



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

August 19, 2013

RE: CUYAHOGA COUNTY
CITY OF ROCKY RIVER
MUNICIPAL STORM WATER
NPDES FACILITY #3GQ00092*BG
AVALON DRIVE

Mary Kay Costello
Director of Safety-Service
City of Rocky River
21012 Hilliard Blvd
Rocky River, OH 44116

Dear Ms. Costello:

On August 16, 2013, Ohio EPA was contacted by a resident of your community expressing concerns that coal tar was used to seal asphalt on Avalon Drive. The resident indicates that the road was sealed by Chagrin Valley Paving Corporation in May 2013 using a layer of coal tar, a layer of stone followed by two additional layers of coal tar-based sealant. She is concerned about potential health impacts to the residents due to the constituents of coal tar, namely benzo(a)pyrene, a polycyclic aromatic hydrocarbon (PAH) and known carcinogen.

Research conducted by the University of New Hampshire (UNH) Stormwater Center and the City of Austin, TX, indicates that coal tar-based sealant increases storm water pollution. Not only does runoff from parking lots sealed with coal tar-based sealants have PAH concentrations at least an order of magnitude higher than runoff from unsealed surfaces, but as the pavement wears, the sediment particles accumulated in downstream storm water control structures showed a 200-fold increase in PAH concentrations over sediment particles from unsealed surfaces. Soils adjacent to coal tar-sealed surfaces had highly elevated concentrations of PAH and benzo(a)pyrene. UNH concludes that if paved surfaces must be sealed, an asphalt-based sealant such as asphalt resin, ball clay and silica be used instead. The concentration of PAHs in asphalt-based sealants is 1,000 times less than the concentration in coal tar-based sealants (Watts, Balestero, Roseen and Houle, 2010).

This letter will serve to remind the City of Rocky River that the National Pollutant Discharge Elimination System (NPDES) Permit that authorizes discharges from the municipal separate storm sewer system (MS4) requires the City to adopt storm water pollution prevention practices for municipal operations. This includes practices that reduce or eliminate the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations and snow disposal areas you operate. The use of coal tar-based sealants is not consistent with this requirement. Failure to adopt practices that reduce or eliminate the discharge of pollutants from streets is a violation of Part III.B.6.d.iii.2 of the Ohio EPA General NPDES Permit for Storm Water Associated with Small MS4s #OHQ000002. Failure to comply with an NPDES permit is a violation of Ohio Revised Code 6111.04 and 6111.07 and is punishable by fines of up to \$10,000 per day of violation.

CITY OF ROCKY RIVER – AVALON DRIVE
AUGUST 19, 2013
PAGE – 2 –

Please determine if the sealant used by the contractor is, in fact, a coal tar-based sealant, and if so, please provide me with your plan of action to remediate the situation. Please indicate the timeframe by when you expect to complete corrective action. Several states and cities have banned the use of sealants that use coal tar.

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

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

DB:ddw

cc: Pamela Bobst, Mayor, City of Rocky River
Mike Reyes, Service Commissioner, City of Rocky River