 3GC05169*AG. The inspection documented the following violations:

Storm Water Inspection

- No erosion and sediment best management practices (BMP) have been installed to prevent the discharge of sediment to the onsite stream (Figures 1 to 2). Diversion channels and erosion gullies discharge untreated sediment-laden storm water runoff to "waters of the State." Sediment deposition was observed within the onsite stream. Properly designed sediment settling ponds must be installed on the western portion of the site.

The failure to install appropriate erosion and sediment controls constitute violations of Ohio Revised Code Chapter (ORC) 6111.07 and and Part.III.B and Part III.G.2.c of the General Storm Water Permit.

- No stabilization of idle areas of the site has occurred prior to the onset of winter and portions of the site that have remained idle for longer than twenty-one days (Figures 1 to 2). Seeding and mulching must be implemented on all idle areas of the site.

The failure to temporarily stabilize idle areas of the site constitute violations of ORC 6111.07 and Part III.G.2.b.i of the General Storm Water Permit.

- A sediment detention basin has been constructed in the southeastern portion of the site that has not been modified for sediment removal (Figure 3). A properly designed dewatering skimmer must be installed on the outlet structure. In addition, a catch basin has been installed within the basin, which appears to drain the sediment detention basin directly into the culverted onsite stream.

The failure to provide structural practices to control erosion and trap sediment from a site remaining disturbed for more than fourteen (14) days constitute violations of ORC 6111.07 and Part.III.B and Part III.G.2.c of the General Storm Water Permit.

- Untreated sediment-laden storm water runoff is discharging directly into the undisturbed stream channel that has been bypassed via the stream culvert on the south eastern portion of the site (Figure 4). A properly designed sediment-settling basin must be installed to treat sediment prior to a discharge to "waters of the State."

The failure to provide proper dewatering BMPs constitute violations of ORC 6111.07 and Part III.G.2.g.iv of the General Storm Water Permit.

- Leachate is being generated from precipitation events contacting solid waste within an uncovered dumpster (Figure 5). The General Storm Water Permit does not authorize the discharge of leachate, which must be eliminated.

The failure to prevent the discharge of leachate with storm water runoff constitutes violations of ORC 6111.07 and Part III.G.2.g.i of the General Storm Water Permit.

- Ohio EPA could not determine how the post-construction storm water management requirements of the General Storm Water Permit will be satisfied on the site (i.e. sediment detention basin and the storm sewer system along the roadway serving the eastern portion of the site). Information must be submitted that details the design of post-construction BMPs and includes all necessary calculations (i.e. dewatering time, drainage areas, sizing calculations, etc.).

Via a January 18, 2012 Notice of Violation (NOV), Ohio EPA requested information to be submitted to determine compliance with the post-construction storm water management requirements of the General Storm Water Permit. As of the date of this NOV, Ohio EPA has not received the requested information.

The failure to submit information required to determine compliance with the General Storm Water Permit constitutes violations of ORC 6111.07 and Part V.E of the General Storm Water Permit.

Stream Impacts

- An onsite stream has been culverted in two locations on the site and appears to exceed approximately one hundred fifty feet of impact. Upon questioning the project engineer, it does not appear that the site has received any 401/404 permit from the U.S. Army Corps of Engineers or Ohio EPA's 401 section. Please contact Tom Harcarik of Ohio EPA's 401 Section regarding the appropriate permitting that may be required for the stream impacts. For your convenience, Mr. Harcarik can be contacted at (614) 644-2139 or via e-mail at tom.harcarik@epa.ohio.gov.

Storm Water Pollution Prevention Plan

- In accordance with Part II.C.2 of the General Storm Water Permit, Ohio EPA requests a copy of the site's storm water pollution prevention plan (SWP3) to be submitted for review within ten days of receiving this notice of violation. In addition, the SWP3 must include information detailing how Part III.G.2.e of the General Storm Water Permit will be satisfied.

Via a January 18, 2012 NOV, Ohio EPA requested a copy of the SWP3 to be submitted within ten days. As of the date of this NOV, Ohio EPA has not received a copy of the site's SWP3.

The failure to submit a copy of the site's SWP3 to Ohio EPA within ten days of a request constitutes a violation of ORC 6111.07 and Part III.C.2.b of the General Storm Water Permit.

Inspection Records

- Part III.G.2.i of the General Storm Water Permit establishes inspection frequencies that must be satisfied.

Via a January 18, 2012 NOV, Ohio EPA requested copies of all the inspections that have been performed in accordance with Part III.G.2.i of the General Storm Water Permit for calendar year 2011. As of the date of this NOV, Ohio EPA has not received the requested information.

The failure to submit information required to determine compliance with the General Storm Water Permit constitutes violations of ORC 6111.07 and Part V.E of the General Storm Water Permit.

Ohio EPA will re-inspect the site in approximately two weeks to verify that the site is in compliance with the General Storm Water Permit. Within ten days of receiving this NOV, the following information must be submitted to Ohio EPA for review:

- A copy of the site's SWP3;
- Information must be submitted that details the design of post-construction BMPs and includes all necessary calculations (i.e. dewatering time, drainage areas, sizing calculations, etc.);
- Copies of all the inspection reports for calendar year 2011; and
- A report detailing the corrective action(s) that will be or have been implemented to address all of the violations detailed above. The report must include dates when each corrective action(s) has been or will be implemented and completed.

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Failure to resolve the above violations will result in Ohio EPA pursuing formal enforcement, whereby violations of ORC Chapter 6111 are punishable by fines up to \$10,000 a day per violation. Should you have any questions regarding this matter, please contact me at your earliest convenience at (330) 963-1118 or via e-mail at chris.moody@epa.ohio.gov.

Sincerely,



Chris Moody
Environmental Specialist II
Division of Surface Water

CM/cs

cc: US Army Corps of Engineers, Huntington District
Willis Schlabach
Harry Matter, President, Civil Design Associates

ec: Tom Harcarik, Ohio EPA, DSW, CO



Figure 1 - Diversion channels and erosion gullies discharge untreated sediment-laden storm water runoff to "waters of the State."



Figure 2 - Diversion channels and erosion gullies discharge untreated sediment-laden storm water runoff to "waters of the State."



Figure 3 - The sediment detention basin outlet has not been modified for sediment removal



Figure 4 - Untreated sediment-laden storm water runoff is discharging directly into the undisturbed stream channel.



Figure 5 - Leachate is being generated from precipitation events contacting solid waste within an uncovered dumpster.