



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

September 9, 2022

Transmitted Electronically

Ms. Haley Belisle
Allen Soil and Water Conservation District
1870 Slabtown Road
Lima, Ohio 45801

**Re: Allen County and Others
Notice of Violation (NOV)
NOV
NPDES
Allen County
2GQ00010**

Subject: Notice of Violation – Municipal Storm Water Program

Dear Ms. Belisle:

On June 17, 2022, Ohio EPA Division of Surface Water (DSW) representatives Rahel Babb, Laura Marshall and I conducted an inspection of Allen County and Others Stormwater Management Program (SWMP). Allen County and Others is a group of co-permittees that operate regulated Municipal Separate Storm Sewer Systems (MS4s). The co-permittees are the Allen County Commissioners, the Allen County Engineer, the Village of Elida, and Perry, Shawnee, Bath, and American Townships.

The goal of the inspection was to determine your communities' compliance with Ohio's environmental laws and regulations as found in Chapter 6111 of the Ohio Revised Code (ORC), Chapter 3745-39 of the Ohio Administrative Code (OAC), and the terms and conditions of Ohio EPA's National Pollutant Discharge Elimination System (NPDES) Small MS4 General Permit, No. OHQ000004, issued on April 1, 2021. The inspection was primarily focused on Minimum Control Measure (MCM) 3: Illicit Discharge Detection and Elimination (IDDE). My inspection included a review of MS4 operations and written documentation associated with the SWMP and its implementation.

Violations

I noted the following violations of Ohio's environmental laws and regulations and Allen County and Others permit terms and conditions. I recommend you promptly address these violations.

Please pay special attention to the **Violation Description** and **Requested Action** associated with each violation listed below as they describe what exactly is in violation and the requested action to address the violation.

1. **ORC Section 6111.07 (A)**: No person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.

Small MS4 General Permit Part III.A.2.: If you are renewing permit coverage under OHQ000004, you shall update your SWMP to be consistent with the requirements of this permit by April 1, 2022 and submit it as an attachment with your 2021 Annual Report due on April 1, 2022.

- (a) **Violation Description:** Allen County and Others have not updated their SWMP and did not submit it with their 2021 Annual Report.

(b) **Additional Information:** On April 1, 2022, Ohio EPA received Allen County and Others 2021 Annual Report. It did not include a copy of an updated SWMP. The most recent SWMP copies available during the inspection were the initial 2003 versions. At that time, a separate SWMP had been created for each regulated MS4. Since then, the MS4s became co-permittees and created one SWMP. Ohio EPA does have a copy on file of a SWMP with the effective date of January 1, 2017.

(c) **Requested Action:** Please revise Allen County and Others' SWMP to be consistent with the terms and conditions of the current Small MS4 General Permit and submit it to Ohio EPA.

2. **ORC Section 6111.07 (A):** See Above.

OAC 3745-39-03 (C)(2)(c)(ii)(b): You must, to the extent allowable under law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges into your storm sewer system. I

OAC 3745-39-03 (C)(2)(d)(ii)(a): You must, to the extent allowable under law, develop and implement an ordinance or other regulatory mechanism to require erosion, sediment, and non-sediment pollutant controls, as well as sanctions to ensure compliance.

OAC 3745-39-03 (C)(2)(e)(ii)(a): You must, to the extent allowable under law, develop and implement an ordinance or other regulatory mechanism to require post-construction runoff controls/BMPs from new development and redevelopment projects, as well as sanctions to ensure compliance.

Small MS4 General Permit Part III.B.3.d.: You shall to the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, illicit discharges into your storm sewer system and implement appropriate enforcement procedures and actions. If you had coverage under the previous version of this permit (OHQ000003), you shall revise your ordinance or other regulatory mechanisms, if needed, by April 1, 2022.

Small MS4 General Permit Parts III. B.4.c.i. and 5.f.i.: Your Construction Site Runoff and Post Construction Stormwater Management ordinance or other regulatory mechanisms shall, at a minimum, be equivalent with the technical requirements set forth in the Ohio EPA NPDES General Storm Water Permit for Construction Activities (OHC000005) applicable to your permit area. The regulatory mechanism shall require notification and approval of modifications to post-construction storm water runoff controls that occur after your initial Stormwater pollution Prevention Plan (SWP3) approvals. If you had coverage under the previous version of this permit (OHQ000003), you shall revise your ordinance or other regulatory mechanisms, if needed, by April 1, 2022.

(a) **Violation Description:** Allen County and Others has not updated the illicit discharge, the construction site runoff, and the post construction stormwater management resolutions and ordinances to be consistent with the current permit.

(b) **Additional Information:** Any updates to local construction and post-construction storm water ordinances required to meet or exceed the Ohio EPA General NPDES Permit for Storm Water Associated with Construction Activities #OHC000005 were also due by this date. Resolution 596-20 was updated in 202. The resolution is available on Allen SWCD and the regional planning web pages.

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- (c) **Requested Action:** Please revise Allen County and Others' resolutions and ordinances to be consistent with the terms and conditions of the Small MS4 General Permit.

Conclusion

Within 30 days of receipt of this letter, please provide documentation to Ohio EPA DSW of the actions taken and/or will be taken to resolve the violations cited above. If circumstances delay resolution of violations, Allen County and Others shall submit written correspondence describing the steps that will be taken and dates when compliance will be achieved. The correspondence can include but is not limited to updated policies, procedures, and photographs, as appropriate, and should be submitted electronically to my email address below

Please note that the submission of any requested information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek administrative or civil penalties as provided in Chapter 6111.09 of the Ohio Revised Code.

We will not be issuing hard-copy mail. This letter is an official response from Ohio EPA that will be maintained as a public record.

Should you have any questions or comments, please contact me at (419) 373-3009 or at lynette.hablitzel@epa.ohio.gov.

Sincerely,



Lynette Hablitzel, P.E.
Division of Surface Water
Northwest District Office

/cle

ec: Scott Sheerin, DSW-CO
Tom Poffenbarger, DSW-NWDO
Haley Belisle, Allen SWCD
Beth Seibert, Allen County Commissioner
Casey Heilman, Allen SWCD