

**Environmental
Protection Agency**

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

June 29, 2012

RE: CUYAHOGA COUNTY
CITY OF BEDFORD HEIGHTS
MUNICIPAL STORM WATER
ILLICIT DISCHARGE ORDINANCE
FACILITY PERMIT #3GQ00046*BG

NOTICE OF VIOLATION

Mayor Fletcher Berger
City of Bedford Heights
5661 Perkins Rd.
Bedford Heights, OH 44146

Dear Mayor Berger:

Recently, Ohio EPA performed a compliance screening of your municipal storm water program. As part of that process, we identified a violation of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes discharges from the City of Bedford Heights municipal separate storm sewer systems (MS4s). Namely, Ohio EPA found that the City of Bedford Heights has not enacted an ordinance that prohibits illicit discharges to the MS4 and authorizes appropriate enforcement procedures and actions. On June 12, 2012, Ohio EPA provided the City of Bedford Heights with a written Notice of Violation concerning this matter.

In response, on June 20, 2012, Ohio EPA received correspondence from Chagrin Valley Engineering (CVE), city engineer for the City of Bedford Heights, indicating that they believed the City is in compliance with this requirement and provided Ohio EPA with a copy of Chapter 917.09 of the municipal code titled "Use of Public Sewers" as documentation of their assertion. Ohio EPA has reviewed Chapter 917.09 and finds that it **does not comply** with the requirements of the Ohio EPA General Storm Water NPDES Permit for Small MS4s #OHQ000002. In particular, Ohio EPA finds:

- The ordinance does not use the term "MS4" or define it. It simply uses the term "public sewers". Please note that "MS4" has a specific, regulatory definition and includes all publicly-owned storm water conveyance infrastructure including storm sewers, streets and their associated drainage systems, catch basins, curbs, gutters, ditches, manmade channels or storm drains. The definition of MS4 does not include combined sewers or sanitary sewers.
- Chapter 917.09 is an ordinance that prohibits the discharge of "clean water" sources to sanitary sewers, not an ordinance that prohibits non-storm water discharges to the MS4.
- Chapter 917.09 also contains elements of an industrial pretreatment prohibited use ordinance. Again, this applies to sanitary sewers and the wastewater treatment plant, not the MS4.

- The ordinance does not provide a list of non-storm water discharges permitted to be discharged to the MS4. Please note that only those non-storm water sources listed in Part III.B.3.g of the NPDES permit, and any incidental, occasional non-storm water discharges, e.g., charity car washes, the City explicitly excludes from the ordinance may be discharged to the MS4.
- The ordinance does not establish enforcement procedures and actions to eliminate illicit discharges to the MS4, e.g., right to enter property to investigate possible sources of illicit discharge, right to order corrective action, and penalties for non-compliance, as required by Part III.B.3.d of the NPDES permit.

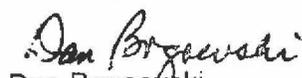
The City of Bedford Heights was required to enact an illicit discharge ordinance and implement and enforce a program to detect and eliminate illicit discharges to the MS4 no later than April 1, 2008. **Failure to enact an ordinance and establish an enforcement program is a violation** of Part III.B.3.a of the NPDES permit and Ohio Revised Code 6111.04 and 6111.07.

You are directed to enact the required illicit discharge ordinance and enforcement program **no later than September 28, 2012**. Failure to enact an illicit discharge ordinance for your MS4 program and the associated illicit discharge detection and elimination programs by this date will result in a referral for enforcement to our Central Office. Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation.

Model ordinances that satisfy the requirements of the NPDES permit can be found on the Ohio EPA website at http://www.epa.ohio.gov/dsw/storm/ms4_index.aspx. Dave Ritter at the Northeast Ohio Areawide Coordinating Agency (NOACA) and Amy Brennan at the Chagrin River Watershed Partners may also be able to provide guidance and assistance in developing your model ordinance. You may contact Mr. Ritter at (216) 241-2414 and Ms. Brennan at (440)975-3870.

If you have any questions, please contact me at (330) 963-1145.

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

DB/cs

cc: Donald Bierut, Engineer, City of Bedford Heights
Council, City of Bedford Heights
Dave Ritter, NOACA
Amy Brennan, Chagrin River Watershed Partners

ec: Mark Mann, Storm Water and Enforcement Section Manager, Ohio EPA, DSW, CO