



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

February 25, 2013

RE: LORAIN COUNTY  
CITY OF SHEFFIELD LAKE  
MUNICIPAL STORM WATER  
ILLICIT DISCHARGE PROGRAM

**NOTICE OF VIOLATION**

Len Smith, Service Director  
City of Sheffield Lake  
4750 Richillieu Ave.  
Sheffield Lake, OH 44054

Dear Mr. Smith:

On February 19, 2013, I was made aware of a complaint called into our Division of Air Pollution Control on December 28, 2012. The complainant, Mr. Burl Miller of 336 Lakeview Ave, indicates that he has smelled a sulfur-like odor every other day for at least the past six months. An investigation by our Division of Air Pollution Control (DAPC) indicates that the smell is emanating from the storm sewer catch basins located at the intersection of Lakeview Ave and Walker Rd. The complainant suspects that coal dust from a nearby power plant may be the cause, but the prevailing winds were from the southwest on the date of the DAPC investigation. Thus, they do not believe that the smell is from the power plant or its associated coal piles. This also rules out the sewer plant near the coal pile area.

As we discussed on the telephone on February 20, 2013, sulfur smells are often an indicator of slag. Slag may have been used as bedding material for utility lines such as the storm sewer or under roads and driveway aprons. Residents may have used slag as bedding to run laterals into the municipal storm sewer system (MS4). Slag leachate can be generated when seasonal groundwater levels rise and come into contact with the bedding. Slag leachate can be generated for years after a project is complete. Slag leachate would be considered an illicit discharge to the MS4.

This letter will serve to notify the City of Sheffield Lake of a possible illicit discharge to the MS4. Per obligations contained in Part III.B.3 of the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Small MS4s #3GQ00056\*BG, please conduct an illicit discharge investigation and take all appropriate action to eliminate the source(s) of illicit discharge.

Please submit documentation of the investigation, its findings, outcomes and plans for corrective action to me **no later than March 25, 2013**. Documentation should include any notices of violation sent to the responsible party or parties, and formal enforcement actions taken by the City to correct this matter. Documentation should also include any analytical data or photographic documentation taken during the investigation.

#### **Illicit Discharge Ordinance**

Ohio EPA records show that the City of Sheffield Lake passed Ordinance 45-03 on September 9, 2003, to prohibit illicit discharges to the MS4 (see attached signed copy). This ordinance was intended to provide the City with the authority to conduct illicit discharge investigations and order corrective action to eliminate illicit discharges to the MS4 as required under the NPDES permit program for small MS4s. However, a review of the City of Sheffield Lake codified ordinances at <http://www.conwaygreene.com/municipalCodes.htm> does not indicate that Ordinance 45-03 has been incorporated into the municipal code. **As such, it appears that the City of Sheffield Lake is in violation of Part III.B.3.d of the NPDES permit and Ohio Revised Code 6111.04 and 6111.07 for failure to enact an illicit discharge ordinance.** Although Chapter 944 is titled Regulation of Pollutants into the Municipal Separate Storm Sewer System, Chapter 944 does not contain the language in Ordinance 45-03 and is not an illicit discharge ordinance that would satisfy the requirements of the NPDES permit.

In fact, it appears that Chapter 944 is an older version of construction and post-construction storm water management requirements updated as Chapters 945 and 946 of the municipal code. Thus, as it exists, Chapter 944 is redundant and portions of it potentially conflict with Chapter 945 and 946. Our records show that the redundancy of Chapter 944 with Chapters 945 and 946 was discussed with you in a telephone conversation on May 19, 2011. You indicated that you would discuss this matter with the Law Director, yet it does not appear that the City has taken any action to address this concern. The only portions of Chapter 944 that would provide additional protections to water resources not found in Chapters 945 or 946 are the sections regarding riparian and wetland setbacks. The City should remove sections of Chapter 944 that are redundant or conflict with Chapters 945 and 946 and rename Chapter 944 as Requirements for Riparian and Wetland Setbacks.

Please review these inconsistencies in the municipal code and attached ordinance and provide me with a response indicating the actions the City will take to correct this apparent violation of the NPDES permit. This response must also be received **no later than March 25, 2013**. If corrective action is not complete by this date, include timeframes by when corrective action will be completed. Further, indicate the actions you will take to remove redundant codes concerning construction and post-construction storm water management requirements. Failure to correct these matters **by May 31, 2013**, will lead to escalated enforcement action. Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation. The City of Sheffield Lake was required to enact and enforce an illicit discharge ordinance no later than April 1, 2008.

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

Sincerely,

A handwritten signature in blue ink that reads "Dan Bogoevski". The signature is written in a cursive style.

Dan Bogoevski  
District Engineer  
Division of Surface Water

DB/cs

Cc: Dennis Bring, Mayor, City of Sheffield Lake  
David M. Graves, Law Director, City of Sheffield Lake  
Kay Fantauzzi, Clerk of Council, City of Sheffield Lake