



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

December 10, 2012

RE: TRUMBULL COUNTY
CITY OF WARREN
MUNICIPAL STORM WATER PROGRAM
NOTIFICATION OF CONSTRUCTION COMPLAINT

CERTIFIED MAIL

Tom Angelo, Director
2323 Main Avenue
Warren, OH 44484

Dear Mr. Angelo:

Via a correspondence dated November 1, 2012, Ohio EPA notified the City of Warren of a complaint regarding the construction activities associated with Clover Community Senior Housing (Parcel No. 44-058250), located at 907 North Road, City of Warren, Trumbull County (site). Ohio EPA's correspondence required the City of Warren to conduct a complaint investigation, in accordance with General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Small Municipal Separate Storm Sewer Systems (General MS4 Permit), No. 3GQ00021*BG, and implement all necessary measures to ensure compliance. In addition, Ohio EPA also required the City of Warren to submit the following documentation for review by November 30, 2012:

- I. The complaint investigation's findings;
- II. The plan for corrective action, including notification for Clover Community Senior Housing to submit a Notice of Intent to Ohio EPA;
- III. A copy of the current construction storm water ordinance; and
- IV. A copy of the City of Warren's enforcement escalation plan for construction sites;

On November 29, 2012, Ohio EPA received the City of Warren's response and, unfortunately, the response failed to address items ii, iii, and iv, provided above. The response letter detailed that after an inspection was performed, the actual earth disturbance associated with the site was approximately 0.517 acres and that "Ohio EPA's November 1, 2012 is premature and that no violation of the MS4 rules has occurred. The City has a process that needs to be followed before any construction activity, which would result in the disturbance of one acre or more, would happen and this process has not been completed. At the proper time, the City will make sure that all required permits are obtained and that all procedures will be followed correctly."

Unfortunately, the City of Warren's review of the requirements of the General MS4 Permit is in error. The City of Warren's MS4 program must also regulate construction activities disturbing less than one acre if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. In the case of the site, while the earth disturbance (i.e. roadways cleared to perform soil borings) was less than one acre, the total earth disturbance associated with the site was approximately two acres based upon an architectural drawing for the site. For your convenience, the NPDES Permit for Storm Water Associated with Construction Activity permit (General Construction Permit) defines "larger common plan of development or sale" as a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. The earth disturbance associated with the clearing of roadways to perform soil borings on the site qualifies as a construction activity and would have required authorization under the General Construction Permit at least 21 days prior to the commencement of construction activities on the site.

In accordance with Part V.E of the General MS4 Permit, the City of Warren must submit to Ohio EPA within seven days of receiving this letter, the information previously requested within items ii, iii, and iv, provided above. Should you have any questions regarding this matter, please contact me at your earliest convenience at (330) 963-1118 or via email at chris.moody@epa.ohio.gov.

Sincerely,



Chris Moody
Environmental Specialist II
Division of Surface Water

CM/cs

Cc: William D. Franklin, Mayor
Enzo Cantalamessa, Service and Safety Director
Paul Makosky, Engineering Director

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Tom Angelo, Director
2323 Main Avenue
Warren, OH 44484

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