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

Re: **Notice of Violation**
Lucas County
Edison Park
Construction Storm Water
Facility ID No. 2GC03161
City of Toledo
MS4 Storm Water
Facility ID No. 2MS00000

December 28, 2012

Mr. Bill Burkett
Hull & Associates Inc.
3401 Glendale Avenue, Suite 300
Toledo, Ohio 43614

Ms. Patekka Bannister
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604

Dear Mr. Burkett & Ms. Bannister:

On November 7, 2012, Beatrice Miringu, City of Toledo Division of Environmental Services, and I inspected Edison Park at 1821 Front Street, Toledo (photos taken). The purpose of my visit was to evaluate compliance of the site with the National Pollutant Discharge Elimination System (NPDES) permit for storm water discharges associated with construction activity. The inspection was conducted under the provisions of Ohio's water pollution control statutes, Ohio Revised Code (ORC) Chapter 6111. No one was present onsite to provide information.

NPDES permit coverage was applied for and granted to Hull & Associates for this project. Ohio EPA has no record of other permittees for this project. However, according to the Lucas County Auditor's webpage, the parcel is owned by the City of Toledo. Part II.A of the Construction General Permit (or CGP) **requires all operators at a construction site to become co-permittees.** This letter serves to notify the City of Toledo of these permitting obligations. Please submit a Co-Permittee NOI to this office or an explanation of why the City of Toledo is not an "operator". Copies of the Co-Permittee NOI may be downloaded from our website at http://epa.ohio.gov/dsw/storm/stormform.aspx. *Failure to obtain NPDES permit coverage is a violation of Ohio Revised Code 6111. Failure to fully implement and enforce the City's Storm Water Management Program on a construction project on City property is a violation of the City's NPDES permit for discharges from its Municipal Separate Storm Sewer System (MS4).*

As a result of the inspection, I have the following comments:

1. At the time of inspection, the site was inactive with no equipment present. Grading and filling had occurred. Due the lack of onsite personnel, the SWP3 and inspection logs were not available for review. Please submit a copy of the project's grading and stabilization logs as well as the routine inspection logs with your reply to this letter.

2. A significant portion of the site appeared to drain into a wide "L" shaped swale located along the northwest and southwest sides of the site. The only visible outlet to the swale was a raised catch basin in the western corner. This structure is required to meet the design requirements for a sediment settling pond until construction activities have ended and a perennial vegetative cover of 70% density has been achieved over the tributary area. Without reviewing the SWP3, I am unable to determine if the pond meets the requirements of the permit. *Permit Requires:* Concentrated runoff and runoff from drainage areas that exceed the design capacity of silt fence or inlet protection shall pass through a sediment settling pond. To qualify as a sediment settling pond, structures must meet the following specifications: a dewatering zone sized at 67 cubic yards per total contributing drainage acre; dewatering depth less than or equal to five feet (optimal depths are between three to five feet); for ponds serving five acres or more, the dewatering zone shall have a minimum 48 hour drain time; a sediment storage zone sized at 1,000 c.f. per disturbed acre; and the distance between inlets and the outlet at least 2:1 length:width ratio. *Please see Part III.G.2.d.ii. of the permit.* In your reply to this letter, please provide a written certification that the swale and its outlet structure currently meets these requirements or a schedule for modifications to the control measure in order to meet permit requirements.

3. Silt fence had been installed along the east side of the project. The stakes were not twisted together before installation, with the geotextile wrapped around both posts to create secure joints in the fence line. As a result, there were gaps at the joints. *Permit Requires:* All erosion and sediment control practices used to meet the conditions of this permit should met the standards and specifications of the current edition of Ohio's *Rainwater and Land Development Manual* (ODNR) or other standards acceptable to Ohio EPA. *This is a violation of Part III.G.2.b.i of the permit.* There were areas where the silt fence was down, the fabric was sagging, or there were gullies underneath the fence. *Permit Requires:* All control practices shall be maintained and repaired as needed to assure continued performance of their intended function. *This is a violation of Part III.G.2.h. of the permit.* The silt fence must be properly installed and maintained. For details on proper installation and maintenance, please see the current edition of Ohio's Rainwater and Land Development Manual (ODNR) at: http://www.dnr.state.oh.us/tabid/9186/Default.aspx.

4. The northeast portion of the site was a large area of bare soil that appeared recently disturbed (no rills or pillaring, equipment tread marks visible). The western portion of the site appeared to have been seeded and had grass growing. However, much of the swale was bare, with rills forming on the banks. There was bare soil adjacent to the discharge pipe on the Maumee River. On the southeast side of the project, a small earthen berm appeared to have been erected upslope of the silt fence. The berm was not stabilized and the soil was weathered. Gullies had eroded underneath the silt fence. Gullies and rills had formed on the slopes below the silt fence (to the east and to the south). Based on the patchy and thin vegetation and what appeared to be the remnants of erosion control blankets hanging above the rills and gullies, it

appeared that efforts to stabilize the soil east and south of the silt fence were unsuccessful and had occurred a while ago. *Permit Requires:* All control practices shall be maintained and repaired as needed to assure continued performance of their intended function. *Failure to stabilize soil where initial erosion control efforts failed is a violation of Part III.G.2.h. of the permit.* Bare idle areas must be stabilized. Gullies and rills must be filled in prior to applying any method of soil stabilization.

For the more recently disturbed northeast portion of the site, please remember the permit requirements to apply cover within seven days on bare soil in any areas that will sit idle for more than 21 days or that have reached final grade. For areas within 50 feet of the Maumee River, cover is to be applied within two days. *See Part III.G.2.b.i. of the permit.*

5. Stone had been placed on bank of the Maumee River above and below the piped outfall on the northwest side of the site. The installation of the stone did not appear to be adequate to prevent long term erosion down the riverbank. The stone apron did not seem to be shaped and did not extend to the surface of the receiving stream in order to convey flow through a non-erodible channel. If the intent was creating sheet flow, the installation appeared to be too small and on too steep of a slope to function as a level spreader. *Permit Requires:* Operators shall undertake special measures to stabilize channels and outfalls. Control practices used to meet the conditions of this permit should meet the standards and specifications of the current edition of Ohio's *Rainwater and Land Development Manual* or other standards acceptable to Ohio EPA. *These are violations of Parts III.G.2.b.i. and b.ii. of the permit.*

Within 10 days of the date on this letter, please submit to this office **written notification** as to the reasons for the above mentioned comments as well as the actions taken or proposed to prevent any future violations. Your response should include the dates, either actual or proposed, for the completion of the actions. If there are any questions, please contact me at 419-373-3009.

Sincerely,

Lynette Hablitzel, P.E.
Division of Surface Water
Storm Water Program

/jlm

ec: Jason Fyffe, CO-DSW
Tracking