



**Environmental
Protection Agency**

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

September 5, 2012

RE: CUYAHOGA COUNTY
CITY OF MIDDLEBURGH HTS
CONSTRUCTION STORM WATER
BOULDER CREEK SUBDIVISION

Giuseppe Ruggiero
Ruggiero Construction
14379 Bagley Road
Middleburgh Heights, OH 44130

Dear Mr. Ruggiero:

On August 31, 2012, I performed a compliance inspection of storm water best management practices (BMPs) at the above referenced site. My inspection was conducted as a follow-up to the inspection conducted by Katie Bowman of this office on June 18, 2012. I was accompanied by Erm Gomes, also of the Ohio EPA, Division of Surface Water. While on site, we met with you, Guiseppe (Joe) Ruggiero. Our records indicate that Ruggiero Construction obtained coverage under the Ohio EPA General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities #OHC000003 (Facility Permit #3GC05309*AG) on February 28, 2011.

Our inspection revealed that there is still a significant amount of construction activity within the subdivision, primarily related to the construction of houses. You indicated that some of the activity I observed was occurring on lots that have been sold to other homebuilders and some of the activity was being conducted by Ruggiero Construction. Based on Ms. Bowman's letter dated July 5, 2012, it appears that you discussed with her the permit mechanics required to transfer compliance obligations from Ruggiero Construction to other homebuilders when a lot is sold for house construction. A review of our records indicates that no homebuilders have submitted an Individual Lot Notice of Intent (Individual Lot NOI) for lots within this subdivision. I asked if Ruggiero Construction includes language in the sales contract that requires the lot purchaser to obtain NPDES permit coverage. You indicated you do not. Please be aware that Part I.D. of the NPDES permit requires Ruggiero Construction to inform, in writing, the individual lot owner of the obligations of the NPDES permit and ensure that an Individual Lot NOI is submitted to Ohio EPA. It appears that Ruggiero Construction has not met this obligation of the NPDES permit. As such, Ruggiero Construction remains the sole party responsible for complying with the NPDES permit within this subdivision.

I asked to see a copy of the storm water pollution prevention plan (SWP3). You showed me a set of the construction drawings signed by Mike McKay, Engineer for the City of Middleburgh

Heights, that included a copy of the sediment and erosion control plan. The plan was somewhat inconclusive, but gives indication that a temporary sediment control riser is to be installed on the outlet of the detention basin so that it can act as a sediment pond during construction. The riser was not installed on the date of inspection. You indicated that it had never been installed to your knowledge. I reminded you that Ruggiero Construction is obligated to ensure that a qualified inspector is observing all sediment and erosion controls once every seven days and within 24 hours of a 0.5-inch or greater rainfall. Maintenance of BMPs is to occur within three days of the inspection whenever the inspection reveals that maintenance is required. Ruggiero Construction is required to keep a report of inspection findings as indicated in Part III.G.2.i of the NPDES permit.

Further, a review of the riser detail indicates that it does not meet the minimum requirements of the NPDES permit. Part III.G.2.d.ii of the NPDES permit requires sediment ponds to provide a minimum 48-hour drain time for the dewatering volume. The design provided on the SWP3 is outdated and does not ensure the minimum drain time is met. On August 29, 2012, I spoke with Stuart Saylor of Reitz Engineering, your project engineer, and discussed my concerns with the sediment control plan. Mr. Saylor indicated that he would review the situation and advise you accordingly. If necessary, he would make amendments to the SWP3 to comply with the NPDES permit.

Due to the amount of construction activity occurring, Ohio EPA recommends that the centralized sediment control, i.e., sediment basin, be established with a dewatering structure that complies with the requirements of the NPDES permit. A skimmer device is preferred to a riser pipe as it will always draw water from the top of the pond where the water is cleanest. The dewatering structure should remain in place until the construction activities within the subdivision are complete or have slowed down to a point where individual lot BMPs can provide adequate control. Currently, there are some individual lot BMPs in place on some lots, but implementation and maintenance of those practices needs improvement.

Further, areas that have been disturbed by construction activity, but where further disturbance will not occur within 21 days from the date it was last disturbed, must be temporarily stabilized as required by Part III.G.2.b.i of the NPDES permit. An example of an area that may meet this requirement is the disturbed areas on S/L 8 through 10. These lots have not been sold and there is no imminent construction activity planned within the next 21 days. If this is the case, temporary stabilization was to be initiated within seven days of last disturbance. Areas at final grade must be permanently stabilized within seven days of reaching final grade.

Finally, the SWP3 shown to me on site did not provide details for post-construction BMPs. To obtain information on what was intended, I contacted Shannon Mullins at the Cuyahoga Soil and Water Conservation District (SWCD). Cuyahoga SWCD acts as the SWP3 review agent for the City of Middleburgh Heights under the City's municipal storm water program. Ms. Mullins indicates that the post-construction plan is to provide a 1.5-inch diameter orifice at the normal waterline elevation to create extended detention of the Water Quality Volume (WQv). Ms.

Mullins believes that this orifice has already been installed on the basin outlet structure. Please ensure that Mr. Sayler is aware that this has occurred so that he can properly advise you on how to temporarily modify the basin for sediment control. Further, please submit design specifications for the post-construction pond so that Ohio EPA can ensure it is designed to meet NPDES requirements. Mr. Sayler indicated that the City asked for design modifications through the course of construction that may have affected compliance with NPDES requirements.

Please provide me with a letter of response indicating the actions you will take to address the concerns in this letter and required to bring this site into compliance with the NPDES permit. Include any amendments made to the SWP3 as well as all pertinent design details and calculations for the sediment basin and post-construction water quality pond. Your response must be received **no later than September 21, 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, or would like to meet to discuss matters further, please contact me at (330) 963-1145. It may be beneficial to bring the City, Cuyahoga SWCD, Ohio EPA, you and your consultants together to ensure we have a common understanding of the situation.

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

DB/cs

Cc: Gary Starr, Mayor, City of Middleburgh Heights
Mike McKay, Engineer, City of Middleburgh Heights
Shannon Mullins, Cuyahoga SWCD
Stuart Sayler, Henry G. Reitz Engineering
John Heer, Walter & Haverfield LLP