



**Environmental  
Protection Agency**

**John R. Kasich, Governor**

**Mary Taylor, Lt. Governor**

**Scott J. Nally, Director**

July 11, 2012

RE: LAKE COUNTY  
CITY OF MENTOR  
DIAMOND BUSINESS PARK  
CONSTRUCTION STORM WATER  
PERMIT NO: 3GC05323

**NOTICE OF VIOLATION**

Mr. Leong Tan  
JTO Inc.  
6011 Heisley Road  
Mentor, OH 44060

Mr. Robert Galardini  
Shelly Co.  
8920 Canyon Falls Boulevard #120  
Twinsburg, OH 44097

Dear Mr. Tan and Mr. Galardini:

On June 13, 2012, I performed a compliance inspection for storm water best management practices (BMPs) at the above referenced site. I was accompanied by Tim McParland of our Division of Surface Water and Time Wiley from the City of Mentor. While on site, we met with the following representatives of Hamilton Excavating: Chuck Hamilton, Superintendent, and Ken Hamilton, Foreman. Our records indicate that JTO Inc. has obtained coverage under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC05323\*AG.

After review of the site and Storm Water Pollution Prevention Plan (SWP3), my inspection of the site revealed the following violations of the NPDES permit:

**Administrative Issue**

- **Failure of operator to obtain NPDES permit coverage.** This is a violation of Part I.E of the NPDES permit, Ohio Administrative Code (OAC) 3745-38-06 and Ohio Revised Code (ORC) 6111.04. This violation is specific to Hamilton Excavating. All parties that meet the definition of operator are required to obtain NPDES permit coverage. The definition of "operator" in the NPDES permit includes the party that has control over the plans and specifications and the party that manages the day-to-day operations at the construction site that are required to comply with the NPDES permit. It is our understanding that Hamilton Excavating meets the definition of operator. To obtain NPDES permit coverage, Hamilton must submit a Co-Permittee Notice of Intent (Co-Permittee NOI) to Ohio EPA. The Co-Permittee NOI was to be submitted by Hamilton prior to the start of construction activities. The form and instructions can be downloaded from our website at [www.epa.ohio.gov/dsw/storm/stormform.aspx](http://www.epa.ohio.gov/dsw/storm/stormform.aspx). There is no fee to file the form.

**Site Inspection**

- 1. Failure to construct the sediment basin in compliance with required design standards.** This is a violation of Part III.G.2.d.ii of the NPDES permit and ORC 6111.04 and 6111.07. Since only one page of the SWP3 was on site, no calculations or details for the sediment basin were shown. Even without these, it was clear that this sediment pond was not designed or installed per the requirements of the NPDES permit. The outlet is out-of-date and was built incorrectly. Please note that the NPDES permit requires the outlet structure of sediment basins to provide a minimum 48-hour drain time for the dewatering volume. The rule-of-thumb design used on this site, i.e., a perforated riser pipe wrapped in geotextile, does not ensure the minimum drain time is met. Further, sediment ponds must provide an additional sediment storage volume equal to 1,000 cubic feet per acre of disturbed area below the invert of the dewatering structure. No sediment storage volume was evident in this basin. Please refer to the *Rainwater and Land Development* manual (Ohio Department of Natural Resources, 2006) for the required outlet designs and sediment pond calculations.
- 2. Failure to install diversions to collect sediment-laden runoff and direct it to the sediment basin.** This is a violation of Part III.G.2.d.iii of the NPDES permit and ORC 6111.04 and 6111.07. The SWP3 called for two swales to direct runoff to the sediment basin. These were not in place. These features of the SWP3 are required and must be installed immediately.
- 3. Failure to provide a sediment pond for concentrated flows of storm water runoff or where drainage areas exceed the design capacity of silt fence.** This is also a violation of Part III.G.2.d.ii of the NPDES permit and ORC 6111.04 and 6111.07. Water has been converging into the northeast corner of the property (Fig 3 & 4). Only a silt fence is there to pond the water. This silt fence is loose and water appears to flow over it. This flow goes directly into wetlands. A sediment trap is currently necessary in this location due to the size of the drainage area and concentrated nature of the runoff. Silt fence was also observed across several ditches where storm water flows concentrate (Fig 6 & 10).
- 4. Failure to maintain silt fence in a functional condition until the areas it controls have reached final stabilization.** This is a violation of Part III.G.2.h of the NPDES permit and ORC 6111.04 and 6111.07. The silt fence along the entire property has not been maintained. It sags and, in some places, it has fallen down. The joints where the two end stakes meet need to be twisted together prior to staking.
- 5. Failure to implement non-sediment pollutant controls to control the discharge of hazardous materials.** This is a violation of Part III.G.2.g of the NPDES permit and ORC 6111.04 and 6111.07. Oil has spilled onto the ground. The contaminated soil needs to be excavated and disposed of properly. To prevent this from happening in the future, equipment should be repaired when needed and a drip pan should be placed under the leak to prevent soils from becoming contaminated.
- 6. Failure to amend the SWP3 to reflect changes in design, construction, operation or maintenance.** This is a violation of Part III.D of the NPDES permit and ORC 6111.04 and 6111.07. The topsoil stockpile on the east side of the site and the BMPs for it are

not shown on the SWP3. An amendment to the plan needs to be made to accommodate the stockpile and control the runoff from it.

- 7. Failure to initiate temporary stabilization of disturbed areas within seven days of last disturbance if they are to remain idle for 21 days or longer.** This is a violation of Part III.G.2.b.i.Table 2 of the NPDES permit and ORC 6111.04 and 6111.07. The site should be reviewed on a weekly basis to determine which areas require temporary stabilization between construction operations. Areas requiring temporary stabilization must be seeded and mulched (or just mulched) to initiate stabilization. A log documenting grading and stabilization activities is required by Part III.G.1.m of the NPDES permit.

You are directed to provide me with a letter of response indicating the actions that you have taken or will take to address the violations noted above. Include any amendments to the SWP3 with your response. Your response must be received **no later than July 25, 2012**. Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation.

If you have any questions, please contact me at (330) 963-1125 or by email at [Katie.Bowman@epa.state.oh.us](mailto:Katie.Bowman@epa.state.oh.us)

Sincerely,



Katie Bowman  
Assistant to the District Engineer  
Division of Surface Water

KB/cs

cc: Tim Wiley, City Engineer, Mentor  
Chuck Hamilton, Superintendent, Hamilton Excavating & Trucking  
Kenneth J. Filipiak, City Manager, Mentor  
Scott J. Marn, President of Council, City of Mentor

Attachments: Photos

**INSPECTION PHOTOS**

**Diamond Business Park**



**Figure 1:** Sediment basin in the northwest corner of the property  
**Figure 2:** Outlet structure of the sediment basin



**Figure 3:** Northeast corner of the site. Water has been draining to this location  
**Figure 4:** Silt fence attempting to block the above flow to the wetlands



**Figure 5:** Northeast corner and drainage area to this location  
**Figure 6:** Southeast corner of Phase 1 site. Silt fence is falling down where water is flowing.



**Figures 7&8:** Silt fence has fallen down. Silt fence is loose.



**Figure 9:** Joint stakes not twisted together

**Figure 10:** Silt fence trying to block a concentrated flow



**Figures 11&12:** Overgrowth covering silt fence on east side of mound that has not been stabilized. Mound not shown in SWP3.



**Figures 13&14:** Contaminated soils near equipment parking.