

October 21, 2020

CERTIFIED MAIL NO: 7020 1290 0001 6613 0109

Eugene Nicholas
P.O. Box 33
Loganton, PA 17747

Re: Notice of Violation
Beef Barn Construction
Location: East Valley Road (41.047544° N, -77.248936° W)
Greene Township, Clinton County

Dear Mr. Nicholas:

On January 22, 2020, the Department of Environmental Protection (Department) and the Clinton County Conservation District (CCCD) met with you at the site of your beef barn construction along East Valley Road, Loganton (41.047544° N, -77.248936° W) to discuss site development and compliance measures. During this site visit, technical staff of the Department and CCCD conducted a site inspection. The following observations were made:

- The earth disturbance associated with extending the access lane was 45' wide and led to a cleared dirt pad, with a concrete washout area adjacent to the partially constructed barn. Exposed cut and fill slopes were not adequately temporarily stabilized. A continuous 12" Compost Filter Sock (CFS) was approximately 240' below the barn and surrounds the construction activity, although no filter media wedge was present. Site representatives reported that material excavated from the barn foundation was spread and graded upslope of the CFS. A soil stockpile was also observed along the access lane, between East Valley Road where the access lane splits; the origin of this soil is not apparent. Earth disturbance that was stated to be associated with pasture conversion extended below the CFS approx. 150', with a row of removed tree stumps present along the limit of earth disturbance.
- The approximately 2 acres of disturbance for the barn cited in CCCD's 10/4/2019 inspection report and the Department's 12/27/2019 NOV was in accordance with the extent of the footprint of the barn, associated cut-and-fill slopes, foundation excavation stockpiles, and roadway cut-in. This value however does not account for the spread/graded area extending to the CFS.
- An Unnamed Tributary (UNT) was present within the forested area to the East of the barn; the top of bank (TOB) was measured to be just over 100' from the stockpile toe, however earth clearing extended to approximately 85' from the TOB.

- At the northern limit of disturbance (LOD), the spring fed stream leading from the springhouse appears significantly modified, appearing to have been widened or otherwise modified leading to an approximate 500' newly trenched and side-cast channel running West to East until it's confluence with the UNT. The newly trenched channel was up to 4' wide and up to 4' deep, with nearly vertical side slopes and soil sloughing off the sides of the trench into the stream that was being directed through the trench to the UNT. The extent of this channel was unstabilized, with sediment deposits visible below the confluence with the UNT. This channel led from a spring/possible wetland at the NW limit of disturbance and cuts across the stream leading from the springhouse; the stream below the channel previously led towards the eastern end of the barn, however it was filled in and graded in its entirety below the channel.
- To the west of the barn, a channel was located within close proximity of the cleared pad/washout area with no BMPs present.
- No E&S Plan was available onsite.

On July 24, 2020, the Department conducted a follow-up inspection of the site. The following observations were made:

- The limit of disturbance appeared unchanged from the 01/22/20 inspection, however a disturbance corridor between the house and barn was observed.
- The access road was stabilized with gravel, with recent seed and straw applied to the road shoulders. The soil stockpile along the access lane was still present.
- Seed and straw had been applied throughout the site, however it could not be considered stabilized due to sparse vegetation growth.
- Contours below and to the west of the barn indicate final grading occurred since the 01/22/2020 inspection. Downslope CFS was still present and the area began to vegetate.
- Two HDPE field drain pipes were observed along the southern limit of pasture disturbance. One each at the SW and SE corners of site, with conveyance channels and adjacent slopes unstabilized. Accumulated sediment was observed within and below the outlet channels for both pipes. Wetlands were present directly downslope of the fill slopes within this area.
- The perimeter controls along the eastern limit of disturbance were insufficient, as accumulated sediment was observed beyond the LOD, with deposition ending 45' from the top of bank of the watercourse. A turnout was present along the eastern limit of disturbance above the barn, terminating 25' from the watercourse where accumulated sediment was observed beyond the LOD.
- The 500' channel observed on 01/22/2020 had been backfilled and a 12" diameter HDPE pipe was installed within. The reach from the pipe outlet to the confluence with the springhouse channel was approximately 200 linear feet and is considered a stream enclosure. Accumulated sediment was observed within the channel below the outlet.

The channel to the west of the barn featured earth disturbance up to the top of the bank along approximately 10' of the stream. This constitutes an encroachment/floodway fill along the stream. An unstabilized ford crossing was also observed. The Department has determined that the above inspection findings constitute the following violations of the Clean Streams Law, 35

P.S. § 691.1 et seq., the Dam Safety and Encroachments Act of November 26, 1978, P.L. 1375, as amended 32 P.S. §§ 693.1 et. Seq., (“Dam Safety Act”) and the rules and regulations promulgated thereunder:

- Failure to have an E&S Plan available onsite [§102.4].
- Failure to obtain an NPDES Permit for Stormwater Discharges Associated with Construction Activities [§102.5(a)].
- Failure to meet regulatory requirements for riparian forest buffer [§102.14].
- Failure to provide temporary stabilization of the earth disturbance site [§102.22].
- Sediment or other pollutant was discharged into waters of the Commonwealth [401 CSL].
- Site conditions present a potential for pollution to waters of the Commonwealth [402 CSL].
- Failure to obtain a Chapter 105 permit [§105.11]
- Failure to obtain Department approval for Environmental Assessment [§105.15].

Violations of the Clean Streams Law and the Dam Safety Act and the Department’s Rules and Regulations under the law are subject to penalties provided within the law and should be corrected immediately.

Corrective Actions

Unless otherwise agreed to, in writing by the Department, the Department requests the following corrective actions:

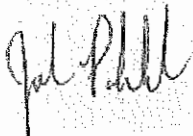
- 1.) Cease all earth disturbance activity and provide temporary or permanent stabilization to all disturbed areas at the Site.
- 2.) Establish adequate perimeter E&S BMPs. Ensure all existing and new BMPs are adequately maintained.
- 3.) The Department’s Dec 27, 2019 Notice of Violation (NOV) requested submittal of an Individual NPDES Permit application for discharges associated with construction activities. Recognizing that the earth disturbance activity exceeding 1 acre has been completed and less than 1 acre of earth disturbance remains, Department guidance directs the responsible party to submit a Corrective Action Plan (CAP) in lieu of an NPDES Permit. Therefore, the Department requests submittal of a CAP be submitted to the Department for review, and that closely follows the CAP Parts A, B, and C, which have been enclosed. This should be submitted by January 21, 2021. The CAP should contain, but not be limited to the following:
 - a. An Erosion and Sediment Plan (E&S Plan) to address any disturbed areas.
 - b. A Post Construction Stormwater Management Plan (PSCM Plan) to manage stormwater flows created by an increase in impervious surface associated with the beef barn construction and driveways. The PSCM Plan must be created by a person trained and experienced in PSCM design methods and techniques applicable to the size and scope of the project being designed.

- c. Timelines should be established in the form of an implementation schedule.
 - d. Other items as indicated within CAP Parts A, B, and C, enclosed.
- 4.) Obtain a Chapter 105 Joint Permit application for the stream enclosure. The application should be submitted by December 21, 2020.
 - 5.) Remove the fill encroachment and stabilize the banks of the channel to the west of the barn and establish roadway stability within the ford crossing and approaches to qualify for a waiver under 105.12(a)(9). The Department request these items to be completed by November 21, 2020, with documentation detailing completion to be provided to the Department.
 - 6.) Obtain appropriate Department authorization prior to extending disturbance and/or encroachment into the lower wetland.

This Notice of Violation is neither an order nor any other final action of the Department of Environmental Protection. It neither imposes nor waives any enforcement action available to the Department under any of its statutes. If the Department determines that an enforcement action is appropriate, you will be notified of the action.

If you have any questions concerning this letter, please feel free to contact me at 570.327.3667, or Tony Liguori at 570.327.3592. Please note that any inquiries made by legal representation on your behalf should be directed to Geoffrey J. Ayers, Regional Counsel, at 570.321.6568.

Sincerely,



Jared Prokopchak
EP Compliance Specialist
Waterways & Wetlands Program

Enclosures: Chapter 102 Inspection Report Dated 01-22-2020/07-24-2020
Chapter 105 Inspection Report Dated 01-22-2020/07-24-2020
CAP Part A - PCSM BMP Assessment and Performance Evaluation
CAP Part B - CORRECTIVE ACTION PLAN - FOR UNPERMITTED SITES
CAP Part C - CORRECTIVE ACTION PLAN - PCSM Plan Language
Department 07-24-2020 Inspection Photos