



**Environmental
Protection Agency**

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

October 16, 2012

RE: SUM-SEIBERLING WAY PHS 2
PERMIT NO: 3GC05686*AG
STORM WATER
AKRON
SUMMIT COUNTY

Mike Teodecki, P.E.
City of Akron
Bureau of Engineering
166 South High Street
Akron, Ohio 44308

Dear Mr. Teodecki:

We would like to take this opportunity to discuss the compliance status of the Sum-Seiberling Way Phs 2 construction project located in the City of Akron. The project involves the re-location of solid waste from the historic Goodyear industrial waste landfill. A cul-de-sac street is being constructed beginning at 210 Massillon Road and travelling west over Springfield Lake outlet and Haley's Ditch thru the northeast portion of the landfill. The cul-de-sac will connect to future development.

On September 26, 2011 Ralph Coletta, P.E., City Engineer, City of Akron submitted, on behalf of the City of Akron, a Notice of Intent (NOI) for coverage under Ohio General Construction OHC000003. Coverage was granted on October 7, 2011 and the project was assigned National Pollutant Discharge Elimination System (NPDES) Permit No. 3GC05686*AG. A total of 12.99 acres was listed as the acreage to be disturbed.

The permit requires a Storm Water Pollution Prevention Plan (SWPPP) be completed prior to the timely submittal of an Notice of Intent (NOI). The City of Akron has an effective Memorandum of Agreement, dated March 30, 2007, with the Summit Soil & Water Conservation District (SWCD) to receive and review SWPPP's for all commercial, industrial, public, and residential developments in the City of Akron. According to the Summit SWCD, a preliminary SWPPP was first received at their office on September 6, 2012. In an effort to provide guidance and to facilitate a quick review of the SWPPP, Ohio EPA and the Summit SWCD met with your representatives on September 10, 2012 to discuss the project.

On or before September 10, 2012, construction activities were initiated by your contractor. It is not known whether or not at this date the contractor initiated construction on their own or at the direction of the City of Akron.

According to Summit SWCD a revised SWPPP was received at their office on September 20, 2012. In an e-mail dated October 1, 2012 Mike Wytryszczewski, City of Akron informed Summit SWCD that the contractor was being directed to proceed with the project on October 2, 2012. Subsequently, Summit SWCD terminated its review of the SWPPP and informed the City that their office would not be responsible for providing inspections of the project on behalf of the City.

The aforementioned chain of events is of concern to this office. The City is or should be well aware that NPDES Permit OHC000003 requires that a SWPPP be completed **prior** to the submittal of an NOI to Ohio EPA. The SWPPP was submitted to Summit SWCD almost a year after the NOI. **This is a violation of NPDES Permit OHC000005 Part III, B and therefore a violation of Ohio Revised Code 6111.07.** The e-mail directing the contractor to proceed with the project is also a concern as it relates to the City of Akron Municipal Separate Storm Sewer Systems (MS4) permit 3PI00002*CD. Part III. E.1 of this permit requires the City to enact and enforce an ordinance concerning the construction program. The City has an effective ordinance 50.80. The ordinance clearly states that soil disturbing activities shall not begin until the city and/or its authorized agent issues an approval letter. This approval came in the form of an e-mail, dated October 5, 2012 to Dave Dysle, Division of Materials and Waste Management (DMWM), Northeast District Office (NEDO), Ohio EPA, from Mike Wyrzyszcwski, City of Akron. This writer accepted this e-mail as proof of the City's approval of the SWPPP. Therefore, we conclude that the City is in violation of its own ordinance as construction had already begun and actually directed the contractor to begin prior to the SWPPP being approved. If this is not the case please provide documentation that proves otherwise. **This is considered to be a related but separate violation of the City's MS4 permit 3PI00002*CD and again a violation of Ohio Revised Code 6111.07.**

Please be aware that the above listed violations are subject to an enforcement action to be initiated by this office, which would include civil and monetary penalties as allowed under Ohio Revised Code 6111.99. If you should have any questions concerning any of the above, feel free to contact this writer at (330) 963-1136 or by e-mail at phil.rhodes@epa.state.oh.us.

Sincerely,



Philip P. Rhodes, P.E.
Environmental Specialist II
Division of Surface Water

PRP/cs

Cc; Dave Dysle, Ohio EPA, DMWM, NEDO
Dean Stoll, Environmental Supervisor, Enforcement Coordinator, NEDO, Ohio EPA