



Environmental
Protection Agency

John R. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Nally, Director

March 1, 2013

RE: PORTAGE COUNTY
BRIMFIELD TWP
CONSTRUCTION STORM WATER
DISTRIBUTION WAREHOUSE FACILITY
FACILITY #3GC05848*AG

NOTICE OF VIOLATION

Mike Larson and Ed Gebauer
InSite Real Estate, LLC
1400 16th 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 February 27, 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 continuing violations of the Ohio EPA General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities #3GC05848*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 7 days of last disturbance or final grade is a violation of Part III.G.2.b.i of the NPDES permit.**

Our records show that these same violations were noted during previous inspections, yet continue to occur. 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. Please submit documentation of corrective action **no later than March 15, 2013**. If these violations are not corrected and the site brought to compliance by this date, Ohio EPA will have no option but to pursue formal enforcement action against all site operators.

Ohio EPA will conduct a compliance inspection the week of March 18, 2013, to determine if violations have been corrected. Please contact Molly Drinkuth of the Division of Surface Water at (330) 963-1215 to coordinate the inspection date and time. 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.

In addition, please be aware that Ohio EPA conducted sampling of the East Basin and the drinking water well located at 180 Howe Road on February 28, 2013. Results of the sampling are not yet available. Additional actions may be required based on the results of the monitoring. Ohio EPA will contact you once results are available.

Finally, during my telephone conversation with Ed Gebauer on February 27, 2013, he indicated that InSite Real Estate will be submitting the liner certification and as-built volume reports to Ohio EPA the week of March 4, 2013. Please notify Ohio EPA if there will be any delay in that schedule.

If you have any questions, please contact me at (330) 963-1145 or Jeff Rizzo at (330) 963-1115.

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.
- ec: Kurt Princic, District Chief, Ohio EPA, NEDO
Jeff Rizzo, Ohio EPA, DDGW, NEDO
John Hujar, Ohio EPA, DMWM, 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, USEPA, Region 5

INTEROFFICE MEMO

Date: February 28, 2013
From: Molly Drinkuth, DSW, NEDO
To: Dan Bogoevski, DSW, NEDO
RE: Distribution Facility Warehouse Site Inspection on February 27, 2013

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 February 27, 2013. I was accompanied by Eric Long of Portage SWCD. While on site, I spoke with Jim Hampton of Exxcel Construction Management LLC, as well as Dan Kane and Paul Giesel of Newell Rubbermaid.

Here are my observations from the inspection:

- Sediment basins are designed to allow most of the sediment to settle by detaining the runoff long enough and by dewatering the cleanest runoff from the surface. While the skimmer appears to be connected to the Crystal Parkway Basin outlet structure, the skimmer head is not floating; therefore the basin is not being dewatered from the top of the water surface as intended.



The Crystal Parkway skimmer must be maintained in order for the basin to properly function (above)
Runoff collected is heavily sediment laden, indicative of the contributing unstabilized areas (below)

- Stabilization has not been completed on the soil stockpile area, Lot 2 and the area surrounding the West Basin. Temporary or permanent stabilization of these areas has not been initiated within 7 days of last disturbance or final grade, a **violation of Part III.G.2.b.i of the NPDES permit**. The areas listed above were cited previously in your letter dated February 5, 2013. There are additional areas that have yet to be stabilized noted below. Any remaining disturbed

areas need to be (a) dormant seeded or (b) temporarily stabilized with straw mulch and then permanently stabilized in spring 2013.



Lot 2 and the stockpile area have not been stabilized as required by the NPDES Permit
(with exception to the swale area along Edge Drive)



Areas surrounding the West Basin have not been stabilized as required by the NPDES Permit



Some unintentional ponding is still occurring on the west side of the property



The northern side of Progress Blvd has not been stabilized as required by the NPDES Permit



Progress Blvd. Basin must be stabilized



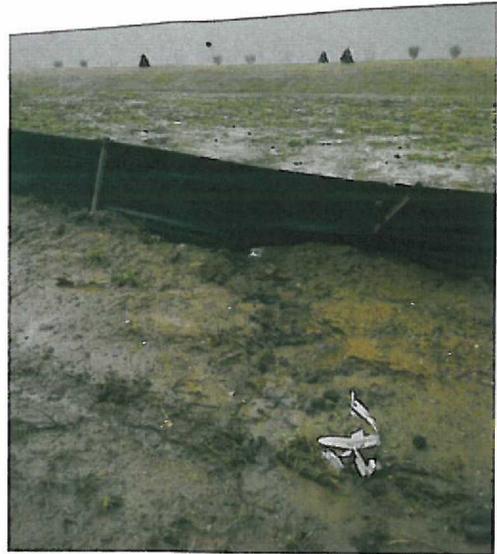
Level spreader to be addressed in the spring

- The berm separating the forebay area of the West Basin has been compromised in the center. Please readdress the berm before the basin is converted to the post-construction water quality pond, once 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). The berm is a post-construction feature of the basin required to create a forebay.



- 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). **As previously stated in your letter dated February 5, 2013, failure to maintain and repair sediment control practices as needed to ensure continued performance of their intended function is a violation of Part II.G.2.h of the NPDES permit.**





Silt fence must be trenched or backfilled to be a functional sediment control.



Silt fence has been installed backwards in this area. Silt fence must be trenched or backfilled and connected by twisting the joint stakes together in order to be functional. Any remaining disturbed areas must be stabilized.

Let me know if you have any questions,

Molly Drinkuth