



**Environmental
Protection Agency**

John R. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Nally, Director

August 2, 2012

RE: CUYAHOGA COUNTY
CITY OF STRONGSVILLE
PERMIT NO. 3GQ00033*BG
MUNICIPAL STORM WATER PROGRAM
INSPECTION

Ken Mikula
City Engineer
City of Strongsville
16099 Foltz Parkway
Strongsville, OH 44149

Dear Mr. Mikula:

Ohio EPA has completed an audit for a portion of your municipal storm water program. Our audit primarily focused on implementation of minimum control measure (MCM) #4: Construction Site Storm Water Runoff Control and MCM #5: Post-Construction Storm Water Management in New Development and Redevelopment. This program is a requirement of the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Small Municipal Separate Storm Sewers Systems (MS4s) OHQ000002 and Ohio Administrative Code 3745-39.

On June 19, 2012, Ohio EPA met with representatives of the City of Strongsville to determine compliance with the NPDES permit and the Storm Water Management Plan (SWMP) submitted by the City in March 2003. In performing this audit, Ohio EPA implemented a modified version of the Municipal Storm Water Program Evaluation Guide developed by the United States Environmental Protection Agency.

Attached are the Municipal Storm Water Program Evaluation, File Review, and Field Inspection Worksheet(s) completed for your community. Please review these documents in detail to determine specific elements where your construction and post-construction programs need improvement. In addition, you will find comments suggesting ways to improve your MS4 program. The following is a summary of our audit findings:

Violations

- **Failure to develop a program to ensure adequate long-term operation and maintenance (O&M) of post-construction Best Management Practices (BMPs).** This is a violation of Part III.B.5.d and Part III.B.5.f of the Ohio EPA General Storm Water NPDES permit # OHQ000002. The City must develop a program to verify the proper installation as well as ensure the required long-term maintenance of these structures. The City requires the submittal of an annual report by May 1st of every year by the respective property owners; however, the City inspectors do not inspect post construction BMPs themselves. In addition, the City has not developed a plan of action for those who do not submit their reports. During the interview process, Ohio EPA noted that this situation occurs quite regularly within the City and no action is taken beyond a

reminder letter sent to those who do not submit. The City is working towards compliance with this requirement, but has not finalized their plan of action for non-compliant parties. ***Please provide Ohio EPA with a timeframe for which post-construction long-term maintenance processes and procedures will be finalized, as well as a copy of it once the program is finalized.***

- **Failure to submit a Notice of Termination (NOT) within 45 days of completing land disturbing activities on municipal construction projects.** This is a violation of Part IV.A of the Ohio EPA General Storm Water NPDES permit #OHC000003. Our records show that the City of Strongsville still has active permits under the Ohio EPA General Storm Water NPDES Permit for Construction Activities at four (4) different municipal sites, which were completed and have reached final stabilization. ***Please submit an NOT for the following projects immediately:***
 - Strongsville Police Station, #3GC04110*AG
 - Foltz Parkway South Phase II, #3GC04084*AG
 - Lunn Road Football Fields, #3GC04249*AG
 - Pearl Road Widening Project, #3GC04672*AG

- **Failure to document and keep record of construction site inspection findings for private and municipal construction projects.** This is a violation of Part III.B.4.a. of the Ohio EPA General Storm Water NPDES permit #OHQ000002. During the file review, Ohio EPA noted that not a single adequate documentation of inspection findings or follow up reports were available for those sites reviewed. It is required that inspectors document inspection findings and compliance issues such that proper proof is available when enforcement escalation is necessary to see corrective actions take place. Ohio EPA suggests that the inspectors develop a form that could be used during the inspection and then ***left with the contractor*** for written notification of violations or deficiencies. Ohio EPA provides an example checklist on their website for use by inspectors during their site inspections (both during construction and post-construction) which should be adopted as a common practice by the City of Strongsville in the future. ***Please provide Ohio EPA (in detail) with the process which the City wishes to develop in order to remain compliant with this requirement***

- **Failure to meet the standardized post construction requirements for municipal redevelopment projects.** This is a violation of Part III.G.2.e. of the NPDES General Construction Permit #OHC000003. The permit states that sites which have been previously developed where no post-construction BMPs were installed shall either ensure a twenty (20) percent net reduction of the site impervious area, provide for treatment of at least twenty (20) percent of the Water Quality Volume, or a combination of the two. The Strongsville Police Station, completed on October 15, 2010, was a redevelopment project completed well after the standards of the latest NPDES Construction Permit were established. During the file review process, Ohio EPA discovered that no post construction BMP's were installed for the site whatsoever. ***The City of Strongsville is required to retro fit the site in order to meet all NPDES requirements for redevelopment projects. If meeting these requirements on site is not feasible, the City will be required to develop off-site mitigation at one and a half (1.5) times the water quality volume associated with the redevelopment. Please provide Ohio EPA with the community's plan to remain compliant with this requirement.***

Deficiencies

- Ohio EPA recommends that some of the language within the City ordinance should be re-constructed in order to encourage the use of the following:
 - Riparian and Wetland setback protection;
 - Runoff reduction (i.e. infiltration, mitigation of recharge volume, etc.);
 - "Green" infrastructure (i.e. rain gardens, pervious pavers, etc.); and
 - Balanced growth principles (i.e. conservative design, native vegetation, etc.).

Post-construction storm water management, land use planning and building and zoning codes must be linked to create a meaningful storm water program. A good MS4 program goes beyond the WQv requirement. The storm water program manager must work with the building commissioner to affect development patterns in their community that negatively impact storm water quality.

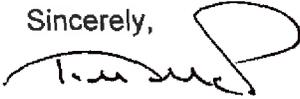
- The City currently does not have any sort of database to track active construction sites or post construction BMPs within the City (other than a Microsoft Word document). It is recommended that a more friendly and organized database be established to track information such as project status, history of complaints, previous compliance issues, and NPDES Permit #s for active sites, as well as a list of routine and non-routine maintenance tasks and the frequency of their performance, a map identifying the types and locations of post construction BMPs and their maintenance or access easements, and any type of deed restriction or covenant required to maintain post construction BMPs in perpetuity for easy access by inspecting staff and use as a basis of their inspections. ***This is a reminder that all City-owned post-construction BMPs as well as any privately owned post-construction BMP constructed after April 21, 2003 must be included in your inventory.***
- The City has not yet completed mapping all publicly-owned post-construction BMPs and those privately-owned post-construction BMPs approved after April 21, 2003. Per Part III.B.5.d of the NPDES permit, the City is obligated to ensure long-term operation and maintenance (O&M) of these post-construction practices. Part III.B.3.b of the NPDES permit requires these practices to be mapped by the end of the current NPDES permit term (i.e. June 4, 2014). Once developed, procedures need to be adopted to keep the map current. This map will form the basis of an inventory of post-construction BMPs installed in the City. ***This is a reminder that your map must be completed by June 4, 2014. Please refer to NPDES Permit #OHQ000002 for additional mapping requirements.***
- The City has not been verifying the submission of the Individual Lot Notice of Intent (NOI) as part of the plan review process. It is very important that NOI's are submitted while individual lots are being built since it is very common that the subdivision's NOI does not cover this activity (since typically individual lots are sold to other developers after the subdivision in its entirety is completed). ***Although an individual lot might typically disturb less than an acre of land, it is part of a larger common plan of development or sale, and thus requires NPDES permit coverage. Please ensure that the submission of an individual lot NOI to the Ohio EPA is verified while reviewing applicable plans in the future.***

- During the file review process, Ohio EPA observed that the City asked the project engineer for the Strongsville Police Station project to remove the Storm Water Pollution Prevention Plan (SWP3) certification from the plans. The project engineer responded that he could not do such because the SWP3 certification is a *requirement* by the Ohio EPA for all approved SWP3 plans. ***The City should refrain from ever attempting to remove the SWP3 certification from the approved plans for all construction sites in the future.***
- The City's storm water public education and outreach program should include more than one mechanism and target at least five different storm water themes over the permit term. At least one of the themes should *target the development community*, as required by Part III.B.1.c of the NPDES permit. ***This is a reminder that this requirement must be met no later than January 29, 2014.***
- Although the City code does not explicitly prohibit certain balanced growth principles such as conservative design and retaining open space, there is little in the code to incentivize it or make it the standard requirement. Codes that can be improved to make them more friendly to storm water program goals include, but are not limited to: use of low-maintenance native vegetation, identifying areas where conservation development and low-impact development practices must be implemented, providing incentives for infill development and redevelopment, increasing vertical development limits, and providing incentives for development and redevelopment along corridors with public transportation, walking and biking options.
- The City does not currently have a formally written enforcement escalation procedure. ***Ohio EPA recommends that the community formalizes their enforcement escalation procedure within the local code or in a stand-alone document which clearly identifies when enforcement must be escalated, what the penalties are at each level and who is responsible for each step.***
- Field observations indicate that inspectors are not using the approved plans as their basis of inspection. Knowledge of the approved plans was poor when questioned in the field. ***The City needs to ensure that inspection personnel use the approved plans as the basis of their inspections to ensure compliance.***
- During the interview, it was observed that the contract language used (in cases where contracted planners and engineers are used for the design of City-owned projects) does *not* specify that sediment and erosion control and post-construction storm water BMPs be incorporated into the design. ***Ohio EPA recommends that this language be added to the contract for future municipal projects that are not designed in-house.***
- During the interview, it was observed that the City's Engineering Inspectors have been responsible for inspecting some of their own municipal projects that were designed in house. Ohio EPA recommends that in order to *avoid a conflict of interest, the firm or department that designed the SWP3 for a site should not also inspect that site for compliance.*

Please review my comments, as well as the attached interview, file review and field review and provide me with a letter of response indicating the actions you will take to address my concerns. **Your response should be received no later than September 1, 2012.** Please note that this response does not replace the requirement to submit an Annual Report. Your annual report for 2012 will be due on April 1, 2013.

If you have any questions, please contact Dan Bogoevski, Ohio EPA, District Engineer, Division of Surface Water at (330) 963-1145 or dan.bogoevski@epa.state.oh.us.

Sincerely,



Tim McParland
Assistant to the District Engineer
Division of Surface Water

TM/cs

cc: Thomas Perciak, Mayor, City of Strongsville w/ Enclosure
Lori Daley, Assistant City Engineer, City of Strongsville w/ Enclosure

ec: Dan Bogoevski, Ohio EPA, DSW, NEDO