



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

August 7, 2013

RE: LAKE COUNTY
CITY OF PAINESVILLE
PERMIT NO. 3GQ00068*BG
MUNICIPAL STORM WATER PROGRAM
INSPECTION

Kevin Lynch
Director of Public Service
City of Painesville
7 Richmond Street
Painesville, OH 44077

NOTICE OF VIOLATION

Dear Mr. Lynch:

Ohio EPA has completed an audit for a portion of your municipal storm water program. Our audit primarily focused on implementation of minimum control measure (MCM) #4: Construction Site Storm Water Runoff Control and MCM #5: Post-Construction Storm Water Management in New Development and Redevelopment. This program is a requirement of the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Small Municipal Separate Storm Sewers Systems (MS4s) OHQ000002 and Ohio Administrative Code 3745-39.

On July 8th and July 9th, 2013, Ohio EPA met with the Lake County Soil & Water Conservation District and other representatives of the City of Painesville to determine compliance with the NPDES permit and the Storm Water Management Plan (SWMP) submitted by the City in 2003. In performing this audit, Ohio EPA implemented a modified version of the Municipal Storm Water Program Evaluation Guide developed by the United States Environmental Protection Agency.

Enclosed are the Municipal Storm Water Program Evaluation, File Review, and Field Inspection Worksheet(s) completed for your community. Please review these documents in detail to determine specific elements where your construction and post-construction programs need improvement. In addition, you will find comments suggesting ways to improve your MS4 program. The following is a summary of our audit findings:

Violations:

- **Failure to escalate enforcement to achieve compliance with the local construction site ordinance.** This is a violation of Part III.B.4.a.vi of the Ohio EPA General Storm Water NPDES permit # OHQ000002. Our file review and interview revealed that the City is deficient in written Notices of Violation (NOV) under City of Painesville letterhead for non-compliance with Chapter 1121 of the municipal code (Erosion and Sediment Control). In municipalities, letters from the SWCD are not considered NOVs unless the community's **ordinance specifically gives the SWCD enforcement authority**. For the City of Painesville, this is not the case. Essentially, the SWCD is simply notifying the developer and community that there are compliance issues on the site, but they have no inherent enforcement authority in a municipality. Written Notice of Violation for the Brookstone/Shamrock Blvd. Extension project in particular may have warranted enforcement action from the City as multiple repeated incidences of the same compliance issues were found by the Lake County SWCD; however, nothing was issued on City letterhead until prompted by Ohio EPA. ***Please describe how the City intends on becoming compliant with the issue described above. Although the City may wish to grant LCSWCD enforcement authority, it is believed that greater involvement from the City Engineer in written form on official City letterhead may be more effective.***

- **Failure to submit a Notice of Termination (NOT) within 45 days of reaching final stabilization on municipal construction projects.** This is a violation of Part IV.A of the Ohio EPA General Storm Water NPDES permit #OHC000003. Our records show that the City of Painesville still has an active permit under the Ohio EPA General Storm Water NPDES Permit for Construction Activities at three (3) municipal sites, which the City indicated were completed and have reached final stabilization. ***Please submit an NOT for the following projects immediately:***
 - Abatement and Demolition of Closed Lake East Hospital (2011)
 - Permit No. 3GC05121*AG

 - Renaissance Parkway Phase 2 (2004)
 - Permit No. 3GC00512*AG

 - Chardon Street Improvements (2004)
 - Permit No. 3GC00769*AG

Deficiencies:

- The field review portion of this audit revealed that there may be a “gap” in the field inspection procedures between Lake County SWCD and the City of Painesville. During the interview, it was noted that Lake County SWCD is responsible for erosion and sediment control (active construction) inspections and plan review, while the City of Painesville is responsible for post-construction inspections and plan review. However, there appears to be confusion with regards to who is responsible for inspecting and reviewing the plans for post-construction BMPs *during active construction*. If a post-construction BMP, e.g. a detention basin, is to be retrofitted with a skimmer device for use during active construction, the basin will function as a sediment control and must be included as part of Lake County SWCD’s erosion and sediment control inspections. In addition, Lake County SWCD must include these structures as part of their plan review to ensure that skimmers are sized correctly in order to drain the dewatering volume of the basin in no less than 48 hours (as required by Chapter 1121). In addition, the interview indicated that the installation of a post-construction BMP too early in the construction process would result in a Notice of Violation letter from the Lake County SWCD; however, the installation of the bioengineered soil media at the Brookstone/Shamrock Blvd. Extension project prior to stabilizing contributing drainage areas was not mentioned by the City or the SWCD until prompted by Ohio EPA. ***Please indicate how the City of Painesville and the Lake County SWCD plan on ensuring that post-construction BMP’s are inspected during the active construction process and included during plan review and approval.***
- It was observed during the interview portion of this audit that the City of Painesville’s Storm Water Management Plan (SWMP) indicates that site inspections will be *“performed by the City at a frequency of once per week”*. However, storm water inspections are performed by the Lake County SWCD (not by the City of Painesville) and are conducted at a frequency of once per month (not weekly). ***Please revise the Storm Water Management Plan (SWMP) such that the inspection frequency and criteria accurately reflects that which is in practice.***
- It was noted that pre-construction meetings with developers/contractors are not required in the City of Painesville. Pre-construction meetings are an excellent opportunity to educate developers/contractors on the City of Painesville’s storm water requirements. In addition, pre-construction meetings provide an opportunity to discuss the sequence of implementation of sediment and erosion controls and the timing of installation of post-construction BMPs. Ohio EPA recommends that the City considers adopting a requirement for developers to attend a pre-construction meeting for any development which disturbs greater than one (1) acre.

- It was noted that the City Engineer was not aware of any water quality basins within the City and that he was under the impression that the basins were designed entirely for flood control. Although a majority of the basins were constructed prior to passing of Chapter 941: *Storm Water Utility and Storm Water Management* and thus are not required to treat water quality or provide Long Term Maintenance (LTM) plans under local code, it was observed during the file review portion of this audit that several of the basins throughout the City, including the Chestnut Storage Facility and the Cobblestone Apartments, are in fact designed to treat the water quality volume associated with the contributing drainage areas. This observation leaves to question exactly how thoroughly post-construction BMP plans are reviewed by the City, if at all. It is Ohio EPA's belief that the City Engineer is knowledgeable of post construction BMP's and their intended function; however, his familiarity with the existing post-construction BMPs throughout the City is not at a level where it should be in order to ensure that necessary maintenance is conducted in order for them to function as intended. Although an inventory of post-construction BMPs was provided during this audit, it is recommended that this inventory be updated to include additional information about the outlet structure (e.g. orifice sizing) as well as the date of construction and maintenance requirements if applicable to Chapter 941.
- Ohio EPA recommends that some of the language within the City ordinance should be re-constructed in order to *encourage* the use of the following (rather than simply *allow* for them in certain cases):
 - Riparian and Wetland setback protection;
 - Runoff reduction (i.e. infiltration, mitigation of recharge volume, etc.);
 - "Green" infrastructure (i.e. rain gardens, pervious pavers, etc.); and
 - Balanced growth principles (i.e. conservative design, native vegetation, etc.).

Post-construction storm water management, land use planning and building and zoning codes must be linked to create a meaningful storm water program. A good MS4 program goes beyond the WQv requirement. The storm water program manager must work with the building commissioner to change development patterns in their community that negatively impact storm water quality.

- Although the City code does not explicitly prohibit certain balanced growth principles such as conservative design and retaining open space, there is little in the code to incentivize it or make it the standard requirement. Codes that can be improved to make them more friendly to storm water program goals include, but are not limited to: use of low-maintenance native vegetation, identifying areas where conservation development and low-impact development practices must be implemented, providing incentives for infill development and redevelopment, increasing vertical development limits, and providing incentives for development and redevelopment along corridors with public transportation, walking and biking options.

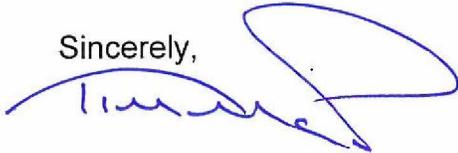
- Although the City does not explicitly prohibit low-impact development and green infrastructure, it is simply a design alternative and is not required or explicitly encouraged. Ohio EPA expects future storm water regulations to require a certain amount of on-site storm water infiltration, capture and reuse. Low-impact development codes will help you meet these requirements. The City should consider strengthening the local development code and integrating standards, which not only allow for these types of structures to be implemented but explicitly encourages or requires it. Although some LID practices have been used in the past, they have not been incorporated to the extent possible to meet the current post-construction requirements. LID practices that could have been incorporated into the design of new projects or redevelopments, had the City asked, include green roofs, sidewalk or parking lot bioretention, permeable pavers, cisterns and other rainwater harvesting techniques.
- The City does not currently track operation and maintenance (O&M) requirements, long-term O&M inspection findings, or the date of last inspection for post construction BMPs in a single place. This information will be required to implement an effective long-term O&M program. Ohio EPA recommends that this information be included with the post-construction BMP inventory collected during this audit.
- The City has not yet completed mapping of all publicly owned post-construction BMPs and all privately-owned post-construction BMPs approved after April 21, 2003. Per Part III.B.5.d of the NPDES permit, the City is obligated to ensure long-term operation and maintenance (O&M) of these post-construction practices, as well as any public facilities that may be constructed in the City of Painesville in the future. Part III.B.3.b of the NPDES permit requires these practices to be mapped by the end of the current NPDES permit term. Once developed, procedures need to be adopted to keep the map current. This map will form the basis of an inventory of post-construction BMPs installed in the City. ***As a reminder, the City must complete mapping within five (5) years of NPDES permit renewal, i.e., June 24th, 2014.***
- Ohio EPA recommends that the City creates a formalized written enforcement escalation plan as part of your construction and post-construction ordinances. This enforcement escalation plan must be followed for any future development within the City, whether publicly or privately funded. This escalation plan should outline what type of enforcement action will result based on whether it be first, second, or third incidence of non-compliance. This plan should also address the enforcement actions which will be taken against those who are in violation of their long-term maintenance agreements with the City.
- It was observed that additional training may be beneficial to those responsible for plan review. Additional training opportunities provided by Ohio EPA and archived at www.epa.ohio.gov/ocapp/storm_water.aspx

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Please review my comments and provide me with a letter of response indicating the actions you will take to address my concerns. **Your response should be received no later than Friday, September 6th, 2013.** Please note that this response does not replace the requirement to submit an Annual Report. Your annual report for 2013 will be due on April 1, 2014.

If you have any questions, please contact Dan Bogoevski at (330) 963-1145 or Dan.Bogoevski@epa.ohio.gov.

Sincerely,



Tim McParland
Assistant to the District Engineer
Division of Surface Water

TMP:ddw

Enclosure

cc: Douglas Lewis, Interim City Manager, City of Painesville
Richard Lesiecki, City Engineer, City of Painesville
Dan Donaldson, District Administrator, Lake County SWCD

ec: Dan Bogoevski, DSW, Ohio EPA, NEDO
Nick Agins, Lake County SWCD (nagins@lakecountyohio.gov)
John Niedzialek, Lake County SWCD (jniedzialek@lakecountyohio.gov)

Municipal Storm Water Program Evaluation

Construction and Post-Construction Component Worksheet

Date of Evaluation
July 8 th -9 th , 2013
Evaluator Name, Title
Tim McParland, DSW, NEDO
MS4 Permittee
City of Painesville #3GQ00068*BG

Instructions: Use this worksheet as a guide for questioning MS4 staff and reviewing applicable documents. Keep in mind that additional questions may be necessary based on local regulations, MS4 permit requirements, implementation strategies, or water quality issues. Remember to obtain copies of any applicable documents or files which may assist in writing the MS4 evaluation report.

Staff Interviewed		
Name	Department/Agency	Phone Number/Email
Richard Lesiecki, PE	City of Painesville	(440) 392-5926 rlesiecki@painesville.com
Daniel Donaldson	Lake County Soil & Water Conservation District	(440) 350-2730 ddonaldson@lakecountyohio.gov
Nick Agins	Lake County Soil & Water Conservation District	(440) 350-2032 nagins@lakecountyohio.gov
John Niedzialek	Lake County Soil & Water Conservation District	(440) 350-5860 jniedzialek@lakecountyohio.gov

Ordinance/Legal Authority	
Interview Questions	Response
Construction Ordinance	
Ordinance used to require storm water BMPs at construction sites?	YES
Name and/or code section(s)	Chapter 1121: Erosion and Sediment Control
Date initially enacted:	December 19 th , 2005
Threshold for coverage (e.g., 1 acre, 100 cubic yards, etc.) <i>NOTE: 1 acre is minimum requirement.</i>	Sites greater than or equal one (1) acre are subject to all of Chapter 1121, while sites less than one acre but greater than or equal to a tenth (1/10) of an acre are subject to an abbreviated set of rules (Chapter 1121.05.b.2)
Exclusions from coverage allowed: <i>NOTE: To align with NPDES permit program, the only exclusions allowed are (a) if rainfall</i>	Activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

Ordinance/Legal Authority	
Interview Questions	Response
<p><i>erosivity factor, R, is < 5 for the project, (b) construction is "routine maintenance" to re-establish the original line, grade or hydraulic capacity of storm water infrastructure, i.e., ditch cleaning and detention basin dredging, where < 5 acres is disturbed, (c) silvicultural disturbances, (d) agricultural disturbances or (e) construction related to oil & gas well exploration.</i></p>	<p>From OAC 1501:15-5-01, this include areas within the state used for agricultural production or silvicultural operations, including land being used for the production or keeping of animals or for the production of agricultural crops or private, industrial, commercial, and public woodlands.</p>
<p>Does your construction program include the following types of construction activity:</p> <p>Single-family residential?</p> <p>Multi-family residential?</p> <p>Commercial development?</p> <p>Institutional development (schools or government facilities)?</p> <p>Mixed-use development?</p> <p>Non-subdivided development?</p> <p>Non-exempt construction on agriculturally-zoned lands? (barn on a farm)</p> <p>Non-silvicultural tree clearing?</p> <p>Your own municipal construction projects?</p> <p>Construction and demolition debris landfills?</p> <p>Construction by other public entities within your political jurisdiction, e.g., a county road project within a municipality?</p> <p>Earth disturbance associated with open spaces and parks (e.g., trails within a park or parking lot improvements at a park)?</p> <p>Private pond construction?</p> <p>Construction of wind or solar panel farms?</p> <p>Establishment of borrow or spoil areas that service multiple, unrelated construction projects?</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>NO</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>

Ordinance/Legal Authority	
Interview Questions	Response
Utility construction projects (including tree clearing along utility corridors or pipeline projects that cross multiple political jurisdictions)?	YES
Does ordinance regulate the discharge of pollutants other than sediments on a construction sites (e.g., construction wastes, fuel tanks, cement truck washwater, trash, chemicals, etc.)?	YES Chapter 1121.08.8
Has ordinance been updated to reflect minimum requirements of Ohio EPA NPDES permit #OHC000003?	YES
Date of updates?	November 21, 2009
Date of MS4 Permit Renewal:	June 24, 2009
Post-Construction Ordinances	
Ordinances used to require post-construction storm water BMPs on new development or redevelopment projects:	
Treatment of Water Quality Volume (WQv) Name and code section:	YES Chapter 941: Storm Water Utility and Storm Water Management
Date initially enacted:	March 25, 2002
Has this ordinance been updated to reflect the minimum requirements of Ohio EPA General Permit #OHC000003?	YES
Date of update:	June 20, 2011
Riparian and Wetland Setback Ordinance Name and code section:	NO
If YES, does ordinance require protection of native vegetation within riparian area or can manicured lawns be established?	N/A
If YES, does ordinance allow the location of	N/A

Ordinance/Legal Authority	
Interview Questions	Response
<p>storm water infrastructure within the riparian setback?</p> <p>Runoff Reduction (e.g., infiltration or mitigation of a recharge volume)? Name and code section:</p> <p>BMPs designed to control temperature for discharges to cold water habitat streams? Name and code section:</p> <p>Encouraging Green Infrastructure or low-impact development practices: Allow downspout disconnection and use of open storm water conveyance systems? Names and code sections:</p> <p>Permit the installation of rain gardens and other bioretention facilities? Names and code section:</p> <p>Allow rainwater harvesting (rain barrels and cisterns)? Name and code section:</p> <p>Allow or require the use of pervious pavement systems? Name and code section:</p> <p>Allow reduction in the size of traditional storm water management structures if LID used? Name and code section:</p> <p>Provide a credit to a storm water utility fee if LID is used? Describe:</p>	<p style="text-align: center;">YES</p> <p>Chapter 941.24.c: Storm Water Quality Control</p> <p style="text-align: center;">N/A</p> <p>(No cold water stream habitats are in Painesville)</p> <p style="text-align: center;">YES</p> <p>Chapter 1113.20: Roof Gutters and Downspouts</p> <p style="text-align: center;">YES</p> <p>Chapter 941.24: Performance standards</p> <p style="text-align: center;">YES</p> <p>Chapter 941.24: Performance standards</p> <p style="text-align: center;">YES</p> <p>Chapter 941.24: Performance standards</p> <p style="text-align: center;">NO</p> <p style="text-align: center;">YES</p> <p>The City provides multiple criteria for which the fee can be reduced if Best Management Practices are used. Refer to Chapter 941.16: Requests for Correction or Adjustment of the Storm Water Drainage Service Charge.</p>

Ordinance/Legal Authority	
Interview Questions	Response
<p>Balanced Growth Principles, i.e., other non-structural ordinances or codes that promote better site design:</p> <p>Allow conservation design as a subdivision layout (retain ≥ 40% open space by maintaining existing zoned density) Standard or variance required? Name and code section:</p>	<p>NO</p>
<p>Encourage the use of vegetation that requires little to no maintenance in common areas (e.g., meadow vegetation vs. mowed lawn) Name and code section:</p>	<p>YES</p> <p>Chapter 1121.09 (a): Non-structural Preservation Measures</p>
<p>Reduce impervious area created by commercial parking lots (e.g., update codes so that they are context-specific, allow shared parking, landbanked parking, parking garages rather than surface lots, etc.) Name of code section</p>	<p>YES</p> <p>Chapter 1137.05: Special Parking Provisions 1137.13: Deferred construction of required spaces (landbanking)</p>
<p>Allow sidewalks on only one side of the road in residential neighborhoods Name and code section:</p>	<p>NO</p>
<p>Zoning that encourages smart growth in compact neighborhoods or mixed-use development:</p>	<p>NO</p>
<p>If YES, does zoning create walkable neighborhoods with access to commercial areas and employment centers? Describe:</p>	<p>N/A</p>
<p>If YES, does this zoning provide incentives for vertical development rather than horizontal sprawl? Describe:</p>	<p>N/A</p>
<p>If YES, does this zoning encourage a range of housing options for people of various incomes?</p>	<p>N/A</p>

Ordinance/Legal Authority	
Interview Questions	Response
<p>Describe how:</p> <p>If YES, do you provide incentives for infill development or development in the core? Describe incentive programs:</p> <p>If YES, does zoning direct growth in areas where there are a variety of transportation choices (walking, biking, public transportation vs. just the car)? Describe how:</p>	<p>N/A</p> <p>N/A</p>
Provisions within Ordinances	
<p>Do permit or plan approvals have to be issued before construction activities that disturb 1 or more acre can commence?</p> <p>Plan Approvals Construction</p> <p>Post-Construction</p> <p>Permits & Type (Building, Grading, etc.) Construction</p> <p>Post-Construction</p> <p>Other: _____</p> <p>Does your definition of “construction activities” include any grading, grubbing, filling, clearing or excavating activity?</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>Zoning, Building</p> <p>YES However; it is defined as “Soil Disturbing Activity”</p>
<p>Are plans for storm water controls used during construction submitted separately from plans that depict post-construction BMPs?</p> <p>Describe the submission process and the timing of plan submission:</p>	<p>NO</p> <p>They are typically submitted together but reviewed separately. Lake SWCD reviews construction plans and the City of Painesville reviews post-construction. From Chapter 1121.06 : Application Procedures, The applicant shall submit two (2) sets of the SWP3 and the applicable processing fees to the City of Painesville and a minimum of two (2) sets of the SWP3 and the applicable review fees to the Designated Review Entity (DRE). The City of Painesville and the DRE will review the SWP3 or Abbreviated SWP3 for conformance with Chapter</p>

Ordinance/Legal Authority													
Interview Questions	Response												
	1121.06 and approve, or return it with comments and recommendations for revisions. DRE recommendations will be provided to the City for appropriate action. Within four (4) weeks, the City will respond to the applicant's SWP3/Abbreviated SWP3 submittal. A submittal rejected because of deficiencies shall receive a letter stating specific problems and procedures for filing a revised submittal. The City has the final approval. Approvals issued will only be valid for one (1) year from the date of approval.												
Does your ordinance explicitly specify selection criteria or minimum acceptable BMP design?													
Construction	YES												
Post-Construction	YES												
If NO, are these standards referenced?													
Construction	YES												
Post-Construction	YES												
If YES, list references:													
Construction	“The most current ODNR Rainwater and Land development manual”. Applicable to both construction and post-construction.												
Post-Construction	Please refer to Chapter 1121.08 (c)												
CONSTRUCTION SITE ENFORCEMENT AUTHORITY													
Types of enforcement mechanisms available for construction site issues per your ordinance:	<table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Notices of Violations (NOV)</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Administrative fines</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Stop-work orders</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Civil penalties</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Criminal penalties</td> <td style="text-align: right;">YES</td> </tr> <tr> <td>Other (Describe):</td> <td style="text-align: right;">Chapter 1121.99 : Penalty</td> </tr> </table>	Notices of Violations (NOV)	YES	Administrative fines	YES	Stop-work orders	YES	Civil penalties	YES	Criminal penalties	YES	Other (Describe):	Chapter 1121.99 : Penalty
Notices of Violations (NOV)	YES												
Administrative fines	YES												
Stop-work orders	YES												
Civil penalties	YES												
Criminal penalties	YES												
Other (Describe):	Chapter 1121.99 : Penalty												
Which type of enforcement action have you most commonly implemented?	Notice of Violation (NOV) letters from Lake County SWCD												

Ordinance/Legal Authority	
Interview Questions	Response
<p>Describe the enforcement mechanism used when the following compliance situations are encountered on construction sites:</p> <ol style="list-style-type: none"> 1. Construction has commenced without a permit or plan approval 2. A BMP indicated on the SWP3 has not been installed or requires maintenance (first incidence) 3. A BMP is required but not shown on the SWP3 4. A BMP has not been installed or maintained despite prior notification from the MS4 (repeated incidences) 5. If using a third party inspection service provider, e.g., the SWCD, MS4 receives inspection report indicating repeated non-compliance issue 	<p>A stop work order will be issued immediately.</p> <p>A Notice of Inspection letter will be sent to the permittee allowing 14 days for corrective action.</p> <p>The responsible party would be required to amend the SWP3 on site and install the necessary BMP.</p> <p>A Notice of Violation letter will be sent for the second and third offenses. The City/SWCD will not approve any further plan submissions from the developer until corrective action is completed.</p> <p>Follow up with violations as indicated in the letter. The City would issue fines if it is deemed necessary.</p>
<p>Describe the last enforcement action your community has taken against a contractor or developer for non-compliance with construction site requirements and provide the documentation to demonstrate the action.</p>	<p>A Notice of Inspection letter dated June 28, 2013 was sent to DiGioia Suburban Excavating relating to issues at the Brookstone Blvd. / Shamrock Blvd. Road Extension project. Silt fence issues along stream, stabilization issues throughout the site, and a lack of conducting weekly inspections were documented during this letter. The letter establishes a fourteen (14) day timeframe for corrective action to be completed and requests to meet with one of their representatives on site to show them problematic areas first hand.</p>
<p>Have your enforcement protocols and procedures for construction site issues been formalized in a written enforcement escalation plan?</p>	<p>NO</p>

Ordinance/Legal Authority	
Interview Questions	Response
POST-CONSTRUCTION ENFORCEMENT AUTHORITY	
Types of enforcement mechanisms available for post-construction site issues per your ordinance:	Notices of Violations (NOV) YES Administrative fines YES Stop-work orders YES Civil penalties YES Criminal penalties YES Other (Describe): Chapter 941.99
Which type of enforcement action have you most commonly implemented?	NONE
Describe the enforcement mechanism used when the following compliance situations are encountered regarding post-construction: <ol style="list-style-type: none"> 1. The post-construction BMP has been installed too early in the construction process (e.g., the permanent WQv outlet has been installed when the sediment control outlet is still required, or the bioretention soil has been placed prior to upland areas being stabilized) 2. The post-construction BMP has not been maintained (first incident) 3. The post-construction BMP has not been maintained after multiple notifications 4. A homeowner has cut down trees in the riparian setback area (if applicable) 5. A homeowner has installed a shed in a vegetated filter strip disrupting sheet flow runoff 	<p style="text-align: center;">Notice of inspection letter from LCSWCD.</p> <p style="text-align: center;"><i>*****Please Refer to Note #1 on Page 10*****</i></p> <p style="text-align: center;">Notice of inspection from the City.</p> <p style="text-align: center;">Notice of Violation, any penalty described in the ordinance if deemed necessary.</p> <p style="text-align: center;">N/A</p> <p style="text-align: center;">If the shed is within an easement, the homeowner would have to remove or relocate the shed.</p>
Describe the last enforcement action your community has taken against a contractor or developer for non-compliance with post-construction site requirements and provide the documentation to demonstrate the action.	<i>No previous enforcement action exists.</i>
Have your enforcement protocols and procedures for post-construction issues been formalized in a written enforcement escalation plan?	NO

Ordinance/Legal Authority		
Interview Questions	Response	
Applicable Documents	Reviewed	Obtained
Sediment and Erosion Control Ordinance	YES	YES
Post-Construction Storm Water BMP Ordinances(s)	YES	YES
Enforcement escalation plan or procedures Construction: Post-Construction:	N/A	N/A

Notes
<p>1) Although it was indicated that a Notice of Inspection letter would be issued by the Lake County SWCD in the instance of a post-construction BMP being installed too early in the construction process, it was observed during the field review portion of this audit that this has not been common practice. It appears that sediment basins (later converted to permanent detention basins) as well as other post-construction BMPs which may be retrofitted in order to serve as a sediment control during active construction are <i>not inspected by LCSWCD</i>. In addition, neither the City nor LCSWCD noted the premature installation of the post-construction BMPs at the Brookstone/Shamrock Blvd. Extension project until prompted by Ohio EPA. Although the City is responsible for post-construction BMP inspections and Lake County SWCD is only responsible for Erosion and Sediment (E&S) control inspections, post-construction BMPs should always be included as part of the E&S inspections during active construction since they are commonly used as a sediment control during this phase. In addition, it is impossible to know whether or not a post-construction BMP has been installed too early in the construction process if they are not inspected as part of the E&S inspections.</p>

Construction Project Inventory	
Interview Question	Response
Do you keep an inventory of construction projects that are actively occurring in your community? If YES, how?	YES <i>Urban Site Program, developed by Silver Creek Production.</i>
Do you track construction projects <1 acre (e.g., individual lot within a subdivision or small addition to a business)?	YES
How often is your inventory of construction projects updated?	Daily
Information tracked:	Project status YES Inspection Findings YES Enforcement Actions YES Complaints YES NOI submittal YES Other: <i>Latitude, Longitude, Watershed, Disturbance, Owner, Developer.</i>

<p>Are site inspections at active construction sites conducted at a frequency of at least once per month?</p> <p>If construction sites are not inspected at least once per month, how do you prioritize or determine inspection frequency?</p> <p>Is this inspection criteria and frequency explicitly stated in your SWMP?</p> <p>*****Please Refer to Note #1 on Page 11 *****</p>	<p style="text-align: center;">YES</p> <p>“Monthly” is the intent but may not always be the case due to staffing.</p> <p>Proximity to water body YES Water body impairment NO Size of project YES Slope of project site NO Other: <i>Date of Previous Inspection</i></p> <p style="text-align: center;">NO</p> <p>*****Please Refer to Note #1 on Page 11 *****</p>
<p>Number of active construction sites on date of interview (for subdivisions where only individual lot construction is occurring, count the entire subdivision or phase of subdivision as one site):</p>	<p style="text-align: center;">8</p> <p>Site #1: Chestnut Storage Most recent inspection date: June 11, 2013 Prior inspection date: N/A (Site has only been active since late May/early June)</p> <p>Site #2: Shamrock & Brookstone Blvd. ext. Most recent inspection date: June 27, 2013 Prior inspection date: May 17, 2013</p>
Applicable Documents	
List of active construction projects	Reviewed Obtained YES YES
List of projects covered under a state/EPA general permit	YES YES

Notes

1) The City of Painesville Storm Water Management Plan (SWMP) states that “*inspections will be performed by the City at a frequency of once per week*”. However, inspections are not conducted once per week and are not even conducted by the City of Painesville (they are conducted by the Lake County SWCD). *The City must amend the SWMP in order to reflect the inspection criteria and frequency which are used in practice today.*

Post-Construction BMP Inventory	
Interview Question	Response
Are post-construction BMPs tracked?	YES

Does this include all types of BMPs, e.g., riparian setback area, green roof or pervious pavement as well as bioretention cells and extended detention ponds?	YES	
Information tracked:	Location	YES
	Type	YES
	Maintenance Requirements	NO
	Inspection findings	NO
	Other (e.g., Ownership): Owner, Address	
Database used?	YES Excel document	
Number of private post-construction structural BMPs installed in community	<u>32</u>	
Applicable Documents		
Inventory of Post-Construction BMPs	Reviewed YES	Obtained YES

Construction and Post-Construction BMP Standards	
Interview Questions	Response
CONSTRUCTION BMPs	
Do your erosion and sediment control standards include BMP selection criteria?	YES
Do your construction site standards account for different needs for different times of the year (e.g., growing season vs. winter)?	YES
Please elaborate:	Dormant seeding schedule after November to account for snow accumulation in the winter.
Do your standards include operation and maintenance requirements?	YES Chapter 1121.09.i : Maintenance
POST-CONSTRUCTION BMPs	
Do your post-construction standards include BMP selection criteria?	YES
Has your community established standards for post-construction BMP selection and design for small construction activities (i.e., where the larger common plan of development or sale disturbs < 5 acres)?	YES
If so, what are your standards?	Chapter 941.24: Performance Standards
Do your standards include operation and maintenance requirements?	YES

Construction and Post-Construction BMP Standards		
Interview Questions	Response	
Applicable Documents	Reviewed	Obtained
BMP guidance or technical document	YES	YES

Plan Review Procedures	
Interview Questions	Response
Who is responsible for erosion and sediment control plan review?	Lake County Soil & Water Conservation District <i>Dan Donaldson, District Administrator</i> <i>John Niedzialek, Resource Protection Specialist</i>
If third party, is there an MOU or other agreement in place?	YES
Is it current?	YES
Who is responsible for post-construction plan review?	The City of Painesville <i>Richard Lesiecki, P.E.</i> <i>Mark Suedkamp, P.E.</i>
If third party, is there an MOU or other agreement in place?	N/A
Is it current?	N/A
What training or professional certifications have plan review personnel received?	
Construction	Dan Donaldson - CPESC, CESSWI John Niedzialek - CPESC
Post-Construction	Richard Lesiecki – P.E. Mark Suedkamp – P.E.
How many years of experience does plan review personnel have inspecting storm water BMPs?	
Construction	Dan Donaldson – Approximately 18 years. John Niedzialek – Approximately 5 years.
Post-Construction	Richard Lesiecki – Approximately 10 years. Mark Suedkamp – Approximately 7 years.

Plan Review Procedures	
Interview Questions	Response
<p>How often do plan review personnel receive training?</p> <p>Construction</p> <p>Post-Construction</p>	<p>Dan Donaldson – Approximately 3 times a year. John Niedzialek – Approximately 3 times a year.</p> <p>Richard Lesiecki – Approximately 3 times a year. Mark Suedkamp – Approximately 3 times a year.</p>
<p>Do you use a checklist to conduct plan review?</p> <p>Construction</p> <p>Post-Construction</p> <p>If NO, what criteria is used to review plans?</p> <p>Construction</p> <p>Post-Construction</p>	<p>YES</p> <p>NO</p> <p>N/A</p> <p>Chapter 941.24: Performance Standards</p>
<p>Size threshold for plan review (i.e. 1 acre, 10,000 square feet)?</p> <p>Construction</p> <p>Post-Construction</p>	<p>1/10th of an acre (Requires abbreviated SWP3).</p> <p>One (1) acre.</p>
<p>Do you verify the submission of a Notice of Intent (NOI) or Individual Lot NOI to Ohio EPA as part of your plan review process?</p>	<p>YES</p>
<p>Do you require a pre-construction meeting with developers and/or contractors?</p> <p>Is the sequence of implementation of sediment and erosion controls discussed during these meetings?</p> <p>Is the timing of installation of post-construction BMPs discussed during these meetings?</p>	<p>NO</p> <p>Most projects will have a pre-construction meeting but they are not required by code.</p> <p>YES</p> <p>YES</p>
<p>Does your community have standard conditions of plan approval?</p>	<p>YES</p>

Plan Review Procedures		
Interview Questions	Response	
Do they include erosion and sediment control and/or post-construction water quality requirements?	YES	
Does your community require a performance bond that can be used to pay for BMPs (site stabilization) in the event the developer does not complete the project?	YES Chapter 1121.12: Bond	
Does your community require a long-term maintenance plan for post-construction BMPs?	YES Chapter 941.30 (3) : Bond	
If YES, is the plan required to include the following:		
Identify the party responsible for long-term maintenance?	YES	
A list of routine and non-routine maintenance tasks and the frequency for their performance?	NO	
A map that identifies the types and locations of post-construction BMPs and their maintenance or access easements?	YES	
A list of deed restrictions, conservation easements or environmental covenants required to maintain post-construction BMPs in perpetuity?	NO	
Is this plan kept on file or input into a database for future reference to ensure the required tasks are being completed?	YES The plans are kept on file by the City.	
Applicable Documents	Reviewed	Obtained
Copy of standard conditions of approval	YES	YES
Example of standard conditions applied to an approved project	YES	YES
Checklist used by plan reviewers	YES	YES

Project Inspections	
Interview Questions	Response
CONSTRUCTION SITE INSPECTIONS	
Who is responsible for erosion and sediment control site inspection?	Lake County Soil & Water Conservation District <i>Dan Donaldson, District Administrator</i> <i>John Niedzialek, Resource Protection Specialist</i> <i>Nick Agins, Resource Protection Technician</i>

Project Inspections	
Interview Questions	Response
If third party, is there an MOU or other agreement in place?	YES
Is it current?	YES
POST-CONSTRUCTION INSPECTIONS	
Who is responsible for post-construction site inspection?	The City of Painesville <ul style="list-style-type: none"> • <i>Richard Lesiecki, P.E.</i> • <i>Mark Suedkamp, P.E.</i> (Third parties will be contracted as well on a case-by-case basis).
If third party, is there an MOU or other agreement in place?	YES Again, contracts are established on a case-by-case basis for individual projects.
Is it current?	YES
Is an "as-built" inspection conducted at the time a post-construction BMP is installed to ensure compliance with the approved BMP construction plan?	YES Chapter 941.27: Maintenance and Final Inspection Approval
Does the MS4 conduct inspections for long-term maintenance of privately-owned post-construction BMPs?	YES However; they are very informal and typically are not documented.
If YES, at what frequency?	"Periodically" Chapter 941.28: On-Going Inspections
If NO, does the MS4 collect inspection reports from the responsible party? At what frequency?	N/A
CONSTRUCTION & POST-CONSTRUCTION INSPECTION QUESTIONS	
Findings from construction and post-construction inspections tracked in a database?	YES
What training or professional certifications have site inspection personnel received?	
Construction	Dan Donaldson - CPESC, CESSWI John Niedzialek - CPESC Nick Agins – OEPA Storm Water Seminars, Technician Development Program Classes

Project Inspections		
Interview Questions	Response	
Post-Construction	Richard Lesiecki – P.E. Mark Suedkamp – P.E.	
How many years of experience does site inspection personnel have inspecting storm water BMPs?		
Construction	Dan Donaldson – Approximately 18 years. John Niedzialek – Approximately 5 years. Nick Agins – Approximately 2 months.	
Post-Construction	Richard Lesiecki – Approximately 10 years. Mark Suedkamp – Approximately 7 years.	
How often do site inspection personnel receive training?		
Construction	Dan Donaldson – Approximately 3 times a year. John Niedzialek – Approximately 3 times a year. Nick Agins – Approximately 4 times a year.	
Post-Construction	Richard Lesiecki – Approximately 3 times a year. Mark Suedkamp – Approximately 3 times a year.	
Do you use a checklist or the approved plan to conduct site inspections?		
Construction	YES	
Post-Construction	YES	
If NO, what standards are used to determine if a site is compliance?		
Construction	N/A	
Post-Construction	N/A	
Applicable Documents	Reviewed	Obtained
Most recent inspection staff training records	YES	YES
Example of active construction project inspection checklist	YES	NO
Example of inspection record to verify “as-built” of post-construction BMPs	YES	NO
Records from inspection tracking database or filing system	YES	YES
Checklist for inspecting long-term maintenance of post-construction BMPs	N/A	N/A

MS4-Owned Construction Projects	
Interview Questions	Response
Projects designed in-house or contracted?	BOTH This is typically dependent on the size and the scope of the project.
Designers trained in storm water BMP implementation?	YES
Checklist used during the design and/or review of public construction projects?	YES
Are projects greater than one acre covered a general construction permit (has an NOI been submitted)?	YES
If contracted planners and engineers are used for the design of MS4-owned projects, does the contract language specify that sediment and erosion control and post-construction storm water BMPs be incorporated into the design?	NO Not explicitly mentioned in the contract language, but the contract does include language requiring compliance with all local codes.
Are municipal construction projects inspected for compliance with the SWP3?	YES
Are they inspected with the same frequency for BMP compliance as a private construction project?	YES
Who inspects municipal construction projects for compliance?	Lake County Soil & Water Conservation District <i>Dan Donaldson, District Administrator</i> <i>John Niedzialek, Resource Protection Specialist</i> <i>Nick Agins, Resource Protection Technician</i>
Project inspectors trained?	YES
Frequency:	Dan Donaldson – Approximately 3 times a year. John Niedzialek – Approximately 3 times a year. Nick Agins – Approximately 4 times a year.
If contracted inspectors are utilized, are minimum inspection, maintenance and reporting requirements specified in the contract?	NO Not explicitly mentioned in the contract language, but the contract does include language requiring compliance with all local codes.
For municipally-owned post-construction BMPs, how often are they inspected to ensure long-term maintenance?	Annually.

MS4-Owned Construction Projects			
Interview Questions		Response	
Which department is responsible for conducting these inspections?		Dependent on where the BMP is located, inspections will be conducted by the Engineering Department., the Department of Public Lands, or the Department of Public Works.	
Applicable Documents		Reviewed	Obtained
MS4-owned project storm water design standards and/or checklist		YES	YES
Contract language for active public project not developed or inspected in-house		N/A	N/A

Outreach and Education	
Interview Questions	Response
Type of training provided to construction operators:	Lake County Soil & Water Conservation District has provided training workshops about construction storm water BMPs targeted towards contractors as well as landscapers.
Designers and Engineers:	Lake County Soil & Water Conservation District encourages Designers and Engineers to attend OEPA storm water conferences.
Attendance required?	NO
Training frequency?	Typically once per year.
Number of operators trained:	Unknown.
Training topics:	Post-construction BMP landscaping, permit requirement reviews, erosion and sediment controls.
Presentations given by MS4 staff to professional groups?	YES Ohio Home Builders Association (OHBA)
Brochures or outreach materials targeted at operators:	YES
How/when is the information distributed?	Brochures are included with utility bills and distributed to residents throughout the City. Information is also distributed online, as well as in the LSWCD and City of Painesville offices.
Website used to educate operators?	YES Educational material related to storm water is available on both the City of Painesville's website as well as the Lake County Storm Water Department's website.

Web address:	http://www.painesville.com http://www.lakecountyohio.gov/smd	
Applicable Documents	Reviewed	Obtained
Training materials	YES	N/A
Brochures, outreach materials	YES	YES

CONSTRUCTION & POST-CONSTRUCTION FILE RECORDS REVIEW

Construction Project #1 Name: Brookstone Shamrock Blvd. Extension (#3GC06374*AG)	
BMPs adequately incorporated into the plan to address erosion control, sediment control, and housekeeping?	YES The plans include curb inlet protection, geotextile wooden frame inlet protection, rock check dams, a rock construction entrance, a concrete wash out pit, and silt fence.
Design specifications and details for all BMPs included on the plans?	NO No detail drawing is provided for the concrete wash out pit.
Maintenance requirements specified?	YES
Have any NOV's or other enforcement actions issued for this site. <i>Obtain copies of NOV's. If none, why not?</i>	YES The two (2) most recent letters sent by Lake County Soil and Water Conservation District are dated June 28 th , 2013 and May 28 th , 2013.
<p>Notes: Plan review for this site was completed by Tom Koritansky, who is no longer employed by the Lake County Soil & Water Conservation District. A letter dated February 8th, 2013 addresses many of the issues with the original SWP3 and includes specific references to the City code. A letter of approval was issued by Dan Donaldson (dated February 27th, 2013) once revised plans were received. The approved plans did provide BMPs to address all of the possible storm water quality issues associated with the site, however; E&S control notes contained outdated detail drawings and narrative, e.g. straw bales used as inlet protection. The approved plans also did not include many of the areas which were found to be disturbed while on site including several of the construction drives, stream crossings, the concrete washout area, and the borrow area. Only the borrow area was eventually added to the plans as an addendum.</p> <p><u>With regards to the letters issued by LCSWCD, please note the following:</u></p> <p><i>In municipalities, letters from the SWCD are not considered NOV's unless the community's ordinance specifically gives the SWCD enforcement authority. For the City of Painesville, this is not the case. Essentially, the SWCD is simply notifying the developer and community that there are compliance issues on the site, but they have no inherent enforcement authority in a municipality.</i></p> <p>The file review indicates that there have been ongoing issues with the above referenced project for several months. Although administrative fines or criminal and or civil penalties may not have been warranted for these repeated incidences of non-compliance, the City should have gotten involved with this issue a lot sooner than they did. No documentation of any communication between the City and the developer related to the issues observed by the LCSWCD exists.</p>	

Construction Project #2 Name: Chestnut Storage (#3GCo4106*AG)	
BMPs adequately incorporated into the plan to address erosion control, sediment control, and housekeeping?	YES BMPs include geotextile wooden frame inlet protection, Dandy Bags, silt fence, and a concrete washout pit.
Design specifications and details for all BMPs included on the plans?	YES
Maintenance requirements specified?	YES Maintenance notes are specified for the concrete wash out pit as well as the Dandy Bags; however, they are not included are for the silt fence.
Have any NOV's or other enforcement actions been issued against this site? <i>Obtain copies of NOV's. If none, why not?</i>	YES First Notice of Violation was issued on June 11th, 2013. The inspector (Nick Agins) noted issues with missing and/or inadequate inlet protection as well as missing silt fence along the western perimeter of the site. The letter established a fourteen (14) day timeframe for corrective actions to occur.
Notes: Although it was observed that some of the existing catch basins were above grade and not necessarily susceptible to contaminated runoff, the approved plans included inlet protection for the catch basins and thus the inspectors included the lack of inlet protection in their reports. Due to the size of the site and the use of inlet protection on all of the catch basins which drained to the detention basins, a temporary dewatering structure was not warranted for the existing detention basin's outlet structure. Overall, very little disturbed area and stabilization is never a huge concern.	

Post-Construction Project #1 Name: Village at Cobblestone Court (#3GC05783*AG)	
Date that project was accepted by community or otherwise deemed "completed"	N/A (Site is still active)
Were post-construction BMPs provided for all drainage areas associated with the developed site? List the post-construction BMPs provided?	YES DA #1: 14 acres (entire site) <ul style="list-style-type: none"> • Wet extended detention basin <ul style="list-style-type: none"> - 2.5" WQ orifice
Design specifications and details for all BMPs included on the plans?	NO Calculations were provided for sizing the basin and the water quality orifice in the <i>Storm Water Management Plan</i> submitted by GPD Group (separate from the plans) but no detail drawing was found on the plans for the permanent outlet structure.
Were post-construction BMPs selected appropriate for their drainage areas, site and soil conditions?	YES
Did the community verify the installation of post-construction BMPs per the approved plan at the time the project was completed?	N/A (Site is still active)
Does MS4 have a copy of the long-term maintenance plan? Who does the plan say is responsible for long-term maintenance? Has the MS4 conducted any long-term maintenance inspections or collected any long-term maintenance inspection reports from the responsible party? Obtain copy of latest inspection report.	Unknown The Lake County Soil & Water Conservation District has a copy of the maintenance plan but it is unknown whether or not the City does. "Apartment Management" N/A (Site is still active)
Notes: <i>The Storm Water Management Plan</i> submitted by GPD Group gives adequate volume calculations for sizing the basin, the water quality orifice, and the skimmer device. The overall design appears to be appropriate for the site. However, the approved set of plans which were available during this file review did not include a detail drawing of the permanent outlet structure, only the calculations for sizing the water quality orifice. Although it is understood that plan review for post-construction BMPs is conducted by the City of Painesville while plan review for construction BMPs is conducted by the Soil & Water Conservation District, it was indicated during the interview portion of this audit that plans which depict construction BMPs and post-construction BMPs are submitted together on the same set of plans. This may indicate that post-construction BMP plan review is not being conducted as thoroughly as required within the local ordinance.	

Post-Construction Project #2 Name: Chestnut Storage (#3GCo4106*AG)	
Date that project was accepted by community or otherwise deemed "completed"	N/A (Site is still active)
Were post-construction BMPs provided for all drainage areas associated with the developed site?	YES
List the post-construction BMPs provided?	DA #1: 1.56 acres <ul style="list-style-type: none"> • Dry Extended Detention Basin <ul style="list-style-type: none"> - 1.25" WQ orifice - WQv = 3398 ft³ - Micropool and Forebay @ 10% of WQv (each)
Design specifications and details for all BMPs included on the plans?	YES
Were post-construction BMPs selected appropriate for their drainage areas, site and soil conditions?	YES
Did the community verify the installation of post-construction BMPs per the approved plan at the time the project was completed?	NO The project is still active. Although the detention basin is preexisting and an as built inspection may have been conducted upon completion, the basin will be reworked and the outlet structure will be modified. Please ensure that the detention basin is inspected per the approved plan at the time of completion and that the orifice plate has been installed inside of the outlet pipe.
Does MS4 have a copy of the long-term maintenance plan?	NO The original basin was installed prior to the passing of local code which requires the submittal of a long-term maintenance plan. Now that the basin is being reworked, the City should require the developer to submit a LTM plan to the City prior to completion of the site.
Who does the plan say is responsible for long-term maintenance?	N/A
Has the MS4 conducted any long-term maintenance inspections or collected any long-term maintenance inspection reports from the responsible party? <i>Obtain copy of latest inspection report.</i>	NO
Notes: The outlet structure modification for the pre-existing detention basin appears to be adequate and all necessary calculations for sizing the basin and the WQ orifice are provided on the plans. The plan does not call for a temporary dewatering structure for use during the active construction process but with appropriate E and S controls in place it does not seem necessary.	

CONSTRUCTION FIELD REVIEW WORKSHEET

Name of MS4: City of Painesville
MS4 Permit No: #3GQ00068*BG

Name of Site: Chestnut Storage Facility	
Location: 220 Chestnut Street	NPDES Permit: # 3GC04106*AG
Date of Inspection: 7/8/2013	Time of Inspection: 10:00 AM
Name of Inspector(s): John Niedzialek, Nick Agins (Lake County SWCD)	
Others Present During Inspection: Richard Lesiecki, City of Painesville	

1. Did MS4 inspector identify himself to the project superintendent or site foreman and state the purpose of his inspection?

NO

The project manager/superintendent was not on site during this inspection.

2. Did the MS4 inspector ask if any amendments have been made to the SWP3 since his or her last inspection?

N/A

The project manager/superintendent was not on site during this inspection.

3. Did the MS4 inspector review the site inspection reports required of the developer once every 7 days and within 24 hours of a 0.5-inch or greater rainfall?

N/A

The project manager/superintendent was not on site during this inspection.

4. Did the inspector reference the approved SWP3 or use it as the basis of his or her inspection?

YES

The inspector referenced the SWP3 prior to walking the site. The site is rather small and the inspection staff is familiar with the approved SWP3. A checklist was used during this inspection.

5. Did the inspector follow-up on any compliance issues found during his or her last inspection?

YES

Issues identified by the inspectors during their last inspection include missing inlet protection and missing silt fence along the western perimeter of the site.

6. Compliance issues identified by inspector during this inspection:
- **Missing/inadequate inlet protection for catch basins.**
 - **Missing silt fence along western perimeter**

7. Deficiencies or NPDES violations not noted by the MS4 inspector during this inspection:
NONE

8. Did the MS4 inspector ask the project superintendent or site foreman to accompany him or her on the inspection?

N/A

The project manager/superintendent was not on site during this inspection.

9. Did the MS4 inspector recap his findings upon completion of his or her inspection?

YES

With Ohio EPA; the project manager/superintendent was not on site during this inspection.

10. Is the community planning on taking any enforcement actions based on the results of today's inspection? If so, what are those actions? (*NOTE: Ask community to send you a copy of the enforcement action.*) Did the inspector provide a deadline for corrective action? If so, provide details.

YES

The deadline for corrective action established in the previous Notice of Violation was July 9th, 2013 (the day after this inspection).

Additional Comments:

- **Although the post-construction BMP provided for the site is an existing detention basin, inspectors must ensure that the modified permanent outlet structure is installed as depicted in the SWP3.**
- **If post-construction BMP's are to be used as a sediment control during active construction (i.e. sediment basin), they should be included as part of the Lake County Soil & Water Conservation District's E&S inspections.**

CONSTRUCTION FIELD REVIEW WORKSHEET

Name of MS4: City of Painesville
MS4 Permit No: #3GQ00068*BG

Name of Site: Heisley Park Subdivision (SL 283)	
Location: Thornwood Lane	NPDES Permit: #3GC05021*AG
Date of Inspection: 7/8/2013	Time of Inspection: 10:45 AM
Name of Inspector(s): John Niedzialek, Nick Agins (Lake County SWCD)	
Others Present During Inspection: Richard Lesiecki, City of Painesville	

1. Did MS4 inspector identify himself to the project superintendent or site foreman and state the purpose of his inspection?

NO

The project manager/superintendent was not on site during this inspection.

2. Did the MS4 inspector ask if any amendments have been made to the SWP3 since his or her last inspection?

NO

The project manager/superintendent was not on site during this inspection.

3. Did the MS4 inspector review the site inspection reports required of the developer once every 7 days and within 24 hours of a 0.5-inch or greater rainfall?

NO

The project manager/superintendent was not on site during this inspection.

4. Did the inspector reference the approved SWP3 or use it as the basis of his or her inspection?

YES

The inspector referenced the SWP3 prior to walking the site. The site is rather small (individual subplot) and the inspection staff is familiar with the approved SWP3. A checklist was used during this inspection.

5. Did the inspector follow-up on any compliance issues found during his or her last inspection?

YES

Issues identified by the inspectors during the last site visit include not trenching the inlet protection, missing silt fence, and stabilization issues.

6. Compliance issues identified by inspector during this inspection:
- **Inadequate inlet protection**
 - **Missing silt fence**
 - **Stabilization issues**
7. Deficiencies or NPDES violations not noted by the MS4 inspector during this inspection:
- **Geotextile frame inlet protection requires 2"x4" framing and chicken wire.**
8. Did the MS4 inspector ask the project superintendent or site foreman to accompany him or her on the inspection?

N/A

The project manager/superintendent was not on site during this inspection.

9. Did the MS4 inspector recap his findings upon completion of his or her inspection?

YES

With Ohio EPA; the project manager/superintendent was not on site during this inspection.

10. Is the community planning on taking any enforcement actions based on the results of today's inspection? If so, what are those actions? *(NOTE: Ask community to send you a copy of the enforcement action.)* Did the inspector provide a deadline for corrective action? If so, provide details.

A Notice of Violation letter will be sent to the homeowner since they are ultimately responsible for stabilizing their yard once the home is completed and they have moved in. For the other lots which deficiencies were observed, NOV letters will be sent to the developer.

Additional Comments:

- **During this field review, I mistakenly suggested that the "SedCatch" Sedcage inlet protection devices are required to be large enough to completely surround the concrete encasement of the catch basins in addition to being trenched and backfilled. According to the manufacturer's specifications, the devices are simply intended to be tucked in on all sides of the grate and require no trenching or backfill. The SWPPP for the individual sublots should include detail drawings and narrative pertaining to these proprietary devices such that proper installation and maintenance can be verified in the field.**

(Please see attached photos.)



Figure 1: Geotextile wooden frame inlet protection requires chicken wire and 2"x4" cross-bracing.

CONSTRUCTION FIELD REVIEW WORKSHEET

Name of MS4: City of Painesville
MS4 Permit No: #3GQ00068*BG

Name of Site: Brookstone Blvd. / Shamrock Blvd. Road Extension	
Location: Shamrock Business Center	NPDES Permit: #3GC06374*AG
Date of Inspection: 7/8/2013	Time of Inspection: 11:15 AM
Name of Inspector(s): John Niedzialek, Nick Agins (Lake County SWCD)	
Others Present During Inspection: Richard Lesiecki, City of Painesville	

1. Did MS4 inspector identify himself to the project superintendent or site foreman and state the purpose of his inspection?

NO

The project manager/superintendent was not on site during this inspection.

2. Did the MS4 inspector ask if any amendments have been made to the SWP3 since his or her last inspection?

NO

The project manager/superintendent was not on site during this inspection.

3. Did the MS4 inspector review the site inspection reports required of the developer once every 7 days and within 24 hours of a 0.5-inch or greater rainfall?

NO

The project manager/superintendent was not on site during this inspection.

4. Did the inspector reference the approved SWP3 or use it as the basis of his or her inspection?

YES

The inspectors referenced the SWP3 prior to walking the site.

5. Did the inspector follow-up on any compliance issues found during his or her last inspection?

YES

Issues identified by the inspectors during the last site visit include silt fence issues (lack thereof as well as inappropriate use with concentrated flows), and stabilization issues along embankments and other idle areas of the site.

6. Compliance issues identified by inspector during this inspection:

- **The silt fence still had not been repaired or replaced as indicated on the previous inspection letter.**
- **Stabilization issues had been addressed since the previous inspection letter but were still apparent throughout the site.**

7. Deficiencies or NPDES violations not noted by the MS4 inspector during this inspection:
- **Construction vehicles had been crossing the stream without a properly constructed temporary stream crossing.**
 - **The ends of sections of silt fence were not twisted together prior to staking in order to create a single continuous barrier (not noted until prompted by OEPA).**
 - **The concrete wash out pit had failed long ago and contaminated the adjacent soils and nearby stream.**
 - **Construction equipment was observed to be leaking oil onto exposed soils.**
 - **Bioretention soil media had been placed prior to stabilizing contributing drainage areas. Inadequate use of silt fence across concentrated flows and deteriorating geotextile fabric were used in attempt to protect the media from any sediment.**
 - **Conveyance channels were not permanently stabilized as required by the permit.**
8. Did the MS4 inspector ask the project superintendent or site foreman to accompany him or her on the inspection?

NO

The project manager/superintendent was not on site during this inspection.

9. Did the MS4 inspector recap his findings upon completion of his or her inspection?

YES

With Ohio EPA and a field representative from Burgess & Niple; the project manager/superintendent from DiGioia-Suburban Excavating was not on site during this inspection.

10. Is the community planning on taking any enforcement actions based on the results of today's inspection? If so, what are those actions? (*NOTE: Ask community to send you a copy of the enforcement action.*) Did the inspector provide a deadline for corrective action? If so, provide details.

YES

An on-site meeting was scheduled for Wednesday, July 10th in order to discuss the recurring compliance issues identified by the LCSWCD. The meeting was held in order to convey that a stop-work order would be issued immediately unless corrective actions are taken to bring the site into compliance.

Additional Comments:

- **An inspection letter from Ohio EPA (separate from this field review) was sent to Mr. Richard Lesiecki (Permittee) on 7/18/2013 and eventually forwarded on to DiGioia Suburban Excavating (Co-Permittee) for a response. Corrective actions were required by August 5th, 2013.**
- **It was noted that the concrete wash out pit and vehicle staging area *had not been included in Lake SWCD's E&S inspections* in the past. The inspectors did not mention this area or include it as part of this inspection until prompted by Ohio EPA. In addition, this area was not depicted on the approved SWP3.**

(Please see attached photos.)



Figure 1. Construction vehicles should refrain from crossing the stream until a temporary stream crossing is constructed.



Figure 2. Leaking equipment must be addressed immediately. In the mean time, drip pads or pans must be implemented.



Figure 3. Conveyance channels must be permanently stabilized within seven (7) days of reaching their desired grade.



Figure 4. The concrete washout pit must be abandoned and concrete waste must be disposed of appropriately.



Figure 5. Bioengineered soil media has been Placed too early in the construction process.



Figure 6. The ends of two sections of silt fence Must be twisted together before staking.

POST-CONSTRUCTION INSPECTION WORKSHEET

***NOTE:** Use two of the post-construction sites you performed a file review on. This will speed up the inspection process since you will already have familiarity with the plan.*

Name of MS4: City of Painesville
MS4 Permit No: #3GQ00068*BG

Name of Site: Chestnut Elementary	
Location: Chestnut Street & Lucille Ave.	NPDES Permit: #3GC02270*AG
Date of Inspection: 7/8/2013	Time of Inspection: 10:30 AM
Name of Inspector: Richard Lesiecki	
Post-Construction BMPs on this Site (list by drainage area)	
DA #1: (Entire site) - Dry Extended Detention Basin	

1. Has the MS4 conducted an as-built inspection of the post-construction BMPs on this site?

YES

2. Using the approved post-construction plan on file with the MS4, verify that the planned BMPs have been installed. If a post-construction BMP has not been installed, what does the MS4 intend to do about it?

YES

3. For post-construction BMPs properly installed, did the inspector use the approved long-term maintenance plan as his basis for inspection?

NO

Basin was built pre-ordinance and thus does not have a LTM plan.

4. Long-term maintenance issues noted by the MS4 inspector during this inspection.
***NOTE:** If maintenance issues are found, ask the MS4 to provide you with a copy of their notification to the responsible party.*

NONE

5. Did the MS4 inspector demonstrate knowledge of post-construction BMP function and essential long-term maintenance issues?

NO

(See additional comments.)

Additional Comments:

- **It was noted that the City Engineer was not aware of any water quality basins within the City and that he was under the impression that the basins were designed entirely for flood control. Although a majority of the basins were constructed prior to passing of Chapter 941: *Storm Water Utility and Storm Water Management* and thus are not required to treat water quality or provide LTM plans under local code, it was observed during the file review portion of this audit that several of the basins throughout the City, including the Chestnut Storage Facility and the Cobblestone Apartments, are in fact designed to treat the water quality volume associated with the contributing drainage areas. This observation leaves to question exactly how thoroughly post-construction BMP plans are reviewed by the City, if at all. It is OEPA's belief that the City Engineer is knowledgeable of post construction BMP's and their intended function; however, his familiarity with the existing post-construction BMPs throughout the City is not at a level where it should be in order to ensure that necessary maintenance is conducted in order for them to function as intended. Although an inventory of post-construction BMPs was provided during this audit, it is recommended that this inventory be updated to include additional information about the outlet structure (e.g. orifice sizing) as well as the date of construction and maintenance requirements if applicable to Chapter 941.**