



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

July 25, 2013

**RE: CUYAHOGA COUNTY
CITY OF BEACHWOOD
CONSTRUCTION STORM WATER
PERMIT NO: 3GC06009*AG
COMMERCE PARK I, II, AND III**

NOTICE OF VIOLATION

Jeff Schroll
Commerce Park Place Holdings LLC
5309 Transportation Blvd.
Cleveland, OH 44125

Dear Mr. Schroll:

On Monday July 8, 2013, I conducted an inspection at the above mentioned site to determine compliance with the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #3GC06009*AG. Accompanying me on my inspection was Randy Allar, an inspector with GDP Group. We were able to meet with Bob Cockrell with NRP Group on site to review the SWP3 (Storm Water Pollution Prevention Plan). Our records indicate that Commerce Park Place Holdings LLC was granted coverage to discharge storm water under the general NPDES permit for construction activities on August 16, 2012.

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 SWP3 or other permit conditions.

It is Ohio EPA's understanding that Fechko Excavating, the party who Bob told us conducts weekly storm water inspections, and NRP Group fall under these conditions and subsequently require a Co-Permittee NOI. A review of our records does not indicate that Fechko Excavating or NRP Group have obtained Co-Permittee coverage under this NPDES permit. Failure to obtain NPDES permit coverage is a violation of Ohio Administrative Code 3745-39-04 and Ohio Revised Code 6111.04.

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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 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 operators of the site will remain in violation of ORC 6111 until the Co-Permittee NOI is submitted. **Please submit this form no later than August 2, 2013.**

Sediment and Erosion Control

Upon our inspection of site, the following deficiencies were noted:

- **Stabilization, i.e., seeding and mulching, has not been initiated as required by the NPDES permit.** Temporary stabilization must be initiated within seven days of last disturbance on any disturbed area of the site which shall remain idle for 14 or more days. Permanent stabilization must be initiated within seven days of reaching final grade. **The soil stockpiles surrounding the site all require stabilization should they remain undisturbed for 14 or more days. (Figures 1,2 & 3)**
- **Silt fence has not been installed in a functional manner or has not been maintained as required by the NPDES Permit. (Figure 4)** All sediment controls, including silt fence, must be capable of ponding runoff in order to settle sediment. The Silt fence must be trenched and 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 the silt fence so that it is functional.** The 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.
- **The Rock Construction Entrance closer to Chagrin Blvd. (not the one with the wheel washing station) was inadequate, resulting in sediment tracking off site. (Figure 5)** Specifications for a Rock Construction Entrance can be found in Chapter 7 of the *Rainwater and Land Development Manual, Ohio's Standards for Stormwater Management, Land Development and Urban Stream Protection* (Ohio Department of Natural Resources, 2006).
- **Non-sediment pollution controls require repair and maintenance as per the NPDES Permit.** Not all of the concrete washed out on site ended up in the concrete washout pit. **(Figure 6)** Ensure that all parties are aware that inside the concrete washout dumpster is the only place on site where concrete washout is permitted.

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Post-Construction Underground Detention System

The General NPDES Permit for Construction Activities considers underground detention systems an alternative post-construction BMP. The ADS N-12 underground detention system used on site falls into this category. **Part III.G.2.e of the NPDES Permit requires permittees to request permission from the Ohio EPA to use alternative post-construction BMPs.** To correct this violation, you are directed to submit certification that this alternative BMP has a minimum total suspended solids (TSS) removal efficiency of 80 percent under both laboratory and field conditions. Tests shall be conducted by an independent, third party tester, using the protocol outlined in the Technology Acceptance Reciprocity Partnership's (TARP) Protocol for Stormwater Best Management Practice Demonstrations, **to be received no later than August 14, 2013.** For guidance, see the following:

<http://www.njstormwater.org>
<http://www.mastep.net/>

Please adjust your SWP3 to account for any changes that need to be made as well as submit a **letter of response indicating any corrective changes to be received no later than August 14, 2013.** In addition, please send your three most recent weekly inspections either by fax (330) 963-1128 or by e-mail. If you have any questions, e-mail me at Josh.Bewley@epa.ohio.gov or contact me at (330) 963-1128. If unavailable, you can also contact Dan Bogoevski at Dan.Bogoevski@epa.ohio.gov or (330) 963-1145.

Sincerely,



Josh Bewley
Assistant to the District Engineer
Division of Surface Water

JB/cl

cc: Bob Cockrell, Superintendent, NRP Contractors LLC
Fechko Excavating
Matthew C. Neff, mNeff Design Group
Randy Allar, Inspector, GDP Group
Joseph Ciuni, Engineer, City of Beachwood
Merle S Gorden, Mayor, City of Beachwood

ec: Dan Bogoevski, DSW, NEDO



Figures 1,2 & 3: Temporary stabilization must occur on any disturbed area that will remain idle for 14 or more days.



Figure 4: Silt fence not properly tied off at the ends. fails to prevent sediment from tracking off site.



Figure 5: Rock construction entrance



Figure 6: Not all concrete is being washed out in the concrete washout dumpster.