



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
CADILLAC DISTRICT OFFICE



DAN WYANT
DIRECTOR

January 27, 2015

CERTIFIED MAIL
RETURN RECEIPT

Mr. Jay Zollinger, Supervisor
Acme Township
6042 Acme Road
Williamsburg, Michigan 49690

VN No. VN-175825

Dear Mr. Zollinger:

SUBJECT: Violation Notice, Natural Resources and Environmental Protection Act
Township Wastewater Collection System Extension Constructed without Permit
Project Name: Grand Traverse Town Center

The Department of Environmental Quality (DEQ) has information that a sewerage system, as defined in Part 41, Sewerage Systems (Part 41), of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended (NREPA), was recently constructed in Section 2, T27N, R10W, of Acme Township, Grand Traverse County. It is the understanding of the DEQ that this construction consisted of some or all of approximately 3,800 feet of 10 inch diameter and 5,900 feet of 8 inch diameter sanitary sewer main (and appurtenances) for a development known as the Grand Traverse Town Center (GTTC). This construction was done without a Part 41 construction permit, and is in violation of state law.

During meetings on October 1, 2014, and October 2, 2014, the DEQ received verbal confirmation from Acme Township and the developer's engineer that the subject sanitary sewer had been constructed without a Part 41 construction permit. This is a violation of Part 41.

It is the understanding of the DEQ that the subject sanitary sewer main was and is intended to be a public sanitary sewer system owned by Acme Township, connecting to and extending from the existing Acme Township sanitary sewer system. The sewerage system owner, Acme Township (Township), having proceeded with or allowed construction without the prior issuance of a DEQ issued Part 41 construction permit, violated Part 41 of the NREPA.

You are directed to provide this office with a written response to the following items within 30 days of receipt of this letter:

1. Provide an explanation of why construction proceeded while the Township knew, or should have known, that a Part 41 construction permit was required. Please note that the Township has obtained several Part 41 permits from the DEQ in past years for other sanitary sewer projects in the Township; therefore, the explanation should also address what has changed to cause the failure to apply for a Part 41 permit in this instance.
2. Provide the dates on which sanitary sewer construction started and ended.
3. Indicate if, when, and by what organization the sanitary sewer was inspected.

4. Provide the "as-built" plans or record drawings of the constructed sanitary sewers and appurtenances, describing what has been constructed to date along with a summary of quality assurance testing and the results, as applicable for the constructed system. Plans should clearly indicate what is "as-built" and what has not yet been constructed, with regard to the subject project's sanitary sewers.

An evaluation of the constructed system, by means of these documents, will then need to be conducted by DEQ staff to determine if it meets current standards.

5. Provide the associated specifications governing the construction of the sanitary sewers and appurtenances noted above.
6. Provide a complete Part 41 application. Although a Part 41 permit will not be issued for sanitary sewers already constructed, the completed application is necessary to obtain responses for the items in the application, both for the record and to assess the suitability of the project after-the-fact.
7. Provide both a basis of design and a downstream capacity analysis. A single basis of design document and a single capacity study shall be offered that represents the Township's official, final, and overriding submittal and position for these items.
8. Provide a plan or procedure that the Township will take or follow to manage all future projects to assure that construction will not take place until a Part 41 construction permit has been issued by the DEQ.

The DEQ will review the information submitted with respect to the numbered items above, and then determine the appropriate response to the violations of Part 41. The subject wastewater system will be reviewed by DEQ staff and any further design review comments will be provided separately.

Also please note that all plans and specifications and supporting documentation submitted relative to the above-noted items shall not be considered adequate unless prepared by a professional engineer currently registered in the State of Michigan, and containing the proper seal and signature of the professional engineer as required by law.

The DEQ received and reviewed project information from the Township (by way of the Township, the developer's engineer and the Township's engineer) on October 16, 2014, and December 17, 2014. This included an "after-the-fact" Part 41 permit application, bases of designs, plans and specifications, and two different downstream capacity studies. As these documents were received after the DEQ learned of the violation and prior to this notice, they are considered preliminary and informal. In addition, these documents were reviewed and have been found to be insufficient, as submitted, for the purposes of addressing this violation and the requirements of Part 41. In this regard, please note the following:

- A construction permit cannot be issued for any portion of the system that has already been constructed. However, the DEQ expects and requires that any deficiencies in the design or construction identified by DEQ in its review of the information requested in items 3 through 7 above will be fully addressed and corrected by the Township. This includes, but is not limited to, modifications of the sanitary sewers and appurtenances already constructed or additional quality assurance testing, if needed to achieve compliance with Part 41.

- The bases of design and downstream capacity analyses received to date are inconsistent, and vary in content and design assumptions. Thus, as indicated in item 7 above, the DEQ requests a single, consistent, clarified and/or corrected downstream capacity analysis and basis of design which represent the Township's official and governing design and capacity study for the subject project.

Furthermore, the DEQ expects and requires the Township to address any capacity deficiencies found in the DEQ review of the documents noted in item 7 above, including upgrades to any downstream sewers and pump stations, or new sanitary sewer projects, as needed to satisfy Part 41 and its Administrative Rules.

Although the Township failed to obtain the Part 41 permit prior to construction, the Township must demonstrate to the DEQ that applicable requirements are fulfilled, including implementing a definite program or agreement satisfactory to the DEQ, if and where downstream capacity is found deficient.

- The DEQ has some comments identified in its review of the documents submitted to date and will communicate those to the Township and both the developer's engineers and the Township's engineers, in the interest of assisting the Township in its efforts to produce the submittals identified in the numbered items above, sufficient for the purposes of addressing the violation. The DEQ suggests the relevant parties meet with DEQ staff to obtain and discuss those comments prior to preparing or finalizing further submittals.

If you have any factual information you would like us to consider regarding the violations identified in this Violation Notice, please provide them with your written response.

The DEQ will require the Township to come into compliance on this matter by a fixed date schedule, to be established after further discussions with the Township.

In addition, the Township is fully responsible for any adverse impacts resulting from its failure to obtain a proper Part 41 permit prior to construction, and from any deficiencies in the subject sewers' design, construction, or downstream capacity analysis. Likewise, the Township is accountable for any harmful impacts caused to any downstream municipalities that receive wastewater from Acme Township.

Until the Township adequately addresses this violation, the DEQ may not act on any other Part 41 applications from the Township.

We anticipate your cooperation in resolving this matter. We suggest a meeting to discuss and initiate resolution of this matter. DEQ staff is available and willing to meet with the Township or its agents as needed to provide assistance in addressing this matter. Please contact me if you have any questions or require any additional information.

Sincerely,



Brian W. Jankowski, P.E.
Cadillac District Supervisor
Water Resources Division
231-429-0982
jankowskib@michigan.gov

Mr. Jay Zollinger

-4-

January 27, 2015

cc: Mr. Clyde Johnson, Gosling Czubak
Mr. Terry Boyd, Gourdie Fraser
Mr. Steve Folkersma, Team Elmer's
Mr. J.R. Anderson, Village at Grand Traverse, LLC
Mr. Barry Selden, DEQ