



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

August 25, 2020

Transmitted Electronically

Mr. Doug Martin
Paul Martin & Sons
14854 County Road U
Napoleon, Ohio 43545

**Re: Paul Martin & Sons
Resolution of Violation (ROV)
NPDES
Henry County
2GC05845**

Subject: Resolution of Violation

Dear Mr. Martin:

Thank you for your response to Ohio EPA, Division of Surface Water's (DSW), February 13, 2020, Notice of Violation (NOV) letter. The documentation you provided included a Storm Water Pollution Prevention Plan (SWP3) submitted via e-mail by Andrew Toadvine, Project Manager with Rupp Rosebrock Inc., on February 17, 2020; SWP3 revisions submitted by David Geringer, P.E., on March 2, 2020, and April 24, 2020; and e-mails submitted by Mr. Toadvine on February 21, 2020, February 26, 2020, April 17, 2020, May 22, 2020, June 11, 2020, and August 12, 2020.

I have reviewed the documentation that you provided and have determined that Paul Martin & Sons has now resolved all violations discovered during the February 3, 2020, inspection. To ensure that all the violations have been addressed, I have included Paul Martin & Sons' response for each violation and its status.

Resolution of 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.

CGP Part III.C.2.: The Storm Water Pollution Prevention Plan (SWP3) shall be made available immediately upon request of the director or his authorized representative and MS4 operators or their authorized representative during working hours. A copy of the Notice of Intent (NOI) and letter granting permit coverage under this general permit also shall be made available at the site. The permittee must provide the most recent copy of the SWP3 within seven days upon written request.

(a) **Violation Description:** An SWP3 was not available.

On February 17, 2020, Ohio EPA received an e-mail with a copy of the SWP3. A second e-mail dated February 26, 2020, stated that the current SWP3 was available onsite. On February 18, 2020, and April 17, 2020, Ohio EPA sent response e-mails noting plan deficiencies. Revisions were provided and Ohio EPA sent an e-mail acknowledging that the revised plans were acceptable on April 24, 2020. Therefore, this violation has been resolved.

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

CGP Part III. G.2.i.: Inspections must be conducted weekly and by the end of the next calendar work day after any storm event greater than half an inch of rain per 24-hour period. The permittee shall assign “qualified inspection personnel” to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate and properly implemented in accordance with the schedule proposed in Part III.G.1.h of this permit or whether additional control measures are required. “Qualified Inspection Personnel” is defined as a person knowledgeable in the principles and practice of erosion and sediment controls, who possesses the skills to assess all conditions at the construction site that could impact storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity. Inspections must include: disturbed areas, material storage areas, all sediment and erosion control measures, discharge locations, and all vehicle access points. At a minimum, inspection records must include those items listed under Part III.G.2.i, including: inspector name and qualifications, inspection date, observations, a certification that the facility is in compliance with the SWP3 and the permit and identify any incidents of non-compliance. The record and certification must be signed in accordance with Part V.G. of the permit.

CGP Part III.G.1.m.: The SWP3 shall include a log documenting grading and stabilization activities as well amendments to the SWP3, which occur after construction activities commence.

(a) **Violation Description**: Inspection records and grading and stabilization logs were not maintained.

On February 26, 2020, Ohio EPA received an e-mail with a response letter, which stated that inspection logs were being completed and kept onsite in the jobsite trailer. Therefore, this violation has been resolved.

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

CGP Part III.G.2.d.i.: Requires sediment settling basins and perimeter sediment barriers be implemented prior to grading and within seven days from the start of grubbing.

CGP Part III.G.2.d.ii.: A sediment settling pond is required for any one of the following conditions: concentrated or collected storm water runoff (e.g., storm sewer or ditch); runoff from drainage areas, which exceed the design capacity of silt fence or other sediment barriers; or, runoff from drainage areas that exceed the design capacity of inlet protection. A sediment settling pond must contain a dewatering volume sized at 67 c.y. per drainage acre above a sediment storage volume sized at 1,000 c.f. per disturbed acre. The depth of the dewatering volume shall be no greater than five feet. and the configuration between inlets and the basin’s outlet shall provide at least two units of length for each unit of width.

CGP Part II.F.: A sediment settling pond shall be dewatered at the pond surface using a skimmer or equivalent device where feasible and sized to discharge the dewatering volume in no less than 48 hours.

(a) **Violation Description**: A sediment settling pond had not been installed.

On February 17, 2020, Ohio EPA received an e-mail with a copy of the SWP3. On February 18, 2020, and April 17, 2020, Ohio EPA sent response e-mails noting that the SWP3 and its revisions did not include detail drawings or design information for a sediment settling pond. A revised SWP3 including a sediment settling trap was provided on April 24, 2020. Therefore, this violation has been resolved.

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

CGP Part III.G.2.d.i.: Requires sediment settling basins and perimeter sediment barriers be implemented prior to grading and within seven days from the start of grubbing.

CGP Part III.G.2.d.iii: Sediment Barriers and Diversions. Sheet flow runoff from denuded areas shall be intercepted by sediment barriers or diversions to protect adjacent properties and water resources from sediment transported via sheet flow.

(a) **Violation Description:** It appeared that the roadside drainageway along the south side of America Road had been tiled and filled in. There was no sediment control to intercept the runoff from the north side of the site before it entered the roadside drainageway.

On February 26, 2020, Ohio EPA received an e-mail with a response letter, indicating that VNI installed silt fence. Therefore, this violation has been resolved.

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

CGP Part II.B.: Soil Stabilization. Stabilization of disturbed areas shall, at a minimum, be initiated in accordance with the timeframes specified in the following tables. Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed.

Table 1: Permanent Stabilization

Area requiring permanent stabilization	Time frame to apply erosion controls
Any areas that will lie dormant for one year or more	Within seven days of the most recent disturbance
Any areas within 50 feet of a surface water of the state and at final grade	Within two days of reaching final grade
Any other areas at final grade	Within seven days of reaching final grade within that area

Table 2: Temporary Stabilization

Area requiring temporary stabilization	Time frame to apply erosion controls
Any disturbed areas within 50 feet of a surface water of the state and not at final grade	Within two days of the most recent disturbance if the area will remain idle for more than 14 days
For all construction activities, any disturbed areas that will be dormant for more than 14 days but less than one year, and not within 50 feet of a surface water of the state	Within seven days of the most recent disturbance within the area For residential subdivisions, disturbed areas must be stabilized at least seven days prior to transfer of permit coverage for the individual lot(s).
Disturbed areas that will be idle over winter	Prior to the onset of winter weather

(a) **Violation Description:** Temporary and/or permanent stabilization methods have not been employed on all portions of the site which have been idle for over 14 days.

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On February 26, 2020, Ohio EPA received an e-mail with a response letter, which stated that all disturbed areas would continue to be worked within the 14-day period, as weather permitted, and documented on the inspection logs. On August 12, 2020, Ohio EPA received an e-mail stating that final seeding had been completed. Therefore, this violation has been resolved.

Please note that this does not preclude the Director from seeking administrative or civil penalties pursuant to Ohio Revised Code (ORC) Section 6111 for the violations noted in the February 13, 2020, NOV letter. The decision on whether to pursue or decline to pursue such penalties regarding these violations is dependent on several factors, one of which is the company's future compliance with Ohio EPA regulatory requirements.

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

Sincerely,



Lynette Hablitzel, P.E.
Division of Surface Water

/jlm

ec: Scott Sheerin, DSW, CO
Tom Poffenbarger, DSW, NWDO
Joel Mazur, City Manager, City of Napoleon
Chad Lulfs, Director of Public Works, City of Napoleon
Andrew Toadvine, Project Manager, Rupp/Rosebrock, Inc.
Tracking