



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

February 19, 2013

RE: MAHONING COUNTY
MAHONING VALLEY RACE COURSE
NPDES PERMIT NO. OHC000003
OHIO EPA PERMIT NO. 3GC05333*AG
CONSTRUCTION STORM WATER INSPECTION

NOTICE OF VIOLATION

Norman Nelms
Youngstown Real Estate Ventures LLC
825 Berkshire Blvd.
Wyomissing, PA 19610

Dear Mr. Nelms:

On January 31, 2013, Ohio EPA conducted a storm water inspection at Mahoning Valley Race Course, located at Lanterman Road southwest of the I-80 and SR 11 intersection, Austintown Township, Mahoning County (site). I was accompanied by Zorica Dejanovic of Ohio EPA. The facility was represented by David Gura, Ohio Safety Manager, and David Van Dusen, Project Superintendent, of Turner Construction Company and Tim DeMarco of Independence Excavating, Inc. Ohio EPA records indicate that the site is covered by General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Industrial Activity (General Storm Water Permit), permit No. 3GC05333*AG. The inspection documented the following violations:

Storm Water Inspection

- Grading activities have commenced on the site and the sediment basins have not been installed. Mr. Van Dusen stated that construction activities commenced December 21, 2012. "Permanent sediment basin B" was partially constructed and was not functional (Figure 1). Part III.G.2.d.i of the General Storm Water Permit requires "sediment control structures shall be functional throughout the course of earth disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven days from the start of grubbing." **The failure to have implemented sediment basins prior to grading constitutes violations of Ohio Revised Code Chapter (ORC) 6111.07 and Part III.G.2.d.i of the General Storm Water Permit.**
- Untreated sediment-laden storm water runoff was discharging from the uncompleted "permanent sediment basin B" and directly into a protected wetland and stream complex that has been labeled "do not disturb" on the storm water pollution prevention plan (SWP3) (Figures 2 to 3). **The discharge of pollutants to "waters of the State" constitutes violations of ORC 6111.07, Ohio Administrative Code Chapter (OAC) 3745-1-04(A), OAC 3745-1-04(C), and Part III.G.2.d of the General Storm Water Permit.**
- Concentrated storm water runoff was directed to silt fence that was failing in the area where "temporary sediment basin C" is to be located (Figure 4). Part III.G.2.d.ii of the General Storm Water Permit requires concentrated storm water runoff to be treated by a

sediment settling pond. **The failure to properly treat concentrated storm water runoff constitutes violations of ORC 6111.07 and Part III.G.2.d.ii of the General Storm Water Permit.**

- Concentrated storm water runoff was directed to straw wattles that were failing in the areas where "temporary sediment basin E" and the outfalls from "permanent sediment basin A" and "temporary sediment basin E" are to be located (Figures 5 to 6). Straw wattles were also failing in the location located northwest of "permanent sediment basin A." Part III.G.2.d.ii of the General Storm Water Permit requires concentrated storm water runoff to be treated by a sediment settling pond. **The failure to properly treat concentrated storm water runoff constitutes violations of ORC 6111.07 and Part III.G.2.d.ii of the General Storm Water Permit.**
- Untreated sediment-laden storm water runoff was discharging from the area where silt fence and straw wattles were failing, as detailed above (Figure 7). **The discharge of pollutants to "waters of the State" constitute violations of ORC 6111.07, OAC 3745-1-04(A), OAC 3745-1-04(C), and Part III.G.2.d of the General Storm Water Permit.**
- Straw wattles are depicted to be installed along the western portion of the site to the Lanterman Road overpass embankment. The straw wattle has not been installed to the embankment, in accordance with the SWP3. **The failure to implement straw wattles, in accordance with the SWP3, prior to grading constitutes violations of ORC 6111.07 and Part III.G.2.d.i of the General Storm Water Permit.**
- Part III.B of the General Storm Water Permit requires the SWP3 to be implemented upon initiation of construction activities. Sheet 11 of the SWP3, item 10 of "Phase I SWPPP Sequence," details that prior to mass grading and excavating the site must "install temporary sediment basin(s) in areas outside of the demolition limits. Install any temporary diversion swales to the basin(s)." **The failure to comply with the SWP3's implementation schedule constitutes violations of ORC 6111.07 and Part III.B of the General Storm Water Permit.**

Storm Water Pollution Prevention Plan

On December 31, 2012, Ohio EPA received a copy of the site's SWP3 via email. A review of the site's SWP3 details the following deficiencies that must be addressed via a revised SWP3:

- Part III.G.1.d of the General Storm Water Permit requires a calculation of the runoff coefficients for both the pre-construction and post-construction site conditions. The SWP3 does not include this information;
- Part III.G.1.f of the General Storm Water Permit requires a description of prior land uses at the site. The SWP3 does not include this information;
- Part III.G.1.m of the General Storm Water Permit requires a log documenting grading and stabilization activities as well as amendments to the SWP3, which occur after construction activities commence. The SWP3 does not include this information;

- Part III.G.1.n.viii of the General Storm Water Permit requires a site map that depicts the permanent storm water management practices to be used to control pollutants in storm water after construction operations have been completed. The SWP3 does not include this information;
 - Part III.G.2 of the General Storm Water Permit requires the SWP3 to clearly describe for each major construction activity identified in Part III.G.1.g:
 - (a) appropriate control measures and the general timing (or sequence) during the construction process that the measures will be implemented; and
 - (b) which contractor is responsible for implementation (e.g., contractor A will clear land and install perimeter controls and contractor B will maintain perimeter controls until final stabilization).
- The SWP3 shall identify the subcontractors engaged in activities that could impact storm water runoff. The SWP3 shall contain signatures from all of the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying with the SWP3. The SWP3 does not include this information;
- Part III.G.2.e of the General Storm Water Permit requires a description of the post-construction BMPs that will be installed during construction for the site and the rationale for their selection. In addition, the SWP3 must also include detail drawings, maintenance plans, and water quality volume calculations for all post-construction BMPs. The SWP3 does not include this information;
 - Additional sediment control best management practices (i.e. sediment settling ponds and diversion channels, etc.) must be implemented to replace the failing silt fence and straw wattles that have been installed within concentrated storm water discharges;
 - The "Phase I SWPPP Sequence" must be revised.

Corrective Action

Within ten days of receiving this Notice of Violation (NOV), the following information must be submitted to Ohio EPA for review:

- The SWP3 must be immediately implemented at the site, which includes the construction of all sediment basins and associated sediment basin control structures (i.e. dewatering skimmer).
- A copy of the site's revised SWP3 that addresses all of the above SWP3 deficiencies;
- Copies of all the inspection reports for the period consisting of December 21, 2012 to February 19, 2013; and
- A report detailing the corrective action(s) that will be or have been implemented to address the violations, detailed above. The report must include dates when each corrective action has been or will be implemented and completed.

MAHONING VALLEY RACE COURSE
FEBRUARY 19, 2013
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Failure to resolve the above violations will result in Ohio EPA pursuing formal enforcement, whereby violations of ORC Chapter 6111 are punishable by fines up to \$10,000 a day per violation. Should you have any questions regarding this matter, please contact me at your earliest convenience at (330) 963-1118 or via e-mail at chris.moody@epa.ohio.gov.

Sincerely,



Chris Moody
Environmental Specialist II
Division of Surface Water

CM/cs

cc: Sean McGuire, Mahoning SWCD

ec: Zorica Dejanovic, Ohio EPA, DAPC, NEDO
David Van Dusen, Turner Construction Company
David Gura, Turner Construction Company
Tim DeMarco, Independence Excavating, Inc.



Figure 1 - "Permanent sediment basin B" was partially constructed and was not functional.



Figure 2 - Untreated sediment-laden storm water runoff was discharging directly into a wetland and stream complex.



Figure 3 - Untreated sediment-laden storm water runoff was discharging directly into a wetland and stream complex.



Figure 4 - Concentrated storm water runoff was directed to silt fence that was failing.



Figure 5 - Concentrated storm water runoff was directed to straw waddles that were failing.



Figure 6 - Concentrated storm water runoff was directed to straw waddles that were failing.



Figure 7 - Untreated sediment-laden storm water runoff was discharging from the area where straw waddles were failing.



Figure 8 - Untreated sediment-laden storm water runoff was discharging from the area where straw waddles were failing.