



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

June 18, 2013

RE: PORTAGE COUNTY  
CITY OF KENT  
CONSTRUCTION STORM WATER  
PERMIT NO: 3GC06219\*AG  
PORTAGE CO MUNICIPAL COURT  
KENT BRANCH

Ms. Joann Townend  
Portage County Commissioners  
449 S Meridian Street  
Ravenna, OH 44266

**NOTICE OF VIOLATION**

Dear Ms. Townend:

On May 21, 2013, I performed a compliance inspection of storm water best management practices (BMPs) at the above referenced site. Accompanying me on this inspection was Dan Bogoevski, Molly Drinkuth and Julianna Murphy of the Ohio EPA's Division of Surface Water, as well as Tom Huff, superintendent of The Ruhlin Company. Our records indicate that the Portage County Commissioners have obtained coverage under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC06219\*AG.

The Ohio EPA General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Associated with Construction Activities #OHC000004 requires all parties that meet the definition of "operator" contained in Part VII of the permit to obtain coverage under the NPDES permit. The definition of operator is any party associated with the construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, or
2. The party has day-to-day operational control of those activities at a project, which are necessary to ensure compliance with the storm water pollution prevention plan (SWP3) or other permit conditions.

Both the Ruhlin Company and DSV Builders appear to meet the second of these criteria as it is our understanding that they oversee day-to-day operations, including the installation and maintenance of storm water BMPs. **Failure to obtain NPDES permit coverage is a violation of Ohio Administrative Code 3745-39-04 and Ohio Revised Code 6111.04.** Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation.

To obtain coverage, a Co-Permittee Notice of Intent (Co-Permittee NOI) must be submitted. The form and instructions are available on our website at [www.epa.ohio.gov/dsw/storm/index.aspx](http://www.epa.ohio.gov/dsw/storm/index.aspx) under the Forms and Permits tab. The Co-Permittee NOI was required to be submitted prior to your commencement of work on site. To correct this violation, please complete and submit a Co-Permittee NOI to:

Ohio EPA  
ATTN: Michael Joseph, DSW  
P.O. Box 1049  
Columbus, OH 43216-1049

There is no fee to file the form; however, any operator without a Co-Permittee NOI will be in violation of ORC 6111 until the Co-Permittee NOI is submitted.

In addition to this violation, my inspection of the site revealed the following deficiencies:

- The storm water pollution prevention plan (SWP3) is a "living document"; this means that everything on site must be shown on the plans and everything shown on the plans should be found on site. If changes to the site occur, mark this on the SWP3. In particular, fuel tank location must be added on to the SWP3 and the construction entrance must include the geotextile liner placed under the rocks and inlet protection must be installed as per the SWP3 Specifications.
- **Stabilization, i.e., seeding and mulching, has not been initiated as required by the NPDES permit.** Temporary stabilization must be initiated within 7 days of last disturbance on any disturbed area of the site if it will not be further disturbed within 14 days of last disturbance. Permanent stabilization must be initiated within 7 days of reaching final grade. **No stabilization was evident on the hill behind the site adjacent to the backyards of the houses on Columbus Street or on the soil stockpiles.**
- **Silt fence has not been installed in a functional manner or has not been maintained as required by NPDES Permit.** 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 ensure that all joints are twisted together and repair silt fence 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.
- **Storm drain inlet protection has not been constructed per specifications contained in the SWP3.** Inlet protection was constructed simply by encircling drains with silt fence. This has resulted in failed storm drain inlet protection. Please note that geotextile is to be supported by a wooden frame and cross braces constructed of 2"x4"s as well as wire mesh. Please review the specifications contained in the SWP3 and in *Rainwater and Land Development, Ohio's Standards for Stormwater Management, Land Development and Urban Stream Protection* (Ohio Department of Natural Resources, 2006), and install/repair inlet protection to meet these standards.

- **Non-sediment pollution controls require repair and maintenance.** The concrete washout pit was full. Please remove hardened concrete and restore the washout pit to its original design capacity to prevent an unauthorized discharge of wastewater to the environment. **ALL concrete wash out is to occur ONLY at the washout pit location.** Runoff from the concrete/mortar mixing area must be collected either by creating a berm around the area or by grading the area toward the concrete washout pit. The trash dumpster must be covered with the provided tarp in order to prevent the generation of leachate. Please add secondary containment, such as a containment dike, and a spill kit at the fuel tank. Materials must be kept on site so that spills can be cleaned up should they occur and crews must be trained on proper spill response procedures.
- **Please Note:** The bio-retention soil mix is **NOT** to be installed until construction is complete as it provides post-construction water quality treatment. It must only be installed once the upslope contributing drainage areas have reached final stabilization, i.e., a vegetative growth density of 70% or greater has been achieved.

Please provide me with a letter of response indicating any actions taken to address any deficiencies noted herein, including any amendments to the SWP3 with your response. Your response should **be received no later than July 12, 2013.** If you have any questions, please contact me at Josh.Bewley@epa.ohio.gov or (330) 963-1128. If unavailable, you can also contact Molly Drinkuth at Molly.Drinkuth@epa.ohio.gov or (330) 963-1215.

Sincerely,



Josh Bewley  
Assistant to the District Engineer  
Division of Surface Water

JB:ddw

- cc: Jerry T. Fiala, Mayor, City of Kent  
Tom Huff, The Ruhlin Company  
Jennifer Barrone, Development Engineer, City of Kent  
DSV Builders Inc.
- ec: Dan Bogoevski, Division of Surface Water, OEPA, NEDO  
Molly Drinkuth, Division of Surface Water, OEPA, NEDO  
Julianna Murphy, Division of Surface Water, OEPA, NEDO



Concrete washout pit to be restored to original design. Washout must **NOT** occur at any other location.



Stabilize any disturbed area to remain dormant for 14 days or more.



Silt fence and inlet protection to be built per SWP3 specifications.



A spill kit and secondary containment are to be added.