



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

November 26, 2012

RE: CUYAHOGA COUNTY
CITY OF SOUTH EUCLID
CONSTRUCTION STORM WATER
CUTTER'S CREEK SUBDIVISION
PERMIT NO. 3GC02817*AG

NOTICE OF VIOLATION

CERTIFIED MAIL

Armin Guggenheim
Cutters Creek LLC
23215 Commerce Park Dr., Suite 214
Beachwood, OH 44122

Dear Mr. Guggenheim:

Ohio EPA was recently informed by the City of South Euclid that Cutters Creek LLC is now the operator of record for the Cutters Creek Subdivision. Cutters Creek Subdivision is located along Euclid Creek southeast of the intersection of Anderson Rd and Green Rd. Please be aware that storm water runoff from this development is subject to the Ohio EPA General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities #3GC02817*AG. Our records indicate that NPDES permit coverage was obtained by United Builders on October 24, 2006, but it was never transferred to Cutters Creek LLC.

NPDES Permit

All parties that meet the definition of "operator" contained in Part VII of the NPDES permit are required to obtain NPDES permit coverage. An operator is any party that has control over development plans or day-to-day operations at the project site required to comply with the NPDES permit and its corresponding storm water pollution prevention plan (SWP3).

This letter will serve to inform you that Cutters Creek LLC is in violation of Ohio Revised Code (ORC) 6111.04 and Ohio Administrative Code (OAC) 3745-39-04 for discharging storm water associated with construction activity without NPDES permit coverage. Further, Cutters Creek LLC is in violation of ORC 6111.07 and OAC 3745-38-02 for failure to inform Ohio EPA of the change in site operator. OAC 3745-38-02 requires notification of general permit coverage transfer at least 30 days prior to the transfer date. The transfer date corresponds to the date that Cutters Creek LLC assumed responsibility for the Cutters Creek Subdivision development.

Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation. To correct these violations, Cutters Creek LLC must transfer the existing permit coverage from United Builders to Cutters Creek LLC by submitting an NPDES permit transfer application. This form is available on our website at www.epa.ohio.gov/dsw/storm/index.aspx under the Forms and

Permits tab. Please submit the completed form to Ohio EPA, Division of Surface Water, ATTN: Michael Joseph, P.O. Box 1049, Columbus, OH 43216-1049. Cutters Creek LLC will remain in violation of ORC 6111 until the NPDES permit transfer application is submitted to Ohio EPA.

Resident Complaint

The purpose of my site inspection on November 7, 2012, was to address a complaint received from the resident at of S/L 14. The complainant indicates that storm water from roof drains is backing up into her basement as well as that of her neighbors. My inspection revealed that roof drains from the rear half of the building are directed to an "infiltration trench" rather than the storm sewer system. A review of our records and the SWP3 indicate that drainage was to be directed to the storm sewer system and then to storm water detention basins. The SWP3 does not indicate the existence of the infiltration trenches.

In discussing the situation with the City of South Euclid, they indicate that the infiltration trenches were proposed to address post-construction storm water quality requirements in lieu of directing the runoff to the detention basins. The reason for this change is because the units were built with walk-out basements and the elevations did not allow the runoff to be directed to the storm sewer system via gravity. Although the City of South Euclid Engineer did provide comments regarding the proposed change, he indicates that the City never approved the change. Despite this fact, it is believed that units on S/L 9 through 20 were built with roof drains directly tied into the stone base of what is intended to be infiltration trenches.

Although infiltration trenches are an option available to treat post-construction runoff as required by the NPDES permit, they do not appear to be appropriate for site and soil conditions. Infiltration trenches are best suited on soils in USDA hydrologic group A or B (sandy soils) with hydraulic conductivity between 0.52 and 2.4 inches per hour. Data from the Cuyahoga County Soil Survey indicates that soils on the property are either Urban Land-Mitiwanga Complex (UnB) or Loudonville-Urban Land Complex (LuC). Both of these soil types fall in USDA Hydrologic Group C. Further, specifications in *Rainwater and Land Development, Ohio's Standards for Stormwater Management, Land Development and Urban Stream Protection* (ODNR, 2006), indicate that infiltration trenches should not be located in soils with greater than 20 percent clay. The Cuyahoga County Soil Survey indicates that LuC is 20 to 34 percent clay at the depth at which the infiltration trench would be installed and 24 to 35 percent clay for UnB. On November 8, 2012, the City of South Euclid observed the infiltration trenches and found standing water within the pore spaces between the stone, indicating poor infiltration. As such, Ohio EPA would not recommend the use of infiltration trenches for these site and soil conditions.

Cutter Creek LLC may either (a) direct rooftop runoff to the storm sewer system as originally intended by the SWPPP or (b) disconnect rooftop runoff from the infiltration trenches and redirect runoff through another post-construction practice that is suitable for site and soil conditions before discharging it to Euclid Creek. Practices which may be suitable include, but are not limited to, bioretention cells, dry enhanced swales or sand filters. Please consult with your project engineer to determine which solution is most feasible and amend the SWP3 as needed to provide an appropriate post-construction BMP for the rear rooftop runoff from units on S/L 9-20.

Please provide me with a letter of response indicating the actions you have taken to address the violations and complaint discussed in this letter. Your response must be received no later than December 12, 2012. Include any amendments to the SWP3 with your response.

CUTTER'S CREEK SUBDIVISION
NOVEMBER 26, 2012
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If you have any questions, please contact me at (330) 963-1145.

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

DB/cs

Cc: Mario DiPadova, United Builders
Georgine Welo, Mayor, City of South Euclid
Andrew Blackley, Engineer, City of South Euclid
Paul Kowalczyk, Building Commissioner, City of South Euclid

Ecc: Annie van Blaricom, Director's Office, Ohio EPA, CO