



**Environmental
Protection Agency**

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

August 16, 2012

RE: PORTAGE COUNTY
BRIMFIELD TWP.
CONSTRUCTION STORM WATER
DISTRIBUTION WAREHOUSE FACILITY
PERMIT NO: 3GC05848

NOTICE OF VIOLATION

Mike Larson
Insite Real Estate Investment Properties LLC
1400 16th Street, Suite 300
Oak Brook, IL 60523

Jim Hampton and Bill Nahs
Excel Construction Management
328 Civic Center Dr.
Columbus, OH 43215

Ken Meisel
NC Contracting
5840 Sterling Dr., Suite 410
Howell, MI 48843

Dear Mr. Larson, Mr. Hampton, Mr. Nahs and Mr. Meisel:

On August 1, 2012, I performed a compliance inspection of storm water best management practices (BMPs) at the above referenced site. I was accompanied on my inspection by Eric Long and Jim Bierlair of the Portage Soil & Water Conservation District (SWCD), Robert Jennings and Bill Nahs of Excel Construction Management and Ken Meisel of NC Contracting, earthwork subcontractor. My inspection was conducted in response to a complaint received from a neighboring resident concerned that construction activities at the Distribution Warehouse Facility have impacted his drinking water well. The complainant states that since construction activities at the site have commenced, the water in his well has become cloudy with sediment. NC Contracting indicated that bedrock was likely fractured during the installation of the storm water management ponds associated with this project. Although this matter has been referred to our Division of Drinking and Groundwater and the Portage County Health Department for further investigation, if the complaint is valid, measure will need to be taken to prevent the migration of sediment and other pollutants to groundwater. These measures likely include the

installation of clay liners over areas where bedrock has been fractured or surface water diversions away from such areas.

Our records indicate that Insite Real Estate Investment Properties LLC has obtained coverage under the Ohio EPA General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water associated with Construction Activities #3GC05848*AG. However, there is no record of any co-permittee for this project. Please be aware that all parties that meet the definition of "operator" are required to obtain NPDES permit coverage. Part VII.O of the NPDES permit defines the term "Operator" to mean any party associated with a construction project that either (a) has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, or (b) has day-to-day operational control of those activities at a project which are necessary to ensure compliance with the storm water pollution prevention plan (SWP3) or other permit conditions. As such, it appears that Excel Construction Management and/or NC Contracting meet the definition of "operator" and must obtain NPDES permit coverage.

Failure to obtain NPDES permit coverage is a violation of Ohio Revised Code (ORC) 6111.04 and Ohio Administrative Code (OAC) 3745-39-04. To obtain NPDES permit coverage, additional operators associated with the project must submit a Co-Permittee Notice of Intent (Co-Permittee NOI). This form and instructions are available on our website at www.epa.ohio.gov/dsw/storm/stormform.aspx. No additional permit fee is required. Excel Construction Management and/or NC Contracting will remain in violation of ORC 6111 until a Co-Permittee NOI is submitted to Ohio EPA. Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation.

My inspection of the site focused on the implementation of the SWP3 dated May 2, 2012, and approved by Portage SWCD. A copy of the approved SWP3 was located on-site in the construction trailer. Further, we noted that inspections of BMPs were being conducted and inspection records as required by Part III.G.2.i of the NPDES permit were available for review in the construction trailer; however, the reports did not include all of the information required by the NPDES permit. I have enclosed templates for construction site inspection reports from the Ohio EPA and US EPA websites for your use when conducting future inspections.

My site inspection revealed the following violations of the NPDES permit:

- **Failure to amend the SWP3 to reflect changes in design, construction, operation or maintenance which have a significant effect on the potential for the discharge of pollutants to surface waters of the State.** This is a violation of Part III.D of the NPDES permit and ORC 6111.04 and 6111.07. A significant soil stockpile area has been created on the NE corner of the property, yet it is not reflected on the SWP3. In addition, the mound in the SW corner of the site has been extended beyond what is

indicated on the SWP3. The SWP3 must be amended to show the location of the stockpile and the BMPs required to adequately control it.

- **Failure to install sediment ponds to control runoff from drainage areas that exceed the capacity of silt fence or storm drain inlet protection.** This is a violation of Part III.G.2.d.ii of the NPDES permit and ORC 6111.04 and 6111.07. This violation was noted in several locations:
 - **Soil Stockpile Area.** Although silt fence was installed near the base of the stockpile, the municipal separate storm sewer system (drainage ditch) along Crystal Parkway was filled with sediment. Storm water runoff from the stockpile must be collected and diverted through a sediment trap or sediment basin prior to discharge from the site.
 - **Site Entrance off Progress Blvd.** Storm water from the area disturbed to extend Progress Blvd flows toward the site entrance off Progress Blvd. A swale has been cut to drain runoff off-site. No sediment control has been provided. A sediment trap should be established to control runoff before it discharges from the site.
 - **East Side of Site north and near Reduction Engineering.** Although silt fence has been installed along the perimeter of the disturbed area per the SWP3, site grading is such that the drainage area directed to the silt fence exceeds the capacity of silt fence allowed by Part III.G.2.d.iii of the NPDES permit. Sediment was observed overtopping the silt fence west of Reduction Engineering. Either site grading should be amended to limit the area draining to the silt fence and maximize the area draining to the East Sediment Basin or additional sediment ponds must be installed to control runoff and protect adjacent wetlands. Eliminate the diversion cut to drain disturbed areas toward the silt fence near Reduction Engineering.
 - **West Basin.** Although installed, this sediment basin has not been installed per the approved SWP3. Please review elevations and the construction of the temporary outlet structure to ensure that you are providing the required dewatering volume and minimum dewatering time. The approved SWP3 indicates that there should be 4.5 feet of elevation difference between the invert of the skimmer stub and the next higher point of discharge from the pond to store the dewatering volume. It appears that only three feet has been provided. In addition, the 3-inch dewatering orifice has not been installed on the skimmer device. This orifice size is required to ensure a minimum dewatering time of 48 hours.

Water Quality Volume (WQv) and have a surface area adequate to provide a 40-hour drain time for the WQv.

Please provide me with a letter of response, indicating the corrective actions you will take or have taken to address the violations noted above. Include any amendments to the SWP3 with your response. Your response should be received no later than September 4, 2012. Please be aware that 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) 963-1145.

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

cc: Ed Gebaur, Insite Real Estate Investment Properties LCC
Joseph Mosyjowski, Mosyjowski & Associates
Eric Long, Portage SWCD
Chip Porter, Portage County Health Department
Trustees, Brimfield Twp.

ec: Eric Adams, Ohio EPA, DDGW, NEDO

DISTRIBUTION WAREHOUSE FACILITY
Brimfield Twp. Portage County
Insite Real Estate Investment Properties LLC

Photos Taken: August 1, 2012
By: Dan Bogoevski, DSW, NEDO



Fig 1. A significant soil stockpile has been established in the NE corner of the site. Runoff from this stockpile has filled the ditch along Crystal Parkway with sediment.



Fig 2 (LEFT). West perimeter of site. Disturbed areas that will lie dormant for 21 days or longer must be temporarily stabilized between construction operations.



Fig 3 (RIGHT). Sediment overtops silt fence along the west perimeter with evidence of off-site deposition beyond.

Photos Taken: August 1, 2012



Fig 4 (LEFT). There are no perimeter sediment controls in place to address the north site perimeter west of the construction trailer. This area is sloped off site onto adjacent properties. Silt fence, filter socks or filter berms must be installed.

Fig 5 (RIGHT). Silt fence has not been installed correctly. Where two pieces of the silt fence come together, the end stakes must be twisted together prior to staking to ensure a watertight connection.



Fig 6 (LEFT). The temporary outlet structure of the West Basin may not be providing sufficient dewatering volume. The elevation difference between the skimmer invert and side window of the permanent outlet structure is less than 4.5 feet. Further, the basin embankments have not been seeded and mulched.

Fig 7 (RIGHT). The level spreader at the discharge of the West Basin has not been installed per the approved plan.

Photos Taken: August 1, 2012



Fig 8 (LEFT). There is a gap in the silt fence along the south perimeter that allows untreated runoff to discharge off-site. Silt fence must be installed across this gap to close it.

Fig 9 (RIGHT). Silt fence must be extended to the east along the area disturbed to extend Progress Blvd.



Fig 10 (LEFT). Swale near the Progress Blvd entrance drains sediment-laden runoff off site. There is no sediment control in place.

Fig 11 (RIGHT). Sediment has deposited on existing Progress Blvd at the construction site entrance.

Photos Taken: August 1, 2012



Fig 12 (LEFT). A diversion near Reduction Engineering is directing concentrated runoff toward the silt fence. Silt fence cannot control concentrated flows of runoff.

Fig 13 (RIGHT). A second line of silt fence has been erected to address the sediment build up on the existing silt fence along the eastern site perimeter. However, the second line of silt fence has not been trenched in and backfilled as required for proper installation. Further, additional sediment ponds should be considered as the drainage area directed to the silt fence appears to exceed the limits contained in the NPDES permit.



Fig 14 (LEFT). There is no silt fence in place to protect Wetland C from sediment-laden runoff.

Fig 15 (RIGHT). Attempt at a sediment trap for the soil stockpile area is insufficient to comply with the NPDES permit. Please consult with the project engineer to determine an appropriate design. Further, the stockpile has not been temporarily stabilized.