



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

CERTIFIED MAIL

June 21, 2013

Jim DiCioccio
DiCioccio Construction Ltd.
7812 Gibson Road
Canfield, OH 44406

Jim DiCioccio
DiCioccio Construction Ltd.
3018 Tyler Drive
Canfield, OH 44406

**RE: MAHONING COUNTY, CANFIELD TOWNSHIP, SUMMER WIND PRIVATE ESTATES
(PARRY FARMS), NPDES PERMIT NO. 3GC04939*AG, OHIO EPA PERMIT NO. OH000003
CONSTRUCTION STORM WATER INSPECTION, NOTICE OF VIOLATION**

Dear Mr. DiCioccio:

On May 21, 2013, Ohio EPA conducted a storm water inspection at Summer Wind Private Estates (Parry Farms), located at the northwest intersection of Gibson Road and South Turner Road, Canfield Township, Mahoning County (site). During the inspection, I was accompanied by Tyler Bintrim, U.S. Army Corps of Engineers (USACE); Ed Wilk and Laura Barrett of Ohio EPA; and Sean McGuire, Mahoning County Soil and Water Conservation District (Mahoning SWCD). The site was represented by Donald Cutrer of GreenLEEF Development Services, LLC. The inspection documented the following:

Storm Water Inspection

I. Phases I to II

- 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. 3GC05861*AG. The Notice of Intent submitted detailed that construction activities would result in a total earth disturbance of ten acres, which appears to have encompassed Phases I and II.
- Temporary stabilization is required to be performed within seven days of the most recent disturbance on all portions of the site that have remained idle for greater than twenty-one days. At a minimum, temporary stabilization must be performed on lots 1, 2, 6, 7, and 26.

II. Phases III, V, and VI

- Construction activities are occurring within Phases III, V and VI, a drainage swale located west of Phase VI, and a sediment basin located west of Phase VI (Site II) that have exceeded the site's permitted ten acres of earth disturbance (Figures 1 to 3). According to the Mahoning County Geographic Information System, approximately fourteen acres of earth disturbance have occurred within Site II. Ohio EPA records do not indicate that the construction activities occurring on Site II have received General Storm Water Permit coverage.

Ohio Administrative Code 3745-38-02 requires that General Storm Water Permit coverage for construction activities must be obtained by submitting a Notice of Intent (NOI) at least twenty-one days prior to the start of construction activities. Ohio EPA records do not indicate that Site II has received General Storm Water Permit authorization. **The failure to submit an NOI at least twenty-one days prior to the commencement of construction activities constitutes violations of Ohio Revised Code Chapter (ORC) 6111.07 and Ohio Administrative Code Chapter 3745-08-02.**

- Mr. McGuire informed Ohio EPA that a storm water pollution prevention plan (SWP3) had been submitted to Mahoning SWCD for review, but had not yet been approved due to deficiencies. Within a letter dated April 9, 2013, Mahoning SWCD informed you that construction activities must be terminated within Site II until the SWP3 has been approved. **The failure to comply with Mahoning County erosion and sediment control regulations (i.e. commencing construction activities prior to having an approved SWP3) constitutes violations of ORC 6111.07 and Part III.G.3 of the General Storm Water Permit.**
- Unauthorized discharges of sediment-laden runoff were occurring from Site II and discharging into "waters of the State." A sediment settling pond with an improperly designed dewatering device (i.e. a riser pipe with one inch diameter holes space approximately three inches apart) has been constructed within a possible onsite stream and wetlands (Figures 1 and 4). Within ten days of receiving this Notice of Violation (NOV), a properly designed dewatering device must be installed on the sediment settling pond's outlet. **The failure to have a properly designed dewatering skimmer constitutes violations of ORC 6111.07 and Part III.G.2.d.ii of the General Storm Water Permit.** Please be aware that permitting matters related to any impacts made to possible onsite streams and wetlands are to be addressed by Mr. Bintrim and/or Mr. Wilk.
- Sediment basin No. 1 has not been designed as a sediment settling pond despite active construction activities occurring in Site II (Figure 5). Within ten days of receiving this NOV, the outlet to sediment basin No. 1 must be modified with a dewatering skimmer or equivalent device that has been properly designed with a minimum 48-hour drain time. **The failure to have a properly designed dewatering skimmer constitutes violations of ORC 6111.07 and Part III.G.2.d.ii of the General Storm Water Permit.**

- Improperly installed curb inlet protection was observed within Bella Jean and Thats Life Lane that was unable to pond sediment-laden storm water runoff (Figure 6). Within three days of receiving this NOV, the curb inlet protection must be reinstalled in accordance with the specifications detailed within Chapter 6 of Ohio Department of Natural Resources' (ODNR) *Rainwater and Land Development* manual. For your convenience, this manual can be obtained from the following website:
<http://www.dnr.state.oh.us/water/rainwater/default/tabid/9186/Default.aspx>
- Temporary stabilization is required to be performed within seven days of the most recent disturbance on all portions of the site that have remained idle for greater than fourteen days (Figures 1, 2, and 7). At a minimum, the idle areas include lots 37 through 42, 63 through 67, and the portion of Site II located west of Phase V. **The failure to perform temporary stabilization constitutes violations of ORC 6111.07 and Part II.B of the General Storm Water Permit.**
- No sediment best management practices (BMP) have been installed along the northern portion of Site II, where sediment-laden storm water runoff discharges to the north and is not treated within Sediment Basin No.1 (Figures 1 and 8). Within ten days of receiving this NOV, appropriate sediment BMPs (i.e. sediment traps, diversions, and silt fence, etc.) must be installed to prevent the discharge of sediment-laden. **The failure to provide functional sediment BMPs during the course of earth disturbing activities constitutes violations of ORC 6111.07 and Part III.G.2.d.i. of the General Storm Water Permit.**
- Silt fence and yard inlet protection was failing throughout Site II and requires maintenance (Figures 9 to 10). Within three days of receiving this NOV, all inlet protection and silt fence must be repaired and/or replaced, if applicable. **The failure to provide functional sediment BMPs during the course of earth disturbing activities constitutes violations of ORC 6111.07 and Part III.G.2.d.i. of the General Storm Water Permit.**
- Joint compound was dumped onsite in a location that discharges to "waters of the state" (Figures 11 to 12). Within three days of receiving this NOV, appropriate BMPs (i.e. cleaning and proper disposal, etc.) must be implemented to prevent the joint compound from discharging to "waters of the state." **The failure to prevent the discharge of non-sediment pollutants constitutes violations of ORC 6111.07 and Part III.G.2.g.i. of the General Storm Water Permit.**
- Construction vehicles access the portion of Site II located west of Phase V from Thats Life Lane without a properly designed construction entrance installed (Figure 13). Offsite tracking of sediment was occurring within Thats Life Lane. **The failure to have a properly installed construction entrance to prevent the offsite tracking of sediment constitutes violations of ORC 6111.07 and Part III.G.2.g.ii of the General Storm Water Permit.**
- A post-construction storm water management BMP has been incorrectly installed northeast of lots 59 through 61 (Figure 14). Within three days of receiving this NOV, the post-construction BMP must be repaired to be reflective of the SWP3 that was approved by Mahoning SWCD.

Corrective Action

- A NOI application form must be completed for Site II and submitted to Ohio EPA, in accordance with the NOI instructions, with the appropriate fee within ten days of receiving this Notice of Violation (NOV). For your convenience, the NOI application and instructions can be obtained from "Forms & General Permits" tab on the following website:
<http://epa.ohio.gov/dsw/storm/index.aspx>
- Copies of the SWP3s for the Site and Site II must be submitted to Ohio EPA within ten days of receiving this NOV.
- A copy of the Site and Site II post-construction operation and maintenance plans must be submitted to Ohio EPA within ten days of receiving this NOV.
- Copies of all the inspection reports for the period consisting of May 1, 2013 to June 20, 2013 must be submitted to Ohio EPA within ten days of receiving this NOV; and
- A report detailing the corrective actions that have been or will be implemented to address all of the violations and deficiencies detailed above. The report must include dates when each corrective action(s) has been or will be implemented and completed.

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:ddw

cc: Donald Cutrer, Vice President of Engineering, GreenLEEF Development Services, LLC
ec: Tyler Bintrim, USACE (tyler.j.bintrim@usace.army.mil)
Ed Wilk, Ohio EPA, NEDO
Laura Barrett, Ohio EPA, NEDO
Sean McGuire, Mahoning SWCD (smcguire@mahoningcountyoh.gov)
Donald Cutrer, GreenLEEF Development Services, LLC (dicutrer@aol.com)



Figure 1 – Unpermitted construction activities are occurring in Site II.



Figure 2 – Unpermitted construction activities are occurring in Site II.



Figure 3 – Unpermitted construction activities are occurring in Site II.



Figure 4 – The Site II sediment settling pond has an improperly designed dewatering device.



Figure 5 – Sediment basin No. 1 has not been designed as a sediment settling pond with a properly designed dewatering device.



Figure 6 – Improperly installed curb inlet protection was installed within Site II.



Figure 7 – Improperly installed curb inlet protection was installed within Site II.



Figure 8 – No BMPs have been installed along the northern portion of Site II.



Figure 9 – Yard inlet protection was failing throughout Site II.

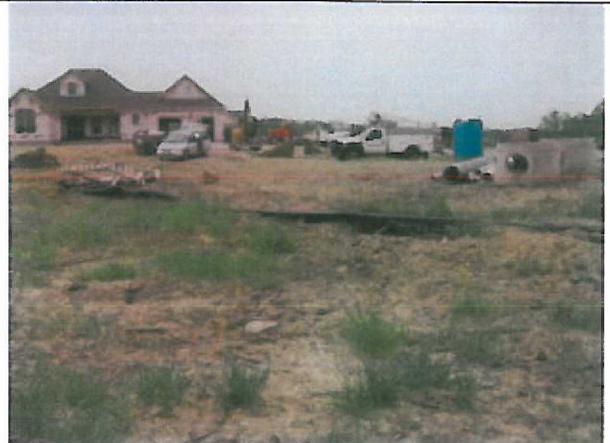


Figure 10 – Silt fence was failing throughout Site II.



Figure 11 – Joint compound was dumped onsite in a location that discharges to "waters of the state."



Figure 12 – Joint compound was dumped onsite in a location that discharges to "waters of the state."



Figure 13 – Offsite tracking of sediment is occurring due to a lack of a construction entrance.



Figure 14 – A post-construction storm water management BMP has been incorrectly installed northeast of lots 59 through 61.