



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

February 5, 2013

RE: PORTAGE COUNTY  
BRIMFIELD TWP.  
PERMIT NO: 3GC05847  
CONSTRUCTION STORM WATER  
DISTRIBUTION FACILITY WAREHOUSE

NOTICE OF VIOLATION

Mike Larson and Ed Gebauer  
InSite Real Estate, LLC  
1400 16<sup>th</sup> St., Suite 300  
Oak Brook, IL 60523-8854

Richard Warren  
Exxcel Construction Management LLC  
2 Miranova Place, Suite 250  
Columbus, OH 43215

Darren Houfek  
NC Contracting Services LLC  
5840 Sterling Dr., Suite 410  
Howell, MI 48843

Dear Mr. Gebauer, Mr. Larson, Mr Warren and Mr. Houfek:

On January 31, 2013, Molly Drinkuth of the Ohio EPA Division of Surface Water and Eric Long of the Portage Soil & Water Conservation District (SWCD) performed a compliance inspection of storm water best management practices at the above referenced facility located at 212 Progress Blvd. The findings of their inspection are summarized in the attached memo. Please note that their inspection revealed violations of the Ohio EPA General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities #3GC05847\*AG. **Failure to maintain and repair sediment control practices as needed to ensure continued performance of their intended function is a violation of Part III.G.2.h of the NPDES permit. Failure to initiate temporary or permanent stabilization of disturbed areas within seven days of last disturbance or final grade is a violation of Part III.G.2.b.i of the NPDES permit.** InSite Real Estate LLC, Exxcel Construction Management LLC and NC Contracting Services LLC must take immediate action to correct these violations and ensure compliance with the NPDES permit.

In addition to the compliance issues noted by Ms. Drinkuth and Mr. Long, please be aware that Jeff Rizzo of our Division of Drinking and Ground Water (DDGW) continues to receive complaints from Mr. Preston Cutright, a resident of 180 Howe Road, regarding turbidity in his drinking water well. Mr. Rizzo observed water drawn from Mr. Cutright's well on both December 20, 2012, and January 31, 2013, and sampled it for pH, temperature, dissolved oxygen and specific conductivity. Mr. Rizzo noted an increase in turbidity in the water on January 31, 2013, as compared to the water observed on December 20, 2012. Mr. Rizzo also noted a five-fold

increase in specific conductivity between December 20, 2012, and January 31, 2013. Between these sample dates, InSite Real Estate has begun construction of the clay liners in both the East and West Basin and Rubbermaid has begun operations at the warehouse facility. Ohio EPA believes that the increase in turbidity observed in Mr. Cutright's well may be associated with on-going construction activities to install the clay liner in the East Basin. Although construction of the liner has been initiated, it has not yet been completed as of January 31, 2013. The increase in specific conductivity may be due to the increased turbidity and/or the use of chloride-based deicers. Paul Geisel, project manager for Rubbermaid, indicated that Rubbermaid has used sodium chloride as a deicer around loading docks. These concerns were discussed via telephone with Ed Gebauer of InSite Real Estate LLC and separately with Mr. Geisel on February 4, 2013. Mr. Gebauer was urged to complete construction of the clay liner in the East Basin as expeditiously as possible and Mr. Geisel was advised to avoid the use of deicers until the liner is completed. If deicers must be used in the future, acetate-based deicers should be considered over chloride-based deicers. A summary of Mr. Rizzo's findings were e-mailed to Mr. Gebauer on February 4, 2013, and are attached herein as well.

Please provide me with a letter of response indicating the actions you have taken to protect the groundwater resource and address the violations of the NPDES permit. Your response must be received **by February 15, 2013**, and should include photo documentation of corrective action where feasible. If completion of the clay liner in the East Basin is not feasible by this date, provide me with the reason construction could not be completed and a schedule by when the liner will be completed. Failure to comply with the NPDES permit is a violation of Ohio Revised Code 6111.04 and 6111.07 and is punishable by fines of up to \$10,000 per day of violation.

If you have any questions, please contact me at (330) 963-1145.

Sincerely,



Dan Bogoevski  
District Engineer  
Division of Surface Water

DB/cs

Cc: Joseph Mosyjowski, Mosyjowski & Associates  
Eric Long, Portage SWCD  
Chip Porter, Portage County Health Department  
Lloyd Groves, Portage County Health Department  
Trustees, Brimfield Twp.

Ecc: Jeff Rizzo, Ohio EPA, DDGW, NEDO  
Molly Drinkuth, Ohio EPA, DSW, NEDO  
Annie van Blaricom, Legislative Liason, Ohio EPA, CO  
Mike Settles, Public Interest Center, Ohio EPA, CO  
Kristopher Weiss, Public Interest Center, Ohio EPA, CO  
Wendy Drake, US EPA, Region 5

## INTEROFFICE MEMO

**Date:** February 6, 2013

**From:** Molly Drinkuth, DSW, NEDO (MD)

**To:** Dan Bogoevski, DSW, NEDO

**RE:** Distribution Facility Warehouse Site Inspection on January 31, 2013

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In response to the complaint received through Jeff Rizzo in the Division of Drinking and Groundwater, I conducted a compliance inspection at the Distribution Facility Warehouse (Rubbermaid) project in Brimfield Township on January 31, 2013. I was accompanied by Eric Long of Portage SWCD. While on site, I met with Darren Houfek of NC Contracting Services LLC.

Here are my observations from the inspection:

- The temporary skimmer has become disconnected from the West Basin and the Crystal Parkway Basin outlet structures. The skimmers must be reconnected to the basin outlet structure. We recommended stone be placed under the skimmer head to prevent it from becoming stuck to the bottom of the basin and guide posts installed to keep the skimmer in place.



West Basin skimmer must be reconnected



Crystal Parkway skimmer must be reconnected

- The East Basin is currently being dewatered and being discharged onto dirt, resulting in sediment laden waters. This would be fine if the Crystal Parkway Basin was working properly. However, the skimmer in the Crystal Parkway Basin has also become detached from the outlet structure and must be reattached in order to properly function as a sediment basin.



East Basin looking south from outlet



East Basin is being dewatered into Edge Dr swale

- The West Basin and areas around it were regraded in conjunction with the construction of the clay liner. Temporary or permanent stabilization of these areas has not been initiated in the timeframes required by the NPDES permit. Stabilization must be initiated within 7 days of last disturbance or final grade. Stabilization has also not been initiated on Lot 2 and in the soil stockpile area. These areas must be stabilized.
- Other areas of the site disturbed by construction have been seeded, hydromulched and/or matted. However, vegetation has not yet established to a growth density of 70% or greater over much of the site. Areas where only seed and/or hydromulch were used were not mulched with straw before the onset of winter weather to ensure cover over the winter season. These areas still need to be (a) dormant seeded or (b) temporarily stabilized with straw mulch and then permanently stabilized in spring 2013.

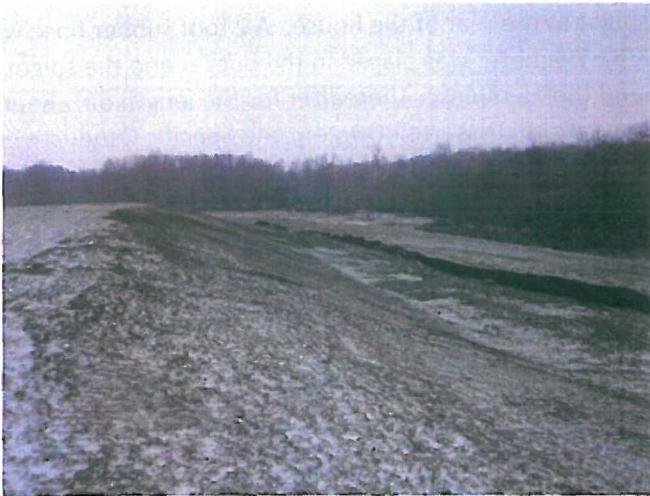


Areas recently disturbed must be stabilized, especially around the West Basin and the regraded area(s)



Areas recently graded on the west side of the site must be stabilized

- Silt fence has not been installed in a functional manner or has not been maintained. All sediment controls, including silt fence, must be capable of ponding runoff in order to settle sediment. Silt fence must be trenched or backfilled and the joint stakes of the silt fence must be connected by twisting the stakes together prior to staking them into the ground. Please repair silt fence, particularly along the west and north sides of the site so that it is functional. Silt fence must remain in place until the upslope contributing drainage area has reached final stabilization, i.e., a vegetative growth density of 70% or greater has been achieved (spring of 2013).



Silt fence must be repaired and disturbed areas must be stabilized

- NC Contracting questioned us about the status of the lower, Water Quality Volume (WQv) orifices in each of the basins. They were instructed to cap the WQv orifices of all basins and to ensure that their skimmers remain connected until the entire contributing drainage area to each basin has been stabilized. To meet this condition, vegetation must reach a 70% or greater growth density, which is not expected to occur until spring 2013.

Let me know if you have any questions,  
Molly Drinkuth

## Bogoevski, Dan

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**From:** Rizzo, Jeff  
**Sent:** Thursday, January 31, 2013 1:36 PM  
**To:** chip porter (dporter@portageco.com); Adams, Eric; Bogoevski, Dan  
**Cc:** Hujar, John; Eggert, Michael  
**Subject:** Cutright well - 180 Howe Road (January 31, 2013 field measurements)  
**Attachments:** cutrightwell.xlsx; cutrightwelljan312013.xlsx; rubbermaid01282013 008.jpg; rubbermaid01282013 007.jpg; rubbermaid01282013 006.jpg; rubbermaid01282013 005.jpg; rubbermaid01282013 004.jpg; rubbermaid01282013 003.jpg; rubbermaid01282013 002.jpg; rubbermaid01282013 001.jpg; Rubbermaid Distribution Center Dec 20 2012.jpg; Rubbermaid Distribution Center Dec 20 2012 (2).JPG; rubbermaid01312013 001.jpg; rubbermaid01312013 004.jpg; rubbermaid01312013 005.jpg; rubbermaid01312013 006.jpg; Rubbermaid Distribution Center Dec 20 2012.jpg; Rubbermaid Distribution Center Dec 20 2012.jpg

On January 31, 2013, I received a voice mail message from Mr. Preston Cutright indicating that his well water had turned cloudy around 4:00 or 5:00 pm on January 30, 2013. Upon returning his telephone call, Mr. Cutright requested that I come to his residence to witness the change in turbidity and to obtain field water quality measurements similar to those I obtained on December 20, 2012.

I arrived at Mr. Cutright's residence, 180 Howe Road, at approximately 10:25 on January 31, 2013. The purpose of the visit was to visual witness an increase in turbidity of Mr. Cutright's well and to obtain several field water quality measurements. A YSI 650 MDS water meter was utilized to collect the field parameters. The YSI 650 MDS water meter was calibrated by Paul Anderson (OEPA DSW) approximately 1 hour prior to collection of field measurements. Measurements were taken from the outside spigot at the rear of the house. A 2 foot rubber hose was connected to the spigot and run to a white 3 ½ gallon bucket. The YSI meter was placed in the bucket and the spigot turned on. The first measurement was collected immediately and then 5 minutes thereafter for the length of ½ hour as the water was permitted to run constantly. I collected, pH, Temperature, Dissolved Oxygen, and Specific Conductivity (corrected to 25 degree Celsius) at 5 minute intervals for a period of ½ hour. A summary of the resultant measurements are contained within the attached excel spreadsheet. In addition, I have provided the field measurements from the December 20, 2012, site visit.

The initial appearance of Mr Cutright's water was visibly more turbid than that observed on the December 20, 2012, visit. There was no odor. Over the ½ hour monitoring period, there did not visually seem to be any appreciable decrease in the level of turbidity of the water. **Photos attached (Rubbermaid Distribution Facility Dec 20, 2012 and Rubbermaid Distribution Facility Dec 20, 2012 (2)) compared to more turbid (rubbermaid01312013 001).**

As evidenced via the summary table and visual observations, there appears to be obvious degradation of Mr Cutright's water quality. While the turbidity of Mr. Cutright's well water has visually degraded, the specific conductivity may be a result of increase in turbidity and the deicing agents (NaCl) applied to the parking lot, dissolved in the melt water and rainwater, and transported to the East pond.

After collecting the field measurements, I inspected Mr. Cutright's water system. The distribution system does not appear to have been altered since the December 20, 2012 visit.

In order to document the potential cause of degradation to Mr. Cutright's well, I submit the following:

John Hujar and myself visited the Rubbermaid site on Monday January 28, 2013, to observe the liner construction progress on the East and West retention ponds. Work appeared to have been completed on the West pond and in

progress on the East pond. Work appeared to have been temporarily suspended due to the current and anticipated rainfall (1 to 2 inches from Jan 28 through Jan 30). The East pond had less than 1 foot of water in the North end. The North end of this pond had been segregated from the southern portion of the pond by an approximately 3 foot high berm.. This berm appeared to be temporarily preventing water from the southern portion of the pond from reaching the northern extremity. At the time of the visit, water behind the berm was beginning to breach the sides and flow into the northern extremities of the East pond. **Photos attached (rubbermaid01282013 001.jpg through rubbermaid01282013 008.jpg)**. Bedrock in the bottom of the East pond had visibly been disturbed in the northern extremity of the East pond.

I have also attached photos of the North end of the East pond from this morning January 31, 2013. There was a considerable larger volume of water ponded in the North extremity of the East Pond as compared to Mondays site visit (see photos) **Photos attached (rubbermaid01312013 004 through 006)**. During my visit today, Mr. Cutright stated that the pump(s) having been running at the East Pond for the past several days. I observed the pump water lines emanating from the North end of the East pond to road side ditch then flow to a manhole. The water was visibly turbid prior to flow down the manhole.

-jeff

Note: new email address below

Jeffrey Rizzo  
Hydrogeologist  
Division of Drinking and Ground Waters  
Ohio Environmental Protection Agency  
Northeast District Office  
2110 Aurora Road  
Twinsburg, Ohio 44087

ph: 330-963-1115  
fax: 330-963-4760  
email: [jeff.rizzo@epa.ohio.gov](mailto:jeff.rizzo@epa.ohio.gov)

Cutright Well December 20, 2012

TIME	Ph	TEMPERATURE (°C)	DO (mg/L)	CONDUCTIVITY (uS/cm)
1005	10.23	12.15	6.02	174
1010	8.52	12.29	4.03	173
1015	7.96	12.40	4.07	173
1020	7.63	12.49	4.10	173
1025	7.44	12.55	4.11	173
1030	7.31	12.59	4.11	174
1035	7.23	12.60	4.11	174

Cutright Well January 31, 2013

TIME	Ph	TEMPERATURE (°C)	DO (mg/L)	CONDUCTIVITY (uS/cm)
1030	7.51	11.05	8.23	841
1035	6.50	11.71	7.84	837
1040	6.47	11.98	7.90	828
1045	6.46	12.14	7.90	825
1050	6.45	12.39	8.01	820
1055	6.46	12.23	8.02	822
1100	6.46	12.26	8.05	821

