



**Environmental
Protection Agency**

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

August 15, 2012

RE: CUYAHOGA COUNTY
CITY OF WESTLAKE
PERMIT NO. 3GQ10013*BG
MUNICIPAL STORM WATER PROGRAM
INSPECTION

Robert Kelly
Director of Engineering
City of Westlake
27700 Hilliard Blvd.
Westlake, OH 44145

Dear Mr. Kelly:

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 July 26, 2012, Ohio EPA met with you and other representatives of the City of Westlake to determine compliance with the NPDES permit and the Storm Water Management Plan (SWMP) submitted by the City in 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 ensure the long-term maintenance of all publicly-owned post-construction BMPs and those privately-owned post-construction BMPs within developments that obtained NPDES permits on or after April 21, 2003. Ohio EPA recommends that each facility be inspected at least once a year by either the City or the party responsible for long-term maintenance. The City is working towards compliance with this requirement, but they have not finalized their O&M standards, long-term maintenance agreements, or the inspection forms. The City's code (Chapter 1111.05: Post-Construction Water Quality Plan) requires the submittal of site maintenance plan from those responsible for maintaining privately owned post

construction BMP's; however, the City has not been consistent with this requirement. In addition, the City is required to conduct an "as-built" inspection of all post-construction BMPs to verify ***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 reaching final stabilization 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 Westlake still has an active permit under Ohio EPA General Storm Water NPDES Permit for Construction Activities at four (4) municipal sites which were completed and have reached final stabilization. ***Please submit an NOT for the following projects immediately:***
 - Crocker Detention Basin, #3GC02478*AG
 - New Youth Soccer Fields, #3GC04471*AG
 - Clague Road Widening & Improvements, #3GC04597*AG
 - New Westlake Service Facility, #3GC01267*AG

- **Failure to ensure the implementation of post-construction best management practices on all new construction and redevelopment projects that disturb one (1) or more acres (including those less than one (1) acre that are part of a larger common plan of development or sale).** This is a violation of Part III.B.5.a of the NPDES permit. This violation was noted for the St. John Medical Center project at 29000 Center Ridge Road. It appears that the site would fall under the "redevelopment" category. Please remember that the NPDES permit requires that for any redevelopment, a 20% or greater overall reduction of impervious area must be created or a post-construction BMP must be provided, which is capable of treating 20% or greater of the water quality volume associated with the project. ***The City must ensure that all NPDES permit requirements are met during the plan review process. The City should have noted that Permanent Seeding is not considered a post-construction BMP as indicated on the plans; nor were calculations provided to verify that site conditions reduce the overall impervious area prior to redevelopment by no less than 20%. The City must request that a post-construction BMP is implemented to meet NPDES permit requirements for the St. John Medical Center. If on-site retrofit is not feasible, the City must require the contractor to develop off-site mitigation at one and a half (1.5) times the water quality volume associated with the redevelopment.***

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.).
 - 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.

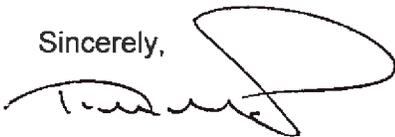
- The City's storm water public education and outreach program should include more than one mechanism and target at least five different storm water themes over the permit term. At least one of the themes should *target the development community*, as required by Part III.B.1.c of the NPDES permit. ***This is a reminder that this requirement must be met no later than January 29, 2014.***
- Although the City does not explicitly prohibit low-impact development and green infrastructure, it is simply a design alternative and is not required or encouraged. Ohio EPA expects future storm water regulations to require a certain amount of on-site storm water infiltration, capture and reuse. Low-impact development codes will help you meet these requirements. The City should consider strengthening the local development code and integrating standards, which not only allow for these types of structures to be implemented but explicitly encourages or requires it. Although some LID practices have been used in the past, they have not been incorporated to the extent possible to meet post-construction requirements. LID practices that could have been incorporated into the design of new projects or redevelopments, had the City asked include green roofs, sidewalk or parking lot bioretention, permeable pavers, cisterns and other rainwater harvesting techniques.
- The City has not yet completed mapping of the entire MS4 system. As a reminder, the City must complete mapping within five (5) years of NPDES permit renewal, i.e., June 3rd, 2014.
- During the interview, it was observed that the City has 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 Storm Water Pollution Prevention Plan (SWP3) for a site should not also inspect that site for compliance.*
- The references used within the City's ordinances for both active construction and post-construction standards contained outdated titles such as "The Water Management and Sediment Control for Urbanizing Areas" and "ODOT Siltation Controls". ***The City must update these titles to reflect the most current edition of the manuals in which they are referencing as discussed during the interview (e.g., "ODOT Siltation Controls" is now referred to as "ODOT Spec. 832: Supplemental Specification for Temporary Sediment and Erosion Controls").***
- 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.
- Ohio EPA recommends that if a reference to "Ohio EPA Standards" is included as part of the City's own standards that the language be updated to include ***"most current"*** to ensure that outdated standards for BMP selection criteria are not in use.

- The City does not currently have a formally written enforcement escalation procedure. ***Ohio EPA recommends that the community formalize 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.***
- The Engineering Department homepage on the community's website, which can be used to educate operators, contains outdated detail drawings of retention basins with concrete gutters and velocity dissipaters (i.e. barrier fence) which are no longer acceptable. ***Ohio EPA recommends that the City update all of the above-mentioned drawings with detail drawings from the most current edition of the Rainwater and Land Development manual, since the City references these standards as their own.***
- Although the City inspects erosion and sediment controls approximately weekly during other inspections, *Ohio EPA recommends that the City conducts a thorough inspection solely related to storm water compliance at a minimum of once per month. During these inspections, a storm water checklist should be completed to document inspection findings in addition to commenting on deficiencies in the daily inspector reports.*

Please review my comments 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 15, 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 further questions, please contact Dan Bogoevski, District Engineer for Ohio EPA's Division of Surface Water, at (330) 963-1145 or by e-mail at dan.bogoevski@epa.state.oh.us.

Sincerely,



Tim McParland
Assistant to the District Engineer
Division of Surface Water

TM/cs

cc: Dennis Clough, Mayor, City of Westlake w/ Enclosure

ec: Dan Bogoevski, Ohio EPA, DSW, NEDO