



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

May 24, 2022

Transmitted Electronically to:

Mayor Mark Haney
City of Uhrichsville
PO Box 288
Uhrichsville, Ohio 44683
mhaney@cityofuhrichsville.org

**Re: City of Uhrichsville
Notice of Violation (NOV)
NOV
401 Wetlands
Tuscarawas County
DSW401228022**

Subject: Notice of Violation

Dear Mayor Haney:

Ohio EPA, Division of Surface Water (DSW), conducted an inspection of your property (Parcel No. 41-02969-000) located off North Street in Uhrichsville, Tuscarawas County on April 8, 2022. The inspection was in response to a complaint received regarding potential wetland fill on the site. The site was observed to have an access driveway, some of the fill associated with the driveway, including recently introduced ground asphalt, had been placed in a wetland. Piles of fill, including mulch, leaves, soil, chunks of broken concrete and other clean hard fill were also observed within a wetland area adjacent to the access driveway. Some of the piles appeared older and some of the piles appeared to have been recently placed in the wetland.

The purpose of the inspection was to determine compliance with Ohio's environmental laws and regulations as found in Chapter 6111 of the Ohio Revised Code (ORC), Chapters 3745-1 and 3745-38 of the Ohio Administrative Code (OAC), and Section 401 of the Federal Water Pollution Control Act.

1) 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.

- a) **ORC Section 6111.04 (A)(1):** No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.
- b) **Federal Law*:** Sections 401 and 404 of the Federal Water Pollution Control Act require anyone who wishes to discharge dredged or fill material into the waters of the United States, regardless of whether on private or public property,

to obtain a Section 404 permit from the U.S. Army Corps of Engineers (Corps) and a Section 401 Water Quality Certification (WQC) from the Ohio EPA.

*** Note:** The US Army Corps of Engineers is copied on this letter and has the final authority to determine whether the impacted wetlands are federally jurisdictional or isolated. Should the wetlands be determined isolated, the following would apply in lieu of federal law:

c) ORC Section 6111.021 (B): A person that proposes to engage in an activity that involves the filling of an isolated wetland shall apply to the director for coverage under a general state isolated wetland permit or shall apply for an individual state isolated wetland permit, as applicable, in accordance with sections 6111.02 to 6111.027 of the Revised Code. No person shall engage in the filling of an isolated wetland unless authorized to do so by a general or individual state isolated wetland permit. Sections 6111.02 to 6111.027 of the Revised Code do not apply to isolated wetlands created by previous coal mining activities where remining is proposed, except for wetlands created for mitigation purposes.

2) **Violation Description:** Recent fill was observed in wetlands within the site. These activities have resulted in significant adverse impacts to the hydrology, water quality and populations of wetland flora and fauna of the wetlands within the site and have resulted in a loss of wetland acreage and functions prior to obtaining a permit and mitigating for wetland loss.

3) **Additional Information:** Cara Hardesty with Ohio EPA Division of Surface Water, Central Office conducted the site visit. During the site visit, unauthorized wetland fill was observed within the property, primarily at and immediately west of an access driveway that bisected what appeared to be a vacant lot or parkland and connected Parkway Street to the northwest with a multi-use trail and Stillwater Creek to the southeast. The filling appeared to be ongoing, some of the fill appeared older while some of the fill appeared recent. Fill within the wetland areas on the property needs to be addressed and resolved.

4) **Requested Action:**

Please choose one of the following options and provide a written timeline detailing how you will complete your chosen option:

- i. Application for an After-the-Fact (ATF) WQC/IWP from Ohio EPA. Please visit our website at the following link for application forms and instructions: <https://epa.ohio.gov/wps/portal/gov/epa/divisions-and-offices/surface-water/permitting/water-quality-certification-and-isolated-wetland-permits>. Please be aware that filling waters of the U.S. also requires approval from the U.S. Army Corps of Engineers. Also, please be aware that the impacts may not be approved by the director even though they have already occurred. **OR**

- ii. Restoration of the resource. If you intend to restore the resource to pre-impact conditions, please develop a restoration plan that includes methods for reestablishment of aquatic resources and a monitoring plan to ensure successful restoration is achieved.

Conclusion

By June 7, 2022, please provide documentation to Ohio EPA DSW of the actions taken and/or will be taken to resolve the violations cited above. Documentation of steps taken to resolve this (these) violation(s) includes but is not limited to: written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to cara.hardesty@epa.ohio.gov. If circumstances delay resolution of violations, you are requested to contact Ohio EPA DSW to discuss the situation and propose an alternative schedule to resolve the violations in a timely manner.

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.

Should you have any questions, please contact me at (614) 644-2143 or via email at cara.hardesty@epa.ohio.gov.

Sincerely,



Cara Hardesty
Environmental Specialist
Division of Surface Water
401/Wetlands/Mitigation Section
Central Office

ec: Scott Sheerin, scott.sheerin@epa.ohio.gov, DSW, CO
Teresa Spagna, teresa.d.spagna@usace.army.mil, Department of the Army,
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Attachments: Inspection photos



Figure 1. View of access drive showing recently introduced ground asphalt fill in a wetland, facing southeast.



Figure 2. View of access drive showing recently introduced ground asphalt fill in a wetland, facing northwest.



Figure 3. View of fill in wetland area west of access driveway, facing northeast.



Figure 4. View of fill in wetland area west of access driveway, facing southeast.